



Reply to the attention of:

JUL 21 2015

Mr. John A. McQuaid  
Industrial Packaging Safety Alliance  
210 Crossings Blvd  
PMD 294  
Elverson, PA 19520

Dear Mr. McQuaid:

This is in response to your June 18, 2015 letter to Dr. David Michaels, Assistant Secretary, Occupational Safety and Health Administration (OSHA) regarding the Agency's standard on flammable and combustible liquids, 29 CFR 1910.106. OSHA appreciates your offer to assist in updating this standard and shares your concern for its outdated nature.

You specifically propose to incorporate by reference NFPA 30, Flammable and Combustible Liquids Code, and remove the portion of §1910.106 that relates to container and portable tank storage. A rulemaking to update §1910.106, however, would be a far more complex undertaking. This is because OSHA's current standard was written based on the wording in NFPA 30 and not a direct incorporation. Rather than incorporate only a portion of NFPA 30 as you suggest, OSHA would have to consider all interrelated provisions. An effective rulemaking effort would compare and analyze most, if not all, of this code for its technical feasibility, economic feasibility, and relative level of worker protection.

As you stated, NFPA 30 has gone through many significant changes through the years. The changes have improved the code to address significant issues as you outlined. However, those changes are woven through several NFPA codes and therefore would complicate the already cumbersome rulemaking process. Another challenge regarding NFPA 30 and most other NFPA standards is their scope goes beyond OSHA's authority over worker protection.

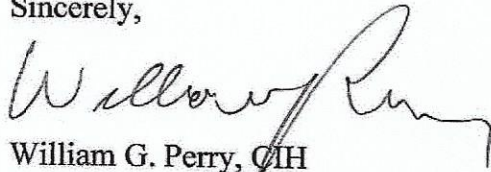
Currently, OSHA's de minimis policy addresses situations such as those that exist with §1910.106 and NFPA 30. This enforcement policy allows the use of consensus standards that provide for equal or greater worker protection than corresponding OSHA standards. The Agency does not issue citations for de minimis violations and abatement is not required.

OSHA is familiar with the two U.S. incidents you reference in your letter. The fire sprinkler systems in both facilities were overwhelmed by the fires due to the commodity type and arrangement. Approval of fire protections systems and features is done at the

state and local level. Despite the very large property loss, one fire resulted in no injuries and the other injured one worker and one firefighter.

As you may be aware, OSHA had considered a comprehensive update to §1910.106 for several years. This effort was on the Unified Regulatory Agenda from 1996 to 2001, when it was removed due to resource constraints. At this time, the Agency does not have plans to revise §1910.106. However, if OSHA decides to pursue rulemaking in the future, the Agency would welcome your coalition's expertise and input and encourage you to participate in the rulemaking process.

Sincerely,

A handwritten signature in black ink, appearing to read "William G. Perry". The signature is fluid and cursive, with a large, sweeping flourish at the end.

William G. Perry, CIH  
Director  
Directorate of Standards and Guidance