



## NATIONAL ASSOCIATION OF PIPELINE SAFETY REPRESENTATIVES

### BOARD RESOLUTION 2008-02-AC 1

#### URGING PHMSA TO CLOSELY SCRUTINIZE DEVELOPMENT OF NEW NATIONAL CONSENSUS STANDARDS THAT MAY BE PROPOSED FOR ADOPTION BY REFERENCE OR IN PLACE OF ADDITIONAL RULEMAKING

**Whereas** - Section 60102 of 49 USC Title 49, Subtitle VIII, acknowledges the importance of Minimum Safety Standards as regulations for pipeline transportation and pipeline facilities, and sets the requirements that the Secretary of Transportation must meet before a new rule or regulation can be put into effect in the pipeline safety code;

**Whereas** - National Consensus Standards and Recommended Practices (Standards) historically have been used to address specific issues raised by the constituents of the organization authoring the Standard;

**Whereas** - Standards that were tested and proven over time were instrumental in creating the original pipeline safety regulations, and the pipeline safety code currently incorporates by reference over 70 separate Standards;

**Whereas** - PHMSA has increasingly promoted creation of new or revised Standards for the express purpose of meeting regulatory objectives, and as an alternative to the creation of new rules that would be subject to public comment during the rulemaking process;

**Whereas** - Standards created in this manner have not established their merit through the test of time and usage as had older standards adopted into the federal regulations, nor have they undergone the scrutiny of public comment during the rulemaking process;

**Whereas** - NAPSRS members who have participated in development of standards intended to serve a regulatory objective, but prepared by an industry association, have expressed concerns that technical and engineering considerations were being weakened or superseded by parties whose principal interest was minimizing regulatory oversight or cost; and

**Whereas** - In rulemakings proposing to adopt an industry standard, typically the only decision is whether to adopt a standard in its entirety, and persons wishing to comment on or oppose specific provisions in the standard do not have an effective opportunity to contest those provisions or suggest changes, unlike proposed regulations where specific items can readily be singled out for attention;

**Now therefore be it resolved:** That NAPSRS urges caution when pursuing regulatory objectives through the creation of new or amended “designer” Standards that may be influenced by stakeholders with special interests, and

**Now therefore be it further resolved:** That NAPSUR urge PHMSA to work in partnership with NAPSUR to affirmatively conclude in each case whether the regulatory objective would be better accomplished as an update or addition to the pipeline safety code before PHMSA considers a Standard for incorporation by reference or as a replacement for a rule.