

**OCCUPATIONAL SAFETY  
AND HEALTH STANDARDS BOARD**

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**NOTICE OF PUBLIC MEETING/PUBLIC HEARING/BUSINESS MEETING  
OF THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD  
AND NOTICE OF PROPOSED CHANGES TO TITLE 8  
OF THE CALIFORNIA CODE OF REGULATIONS**

Pursuant to Government Code Section 11346.4 and the provisions of Labor Code Sections 142.1, 142.2, 142.3, 142.4, and 144.6, the Occupational Safety and Health Standards Board of the State of California has set the time and place for a Public Meeting, Public Hearing, and Business Meeting:

**PUBLIC MEETING:** On **April 15, 2010**, at 10:00 a.m.  
in the Auditorium of the State Resources Building,  
1416 9th Street, Sacramento, California.

At the Public Meeting, the Board will make time available to receive comments or proposals from interested persons on any item concerning occupational safety and health.

**PUBLIC HEARING:** On **April 15, 2010**, following the Public Meeting,  
in the Auditorium of the State Resources Building,  
1416 9th Street, Sacramento, California.

At the Public Hearing, the Board will consider the public testimony on the proposed changes to occupational safety and health standards in Title 8 of the California Code of Regulations.

**BUSINESS MEETING:** On **April 15, 2010**, following the Public Hearing,  
in the Auditorium of the State Resources Building,  
1416 9th Street, Sacramento, California.

At the Business Meeting, the Board will conduct its monthly business.

**DISABILITY ACCOMMODATION NOTICE:** Disability accommodation is available upon request. Any person with a disability requiring an accommodation, auxiliary aid or service, or a modification of policies or procedures to ensure effective communication and access to the public hearings/meetings of the Occupational Safety and Health Standards Board should contact the Disability Accommodation Coordinator at (916) 274-5721 or the state-wide Disability Accommodation Coordinator at 1-866-326-1616 (toll free). The state-wide Coordinator can also be reached through the California Relay Service, by dialing 711 or 1-800-735-2929 (TTY) or 1-800-855-3000 (TTY-Spanish).

Accommodations can include modifications of policies or procedures or provision of auxiliary aids or services. Accommodations include, but are not limited to, an Assistive Listening System (ALS), a Computer-Aided Transcription System or Communication Access Realtime Translation (CART), a sign-language interpreter, documents in Braille, large print or on computer disk, and audio cassette recording. Accommodation requests should be made as soon as possible. Requests for an ALS or CART should be made no later than five (5) days before the hearing.

**OCCUPATIONAL SAFETY AND HEALTH  
STANDARDS BOARD**

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JOHN D. MACLEOD, Chairman

NOTICE OF PROPOSED CHANGES TO TITLE 8  
OF THE CALIFORNIA CODE OF REGULATIONS  
BY THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Notice is hereby given pursuant to Government Code Section 11346.4 and Labor Code Sections 142.1, 142.4 and 144.5, that the Occupational Safety and Health Standards Board pursuant to the authority granted by Labor Code Section 142.3, and to implement Labor Code Section 142.3, will consider the following proposed revisions to Title 8, Construction Safety Orders of the California Code of Regulations, as indicated below, at its Public Hearing on **April 15, 2010**.

1. TITLE 8:     **GENERAL INDUSTRY SAFETY ORDERS**  
Division 1, Chapter 4, Subchapter 7  
Article 76, Section 4650  
Article 81, Section 4797  
Article 85, Section 4823  
[Acetylene \(Horcher\)](#)
  
2. TITLE 8:     **GENERAL INDUSTRY SAFETY ORDERS**  
Division 1, Chapter 4, Subchapter 7  
Article 88, Section 4848  
[Update of Welding Fire Prevention and Suppression Procedures](#)

Descriptions of the proposed changes are as follows:

1. **TITLE 8: GENERAL INDUSTRY SAFETY ORDERS**  
Division 1, Chapter 4, Subchapter 7  
Article 76, Section 4650  
Article 81, Section 4797  
Article 85, Section 4823  
[Acetylene \(Horcher\)](#)

### **INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW**

The Occupational Safety and Health Standards Board (Board) intends to adopt this proposed rulemaking action pursuant to Labor Code Section 142.3, which mandates the Board to adopt regulations at least as effective as federal regulations addressing occupational safety and health issues.

The U.S. Department of Labor, Occupational Safety and Health Administration (OSHA) promulgated regulations revising national consensus standards referenced in the Federal Acetylene Standard on August 11, 2009, as 29 Code of Federal Regulations, Section 1910.102. The Board is relying on the explanation of the provisions of the federal regulations in Federal Register, Volume 74, No. 153, pages 40441-40447, August 11, 2009, as the justification for the Board's proposed rulemaking action. The Board proposes to adopt regulations which are the same as the federal regulations except for minor editorial and format differences.

This rulemaking updates the General Industry Safety Orders so that they reflect the updated references in Federal OSHA's final rule to the National Fire Protection Association (NFPA) 51A standard for acetylene charging plants and the Compressed Gas Association (CGA) G-1 and 1.2 standards.

Current wording in Sections 4650(t), 4823 and 4797(a) is deleted, because the deleted wording either conflicts with (i.e. is not at least as effective as 29CFR 1910.102), or is repetitive of the provisions to be added to Title 8 as a result of this rulemaking.

The proposed regulations are substantially the same as the final rule promulgated by Federal OSHA. Therefore, Labor Code Section 142.3(a)(3) exempts the Board from the provisions of Article 5 (commencing with Section 11346) and Article 6 (commencing with Section 11349) of Chapter 3.5, Part 1, Division 3 of Title 2 of the Government Code when adopting standards substantially the same as a federal standard; however, the Board is still providing a comment period and will convene a public hearing. The primary purpose of the written comments and of the oral comments at the public hearing is to: 1) identify any issues unique to California related to this proposal which should be addressed in this rulemaking and/or a subsequent rulemaking and 2) solicit comments on the proposed effective date. The responses to comments will be available in a rulemaking file on this matter and will be limited to the above areas.

The effective date is proposed to be upon filing with the Secretary of State. The regulations may be adopted without further notice even though modifications may be made to the original proposal in response to public comments or at the Board's discretion.

### **DOCUMENTS INCORPORATED BY REFERENCE**

1. Compressed Gas Association, Inc., CGA G-1-2003 Acetylene, Eleventh Edition.

2. National Fire Protection Association (NFPA) 51A Standard for Acetylene Cylinder Charging Plants, 2001 Edition.
3. National Fire Protection Association (NFPA) 51A Standard for Acetylene Cylinder Charging Plants, 2006 Edition.

These documents are too cumbersome or impractical to publish in Title 8. Therefore, it is proposed to incorporate the documents by reference. Copies of these documents are available for review Monday through Friday from 8:00 a.m. to 4:30 p.m. at the Standards Board Office located at 2520 Venture Oaks Way, Suite 350, Sacramento, California.

### **COST ESTIMATES OF PROPOSED ACTION**

Federal Register, Vol. 74 No. 153, August 11, 2009, concluded that the revisions will not impose additional costs on employers because the updated references represent the usual and customary practice of employers in the industry. OSHA certifies that it will not have significant impact on a substantial number of small entities. Consequently, the Board has determined that no significant statewide adverse economic or cost impact is anticipated.

### **DETERMINATION OF MANDATE**

The Occupational Safety and Health Standards Board has determined that the proposed regulations do not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendments will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, these regulations do not constitute a “new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.”

The California Supreme Court has established that a “program” within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (County of Los Angeles v. State of California (1987) 43 Cal.3d 46.)

These proposed regulations do not require local agencies to carry out the governmental function of providing services to the public. Rather, the regulations require local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, these proposed regulations do not in any way require local agencies to administer the California Occupational Safety and Health program. (See City of Anaheim v. State of California (1987) 189 Cal.App.3d 1478.)

These proposed regulations do not impose unique requirements on local governments. All state, local and private employers will be required to comply with the prescribed standards.

### **EFFECT ON SMALL BUSINESSES**

The Board has determined that the proposed amendments may affect small businesses. However, no economic impact is anticipated.

## **ASSESSMENT**

The adoption of the proposed amendments to these regulations will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

### **REASONABLE ALTERNATIVES CONSIDERED**

Our Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action.

2. **TITLE 8:**     **GENERAL INDUSTRY SAFETY ORDERS**  
Division 1, Chapter 4, Subchapter 7  
Article 88, Section 4848  
[\*\*Update of Welding Fire Prevention and Suppression Procedures\*\*](#)

### **INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW**

On July 24, 2008, the National Fire Protection Association (NFPA) Standards Council issued an updated NFPA 51B Standard for Fire Prevention During Welding, Cutting and Other Hot Work which was prepared by the NFPA Technical Committee. The update (NFPA 51B-2009) became effective on September 5, 2008 and supersedes all previous editions. This standard covers provisions to prevent loss of life and property damage from fire or explosion as a result of hot work.

Board staff proposes to amend Section 4848 to incorporate by reference the 2009 edition of the NFPA 51B which includes (1) a new requirement for listed and/or approved welding blankets, pads and curtains and gives definitions for those terms; (2) updated hot work permit information; (3) clarification of the 35 foot rule to control the passage of sparks via cracks in vents, floors or ducts to other areas of the workplace where combustion could take place; (4) alternative hot work methods; (5) contractor hazard awareness standards, and, (6) new requirements for personal protective equipment. Staff also proposes (1) to amend the title of Section 4848 to clarify, consistent with the consensus standards incorporated by reference, that Section 4848 also addresses fire prevention and suppression methods and (2) to clarify that in addition to the NFPA 51B-2009 definitions, standards that concern fire prevention precautions and hot work responsibility are incorporated by reference to ensure workers are protected from fire and explosion hazards.

Although Section 4848 currently references the American National Standards Institute (ANSI/ASC) Z49.1-94 standard, staff determined that it was not necessary to update this standard, because since 1994, there have been no revisions to the information contained in the referenced Chapters 3 and 6 of that standard.

National consensus standards such as those referred to herein are developed by committees, labor and managerial representatives and technical experts.

The following actions are proposed:

**Section 4848. Fire Prevention and Suppression Procedures.**

This section requires the employer to establish a fire prevention and suppression procedure whenever welding operations as addressed by Sections 4794(a) and 4850(a) are conducted in the workplace and includes employer issuance of fire suppression and prevention procedures based upon standards contained in two referenced national consensus standards: ANSI/ASC Z49.1-94 Chapters 3 and 6 and the NFPA 51B-1999, Chapter 3, which are incorporated by reference.

Amendments are proposed to expand the title of Section 4848 to include the term “and methods” consistent with the content of the standard and the national consensus standards referenced therein. It is also proposed to update the subsection (a) NFPA 51B reference to the 2009 edition and to delete the reference to Chapter 3 of that standard so that the entire NFPA standard will be included within the scope of Section 4848. Incorporating by reference the entire NFPA 51B standard beyond the Chapter 3 definitions and thereby including standards pertaining to fire prevention procedures and hot work responsibility will enable the employer to effectively and comprehensively control workplace fire and explosion risks that could arise from confusion over hot work responsibilities and inadequate fire prevention procedures. The proposed amendments will provide employers with state-of-the-art administrative tools and prevention methods to control the risk of fire and explosion created by their workplace welding operations.

A nonsubstantive change (the addition of a comma after “chapters 3 and 6”) is also made to subsection (a).

A new subsection (b) is proposed to require that all welding blankets, curtains and pads be approved for use in accordance with GISO Section 3206. The proposed subsection (b) will clarify to the employer, consistent with manufacturers existing practices for evaluating and listing these items, what qualifies as an approved-for-use welding pad, blanket and curtain.

**DOCUMENT INCORPORATED BY REFERENCE**

National Fire Protection Association 51B-2009, Standard for Fire Prevention During Welding Cutting, and Other Hot Work.

This document is too cumbersome or impractical to publish in Title 8. Therefore, it is proposed to incorporate the document by reference. A copy of this document is available for review Monday through Friday from 8:00 a.m. to 4:30 p.m. at the Standards Board Office located at 2520 Venture Oaks Way, Suite 350, Sacramento, California.

**COST ESTIMATES OF PROPOSED ACTION**

**Costs or Savings to State Agencies**

No costs or savings to state agencies will result as a consequence of the proposed action.

**Impact on Housing Costs**

The Board has made an initial determination that this proposal will not significantly affect housing costs.

**Impact on Businesses**

The Board has made an initial determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

**Cost Impact on Private Persons or Businesses**

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

**Costs or Savings in Federal Funding to the State**

The proposal will not result in costs or savings in federal funding to the state.

**Costs or Savings to Local Agencies or School Districts Required to be Reimbursed**

No costs to local agencies or school districts are required to be reimbursed. See explanation under “Determination of Mandate.”

**Other Nondiscretionary Costs or Savings Imposed on Local Agencies**

This proposal does not impose nondiscretionary costs or savings on local agencies.

**DETERMINATION OF MANDATE**

The Occupational Safety and Health Standards Board has determined that the proposed regulation does not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendment will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, this regulation does not constitute a “new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.

The California Supreme Court has established that a “program” within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (County of Los Angeles v. State of California (1987) 43 Cal.3d 46.)

This proposed regulation does not require local agencies to carry out the governmental function of providing services to the public. Rather, the regulation requires local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, this proposed regulation does not in any way require local agencies to administer the California Occupational Safety and Health program. (See City of Anaheim v. State of California (1987) 189 Cal.App.3d 1478.)

This proposed regulation does not impose unique requirements on local governments. All state, local and private employers will be required to comply with the prescribed standards.

### **EFFECT ON SMALL BUSINESSES**

The Board has determined that the proposed amendment may affect small businesses. However, no economic impact is anticipated.

### **ASSESSMENT**

The adoption of the proposed amendments to this regulation will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

### **REASONABLE ALTERNATIVES CONSIDERED**

Our Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action.

A copy of the proposed changes in STRIKEOUT/UNDERLINE format is available upon request made to the Occupational Safety and Health Standard Board's Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833, (916) 274-5721. Copies will also be available at the Public Hearing.

An INITIAL STATEMENT OF REASONS containing a statement of the purpose and factual basis for the proposed actions, identification of the technical documents relied upon, and a description of any identified alternatives has been prepared and is available upon request from the Standards Board's Office.

Notice is also given that any interested person may present statements or arguments orally or in writing at the hearing on the proposed changes under consideration. It is requested, but not required, that written comments be submitted so that they are received no later than April 9, 2010. The official record of the rulemaking proceedings will be closed at the conclusion of the public hearing and written comments received after 5:00 p.m. on April 15, 2010, will not be considered by the Board unless the Board announces an extension of time in which to submit written comments. Written comments should be mailed to the address provided below or submitted by fax at (916) 274-5743 or e-mailed at [oshsb@dir.ca.gov](mailto:oshsb@dir.ca.gov). The Occupational Safety and Health Standards Board may thereafter adopt the above proposals substantially as set forth without further notice.

The Occupational Safety and Health Standards Board's rulemaking file on the proposed actions including all the information upon which the proposals are based are open to public inspection Monday through Friday, from 8:30 a.m. to 4:30 p.m. at the Standards Board's Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833.

The full text of proposed changes, including any changes or modifications that may be made as a result of the public hearing, shall be available from the Executive Officer 15 days prior to the date on which the Standards Board adopts the proposed changes.

Inquiries concerning either the proposed administrative action or the substance of the proposed changes may be directed to Marley Hart, Executive Officer, or Mike Manieri, Principal Safety Engineer, at (916) 274-5721.

You can access the Board's notice and other materials associated with this proposal on the Standards Board's homepage/website address which is <http://www.dir.ca.gov/oshsb>. Once the Final Statement of Reasons is prepared, it may be obtained by accessing the Board's website or by calling the telephone number listed above.

OCCUPATIONAL SAFETY AND HEALTH  
STANDARDS BOARD

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JOHN D. MACLEOD, Chairman



NOTICE OF ADOPTION OF  
REGULATIONS  
INTO TITLE 8, CALIFORNIA CODE OF REGULATIONS  
BY THE  
OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

After proceedings held in accordance with and pursuant to the authority vested in Sections 142, 142.3 and 142.4, of the Labor Code to implement, interpret, or make specific, the Occupational Safety and Health Standards Board, by a majority vote, adopted additions, revisions, or deletions to the California Code of Regulations as follows:

1. Title 8, Division 1, Chapter 4, Subchapter 4, Construction Safety Orders, Article 7, Section 1549, **Piling Materials**.

Heard at the September 17, 2009, Public hearing; adopted on December 17, 2009; filed with the Secretary of State on February 2, 2010; and will become effective on March 4, 2010.

2. Title 8, Division 1, Chapter 4, Subchapter 7, General Industry Safety Orders, Article 107, Section 5155, **Airborne Contaminants**.

Heard at the March 19, 2009, Public Hearing; adopted on December 17, 2009; filed with the Secretary of State on February 3, 2010; and will become effective on August 3, 2010.

Copies of these standards are available upon request from the Occupational Safety and Health Standards Board, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833, (916) 274-5721.

If you have Internet access, visit the Occupational Safety and Health Standards Board by going to: <http://www.dir.ca.gov/oshb> and follow the links to the Standards Board. This information is updated monthly. The Standards Board's e-mail address is: [oshb@dir.ca.gov](mailto:oshb@dir.ca.gov).

OCCUPATIONAL SAFETY AND HEALTH  
STANDARDS BOARD

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Marley Hart, Executive Officer