Documentation of Compliance with NFPA 58 (2017) for Purposes of Compliance with 24 CFR 51.201

## Background and Purpose

HUD has updated the definition of “hazard” in 24 CFR 51.201 to exclude from mandatory separation distance requirements in 24 CFR part 51, subpart C all containers that are 1,000 gallons or less in water volume capacity and comply with the National Fire Protection Association Code 58, in the 2017 edition (NFPA 58 (2017)).

## Compliance in states and localities that have adopted NFPA 58 version 2017

In jurisdictions where NFPA 58 (2017) has been adopted into law HUD relies on enforcement by the jurisdiction. Therefore, all propane tanks of 1,000 gallons or less in those locations are excluded from compliance with HUD’s ASD requirements. In these jurisdictions, citation to the NFPA website (codefinder.nfpa.org) referencing the applicable state or local code is sufficient to document that any tank in that jurisdiction containing propane of 1,000 gallons or less water volume is excepted from coverage under 24 CFR part 51, subpart C.

## Compliance in areas that have not adopted NFPA Code 58

In areas where the jurisdiction has not adopted NFPA 58 (2017) into law an individual propane tank may still comply with that policy based on inspection and maintenance of the tank by the owner/operator, the propane distributor, or another individual qualified to inspect propane tanks. To document that a propane tank of 1,000 gallons or less capacity is excluded from coverage under 24 CFR part 51, subpart C, in those locations, the environmental review record (ERR) must include documentation of one of the following:

* The gas supplier or tank owner/operator has policies in place that utilize the 2017 NFPA Code 58 for inspection and filling (*include records from the gas supplier or tank owner/operator documenting this policy in the ERR*); or
* The local Authority Having Jurisdiction (AHJ) utilizes and specifies current NFPA 58 in tank certification and permitting even though the 2017 version is not formally adopted statewide (*include records or communication from the local AHJ in the ERR*); or
* A qualified person such as an engineer or propane industry professional has inspected the tank for the express purpose of documenting compliance with NFPA 58 (2017) in support of HUD environmental review (*include documentation of the individual making the determination, their professional qualification, and date of the determination in the ERR — a sample letter that may be used as a template is attached*).

\* Note: State departments of commerce may also be used as sources both to verify current codes and to identify qualified propane inspectors.

## Memorandum: 24 CFR Part 51, Subpart C and Propane Tank Exception

By: [*Name and Occupation*]

For: [*Name of Responsible Entity or HUD Environmental Review Record*]

Re: [*Project name, HUD/RE program used, and address*]

To [*HUD Approving Official/RE Certifying Officer*]:

I have inspected the above-ground storage tank(s) located at [*address or coordinates of tank in question*] to determine if the tank is excluded from the separation distance requirements in 24 CFR part 51, subpart C based on the definition of “hazard,” which does not include tanks containing liquified petroleum gas (propane or butane/propane) of 1,000 gallons or less water volume capacity that are in compliance with the National Fire Protection Association Code 58 version 2017.

I have verified that the tank(s) in question, as shown in photos attached to this letter, contain LPG/propane and are 1,000 gallons or less in water capacity. The tank volume is [*state tank volume*]. I have verified that the tank is in compliance with NFPA 58 (2017) based on in-person inspection using the criteria of NFPA 58 (2017).

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*Signature and Date*