

**OCCUPATIONAL SAFETY  
AND HEALTH STANDARDS BOARD**

2520 Venture Oaks, Suite 350  
Sacramento, CA 95833  
(916) 274-5721  
FAX (916) 274-5743  
[www.dir.ca.gov/oshsb](http://www.dir.ca.gov/oshsb)



NOTICE OF PROPOSED MODIFICATIONS TO  
CALIFORNIA CODE OF REGULATIONS

TITLE 8, Section 1520 of the Construction Safety Orders and  
Section 3384 of the General Industry Safety Orders

**Hand Protection**

Pursuant to Government Code Section 11346.8(c), the Occupational Safety and Health Standards Board (Standards Board) gives notice of the opportunity to submit written comments on the above-named standard in which modifications are being considered as a result of public comments and/or Board staff consideration.

On October 17, 2013, the Standards Board held a Public Hearing to consider revisions to Title 8, Section 1520 of the Construction Safety Orders and Section 3384 of the General Industry Safety Orders. The Standards Board received written and oral comments on the proposed revisions. The standard has been modified as a result of these comments and Board consideration.

A copy of the full text of the standard, with the modifications clearly indicated, is attached for your information. In addition, a summary of all written and oral comments regarding the original proposal and staff responses is included.

A copy of this document is available for review during normal business hours at the Standards Board Office located at the address listed below.

Any written comments on these modifications must be received by 5:00 p.m. on December 6, 2013, at the Occupational Safety and Health Standards Board's Office, 2520 Venture Oaks Way, Suite 350, Sacramento, California 95833 or submitted by fax to (916) 274-5743 or e-mailed to [oshsb@dir.ca.gov](mailto:oshsb@dir.ca.gov). This proposal will be scheduled for adoption at a future Business Meeting of the Occupational Safety and Health Standards Board.

The Standards Board's rulemaking file on the proposed action is open to public inspection Monday through Friday, from 8:00 a.m. to 4:30 p.m. at the Standards Board's Office.

Inquiries concerning the proposed changes may be directed to Marley Hart, Executive Officer at (916) 274-5721.

OCCUPATIONAL SAFETY AND HEALTH  
STANDARDS BOARD

Date: November 19, 2013

---

Marley Hart, Executive Officer

**PROPOSED MODIFICATIONS**

**Modifications are indicated in bold, underline wording for new language and bold ~~strikeout~~ for deleted language.)**

STANDARDS PRESENTATION  
TO  
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Attachment No. 1

Page 1 of 2

PROPOSED STATE STANDARD,  
TITLE 8, DIVISION 1, CHAPTER 4

Amend Section 1520 to read:

§ 1520. Hand Protection. **[Repealed]**

~~Hand protection shall be required for employees whose work involves unusual and excessive exposure to cuts, burns, harmful physical or chemical agents or radioactive materials which are encountered and capable of causing injury or impairments. Employers shall select, provide and require employees to use appropriate hand protection when employees' hands are exposed to hazards such as those from skin absorption of harmful substances, cuts or lacerations, abrasions, punctures, chemical burns, thermal burns, radioactive materials, and harmful temperature extremes.~~

~~**EXCEPTION:** Hand protection shall not be required where there is a danger of the hand protection becoming caught in moving machinery or materials.~~

NOTE: Authority cited: Section 142.3, Labor Code. Reference: Section 142.3, Labor Code.

**STANDARDS PRESENTATION  
TO  
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD**

Attachment No. 1

Page 2 of 2

PROPOSED STATE STANDARD,  
TITLE 8, DIVISION 1, CHAPTER 4

Amend Section 3384 to read:

§3384. Hand Protection.

(a) ~~Hand protection shall be required for employees whose work involves unusual and excessive exposure of hands to cuts, burns, harmful physical or chemical agents or radioactive materials which are encountered and capable of causing injury or impairments.~~ Employers shall select, provide and require employees to use appropriate hand protection when employees' hands are exposed to hazards such as those from skin absorption of harmful substances, **severe** cuts or lacerations, **severe** abrasions, punctures, chemical burns, thermal burns, radioactive materials, and harmful temperature extremes.

(b) Hand protection, such as gloves, shall not be worn where there is a danger of the hand protection becoming entangled in moving machinery or materials.

EXCEPTION: Machinery or equipment provided with a momentary contact device as defined in Section 3941.

NOTE: 1. As used in subsection (b) the term entangled refers to hand protection (gloves) being caught and pulled into the danger zone of machinery/equipment. Use of hand protection around smooth surfaced rotating equipment does not constitute an entanglement hazard if it is unlikely that the hand protection will be drawn into the danger zone.

NOTE: 2. Wrist watches, rings, or other jewelry should not be worn while working with or around machinery with moving parts in which such objects may be caught, or around electrically energized equipment.

NOTE: Authority cited: Section 142.3, Labor Code. Reference: Section 142.3, Labor Code.

## **SUMMARY OF AND RESPONSE TO COMMENTS**

## SUMMARY OF AND RESPONSE TO WRITTEN AND ORAL COMMENTS

### I. Written Comments

Mr. John McCullough CSP, Assistant Vice President, Wells Fargo Insurance Services USA, Inc., by letter dated August 29, 2013.

#### Comment:

Mr. McCullough stated the modifier “severe” should be added to Sections 1520 and 3384 to make the proposal read verbatim of the Federal language in 29 CFR 1910.138(a). Mr. McCullough indicated that in the absence of the modifier “severe”, the proposal would require the employer to provide hand protection even when employees were exposed to the possibility of receiving a paper cut which is unreasonable.

#### Response:

The Board staff accepts this comment, and the word ‘severe’ has been added to Section 3384. Section 1520 has been repealed.

The Board thanks Mr. McCullough for his participation in the Board’s rulemaking process.

Mr. John L. Bobis, P.E., PhD., Technical Principal, Environmental Health and Safety, Aerojet Rocketdyne, by letter dated, September 23, 2013.

#### Comment:

Mr. Bobis’ comment letter is broken down into sub comments as follows:

- A. Section 1520 should be repealed as duplicative and include a reference to Section 3384.
- B. Section 3384(a) contained repetitive language some of which should be reinstated.
- C. Section 3384, Note No. 2 should be revised to clarify that jewelry should be removed only if there is potential for coming in contact with energized parts.

#### Response:

- A. The Board accepts Mr. Bobis comment and will repeal Section 1520 as suggested.
- B. The Board does not accept this comment. Section 3380(f) already requires the employer to conduct an assessment of existing and potential exposures; therefore, reinstatement of the phrase “capable of causing impairment or injury” is redundant and unnecessary. Staff also rejects the reinstatement of “unusual” and “excessive” which has been identified by the Occupational Safety and Health Appeals Board as being indeterminate and lacking clarity, because there is no criteria provided in Title 8 that an employer may apply with

consistency to determine what is unusual and excessive. The Board also rejects the removal of the terms “thermal burns” and “harmful” as these terms are contained in the federal language and like the word “severe” help to ensure that the requirement is not overly burdensome or excessive in terms of the employer’s responsibility to take action and provide Personal Protective Equipment.

- C. The Note is merely informational, unenforceable language that was not proposed for amendment by staff. The employer’s injury and illness prevention program (Section 3203 IIPP program) is the best way for an employer to gauge whether there is a potential for contact with energized parts of equipment and machinery. A blanket requirement that requires what is already required by Section 3380(f) is unnecessary; therefore the Board believes no modification of Note No. 2 is necessary.

The Board thanks Mr. Bobis for his participation in the Board’s rulemaking process.

Mr. Bill Taylor, CSP, PASMA-South Chapter, Legislative and Regulatory Representative, by letter dated October 7, 2013.

Comment:

Mr. Taylor is concerned over the Division arbitrarily issuing citations to employers for the failure to provide hand protection to prevent minor cuts or lacerations. Mr. Taylor also stated that in the absence of the modifier “severe” contained in 29 CFR 1910.138 (a.) the proposal which was intended to eliminate vague and ambiguous language will again create a standard that is equally vague and ambiguous. He suggests the proposal be verbatim of the federal standard or that the term ““unusual” and excessive exposure” should be defined.

Response:

See the Board’s response to Mr. McCullough’s written comments above.

The Board thanks Mr. Taylor for his participation in the Board’s rulemaking process.

Ms. Dana Lahargoue, Chair, CEA Safety Committee, Construction Employer’s Association, by letter dated October 10, 2013.

Comment:

Ms. Lahargoue echoed the written comments from Mr. Taylor and Mr. McCullough regarding the inclusion of the term “severe” into Sections 3384(a) and 1520. Ms. Lahargoue also suggested keeping the exception in Section 1520.

Response:

See the Board’s response to Mr. McCullough’s written comments above. Additionally, the Board rejects keeping the exception for Section 1520 as the wording of this exception is reflected in the wording of Section 3384(b).

The Board thanks Ms. Lahargoue for her participation in the Board’s rulemaking process.

Mr. Dave Tognetti, Senior Safety Manager, Raley's Supermarkets, by written submission received October 16, 2013.

Comment:

As the previous commenters, Mr. Tognetti recommended the proposal be modified to be verbatim of the Federal standards in 29 CFR 1910.138 (a), stating that as written, the proposal will be enforced to require employers to provide hand protection even for the most minor cut or abrasion hazards which is unreasonable.

Response:

The Board agrees and accepts Mr. Tognetti's comment and will modify the proposal to include the term "severe" in Section 3384(a) as suggested.

The Board thanks Mr. Tognetti for his participation in the Board's rulemaking process.

Mr. Tim James, Manager, Local Government Relations, California Grocers Association, Ms. Karen Bush, Senior Legislative Director, Government Affairs and Public Policy, California Restaurant Association, and Ms. Mandy Lee, Director of Government Association, California Retailers Association jointly, by letter dated October 16, 2013.

Comment:

Mr. James, Ms. Bush and Ms. Lee, stated concerns over the omission of the term "severe" in staff's proposal which is essentially verbatim of the Federal standard in 29 CFR 1910.138(a). As the previous commenters, they recommend that the Board modify the proposal to read essentially verbatim of the Federal standard by including the modifier "severe".

Response:

The Board agrees with the commenters and will modify the proposal to include the omitted modifier "severe" in Section 3384(a) [CSO Section 1520 will be repealed leaving Section 3384 as the operative provision for construction, as well as general industry].

The Board thanks Mr. James, Ms. Bush and Ms. Lee for their participation in the Board's rulemaking process.

Mr. Patrick Singh, Director of Safety, Safeway Inc., by written submission to the OSHSB at the October 17, 2013 Public Hearing.

Comment:

Mr. Singh's concerns echoed those of Mr. Tognetti.

Response:

See the Board's response to Mr. Tognetti's written comments above.

The Board thanks Mr. Singh for his participation in the Board's rulemaking process.

Ms. Anne Katten, MPH, California Rural Legal Assistance Foundation (CRLAF), by letter dated October 17, 2013.

Comment:

Ms. Katten stated that she supports the proposed amendment and agrees with the deletion of the words “unusual” and “excessive” as not being protective. She stated that the incidence of skin disorders among agricultural workers is high due to the nature of their exposure in the field. She also stated that the argument expressed by industry at the Board’s October 2013 Public Hearing is shallow as far as the potential for adverse cost impact due to an overly broad duty to comply created by the omission of the federal modifier “severe” in the text since the proposal already states that employers must supply “appropriate” hand protection. Therefore CRLAF strongly opposes modification of the proposal to include such modifiers as it would deny hand protection to many workers who routinely are exposed to single or multiple skin hazards.

She also suggested the addition of several more examples of common skin hazards such as those that cause blisters, chemical irritation and sensitization due to biological agents, and disease causing organisms.

Response:

The Board believes that in the absence of statistical data supporting Ms. Katten’s claim of a higher incidence of certain types of skin disorders among agricultural workers, it cannot determine whether Ms. Katten’s comment alone is sufficient basis to merit modification of the proposal. The Board notes that the amended proposal addresses contact with harmful substances which would include skin irritants and sensitizers be they chemical or biological. The Board also wishes to point out that to require *appropriate* hand protection pertains to the selection of the type of hand protection according to the nature of the hazard and has nothing to do with when the employer is required to provide hand protection. Therefore, to say that the word “appropriate” provides the relief employers are concerned about with regard to their duty to provide hand protection for even the most subtle or minute exposures is not accurate. Ms. Katten is reminded that Section 3380(f) of the GISO addresses the employer’s duty to assess, select and therefore provide the proper type of personal protection for his/her employees, thus requiring the employer to take into account the nature of the work and exposure to ensure personal protective equipment (e.g. hand protection) will be effective. The Board believes that compliance with this standard is effective in ensuring that hand protection is provided when it is actually needed and not unnecessarily which raises a reasonable cost concern expressed by some of the previous commenters.

The Board also believes that the existing list of exposure types contained in the proposal is adequate to address most, if not all, of the most commonly encountered hand exposures for a wide variety of general industries in California. In fact, the list of hand exposures is larger than the federal hand protection standard as it includes radioactive materials which are not listed in the federal standard. If Ms. Katten has credible documentation that shows that agricultural employees are exposed to factors in their occupations which are not found in other occupations which could result in safety or health trauma to their hands that are not included in exposure types listed in Section 3384(a), Ms. Katten may wish to consider petitioning the Board to amend agricultural operations standards to address any such unique hand exposures.

Consequently, the Board believes that no further modification of the proposal based on Ms. Katten's comments, are necessary.

The Board thanks Ms. Katten for her comments and participation in the Board's rulemaking process.

## II. Oral Comments

Oral comments received at the October 17, 2013, Public Hearing in Sacramento, California.

Mr. Bill Taylor CSP, Legislative and Regulatory Representative, representing PASMA, South Chapter.

### Comment:

Mr. Taylor stated the proposal is vague and creates confusion by omitting the term "severe". As proposed, the standard would obligate every employer to provide hand protection for every situation where a laceration could possibly occur. Mr. Taylor stated that the proposal should be verbatim of the federal standard or the terms "unusual" and "excessive" should be clarified.

### Response:

The Board agrees with Mr. Taylor and has modified the proposal to include the modifier "severe" in the proposal. See the Board's response to Mr. Taylor's written comment letter dated October 7, 2013.

Mr. Tim James, California Grocers Association.

### Comment:

Mr. James stated he notes the lack of descriptors in the proposal with regard to the absence of the terms "severe" and that this could lead to the employer being obligated to provide hand protection for even the most minor of injuries caused by tools such as scissors. He recommended the Board review the federal hand protection standard and consider using the word "severe" and other qualifiers to eliminate confusion.

### Response:

The Board agrees with Mr. James. See the response to Mr. Taylor's oral comments.

Mr. Robert Singh, Safeway, Inc.

### Comment:

Mr. Singh recommended the proposal fully adopt 29 CFR 1910.138(a) and (b), which will provide consistency needed in the proposal.

Response:

The Board agrees with Mr. Singh. See the Board's response to Mr. Patrick Singh's written comments received by the Board on October 17, 2013.

Ms. Anne Katten, CRLA

Comment:

Ms. Katten opined that the proposal is not excessive and supports the proposal. She indicated that she believes the amendments render a clearer hand protection standard as it captures the concept of the employee being provided with hand protection as deemed necessary by the nature of the exposure.

Response:

The Board acknowledges Ms. Katten for her support of the proposal. However, see the Board's response to Ms. Katten's written comments dated October 17, 2013.

Ms. Dorothy Wigmore, WORKSAFE.

Comment:

Ms. Wigmore stated that she supports the proposed amendments and indicated that there has been disagreement over what is the difference between what is "serious" and what is "unusual" and believes that the proposal will ensure that the employer selects proper hand protection for the employee as needed.

Response:

The Board acknowledges Ms. Wigmore for her support of the proposal. However, see the Board's response to Ms. Katten's written comments to the Board dated October 17, 2013.

Mr. Kevin Bland, representing the California Framing Contractors Association and the Residential Contractors Association.

Comment:

Mr. Bland recommended the Board revise the proposal, because it is not clear and may result in hand protection being required in any situation where insignificant injury could occur. He said that the lack of modifiers in the proposal makes it too broad and could result in unintended consequences.

Response:

The Board agrees with Mr. Bland and has modified the proposal accordingly consistent with the federal hand protection standard by adding the modifier "severe".