



Amy Beasley Cronin
Secretary, Standards Council

16 August 2010

To: Interested Parties

Subject:

Standards Council Decision (Final):	D#10-19
Standards Council Agenda Item:	SC#10-8-6-b-1
Date of Decision*:	5 August 2010
NFPA 58, <i>Liquefied Petroleum Gas Code</i> , 2011 edition	

Dear Interested Parties:

At its meeting of 3-5 August 2010, the Standards Council considered an appeal on the above referenced matter.

Attached is the final decision of the Standards Council on this matter.

Sincerely,

A handwritten signature in black ink that reads "Amy Beasley Cronin".

Amy Beasley Cronin
Secretary, NFPA Standards Council

c: D. Berry, M. Brodoff, L. Fuller, T. Lemoff, J. Moreau-Correia
Members, TC on Liquefied Petroleum Gases (LPG-AAA)
Members, NFPA Standards Council (AAD-AAA)
Individuals Providing Appeal Commentary

*NOTE: Participants in NFPA's codes and standards making process should know that limited review of this decision may be sought from the NFPA Board of Directors. For the rules describing the available review and the method for petitioning the Board for review, please consult section 1-7 of the NFPA Regulations Governing Committee Projects and the NFPA Regulations Governing Petitions to the Board of Directors from Decisions of the Standards Council. Notice of the intent to file such a petition must be submitted to the Clerk of the Board of Directors within 15 calendar days of the Date of Decision noted in the subject line of this letter.



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SUMMARY ACTION: *The Standards Council voted to deny the appeal to accept Comment 58-49, but voted to return to the TC Action on Proposal 58-46 rather than to previous edition text.*

At its meeting of August 3-5, 2010, the Standards Council considered an appeal from Manuel Gomez representing the U.S. Chemical Safety and Hazard Investigation Board (CSB). The appeal seeks to accept Comment 58-49 for the 2011 edition of NFPA 58, *Liquefied Petroleum Gas Code*. Specifically, the appellant seeks to provide more detailed requirements for training.

As background, Proposal 58-46 sought to provide more specific training requirements in Section 4.4. The Technical Committee on Liquefied Petroleum Gases (TC), through an accept in principle action, declined to add the proposed requirements to Section 4.4 but added new advisory material on training in the annex Section A.4.4. Comment 58-49 again sought to add more specific training requirements to Section 4.4. The TC rejected this Comment. A Certified Amending Motion (CAM 58-5) seeking to accept Comment 58-49 was made at the 2010 Association Technical Meeting (Tech Session). The amending motion was supported by the NFPA membership, but failed to pass the subsequent balloting of the TC. When a recommended amendment is not approved by the TC, the default recommendation under NFPA rules is that no change from the existing edition should occur, and the portion of the Technical Committee Report modified by the Association recommended amendment is returned to previous edition text.

On appeal, the Council accords great respect and deference to the NFPA codes and standards development process. In conducting its review, the Council will overturn the result recommended through that process only where a clear and substantial basis for doing so is demonstrated. The appeal seeks the acceptance of Comment 58-49, which ultimately failed the ballot of the TC. The Council, after a review of the record, has concluded that the appeal does not present any clear and substantial basis on which to overturn the results of the process and accept Comment 58-49. To that extent, therefore, the appeal is denied. In this case, however, a question remains whether it is appropriate to adopt the default action and return to previous edition text. Such an action would have the effect of deleting from the new edition of NFPA 58, the Section A.4.4 Annex material on training added by the TC through its acceptance in principle of Proposal 58-46. While the appellant sought to have specific training material in the mandatory requirements of

the standard, the CSB's representative made it clear that, as an alternative, the new advisory material in Section A.4.4 was preferable to having no additional text on training. Since the new advisory Annex material in Section A.4.4 has received the support of the TC and since no party supports returning to previous edition text, the Council has voted to return to the TC Action on Proposal 58-46 rather than to previous edition text.

The Council noted that during the hearing, both the appellant and the TC Chair agreed that there was significant common ground that should be further explored and discussed. Both agreed that the TC and the appellant would work together to develop a Tentative Interim Amendment (TIA) that could accommodate the appellant's interests and achieve acceptance within the TC.