

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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Attachment No. 2

INITIAL STATEMENT OF REASONS

CALIFORNIA CODE OF REGULATIONS

TITLE 8: Division 1, Chapter 4, Subchapter 7, Article 88, Section 4848
of the General Industry Safety Orders

Update of Welding Fire Prevention and Suppression Procedures

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.

SPECIFIC PURPOSE AND FACTUAL BASIS OF PROPOSED ACTION

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 requires that employers establish 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. It is necessary to incorporate by reference the entire NFPA 51B standard because in addition to definitions which provide clarity, it contains standards pertaining to fire prevention procedures and hot work responsibility that are crucial to effective and comprehensive control of workplace fire and explosion risks. The proposed amendments are necessary to 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 and will clarify that Section 4848 also addresses the methods contained in the referenced consensus standards, for fire prevention and suppression procedures and methods.

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) is necessary to ensure that these items provide the appropriate level of protection.

DOCUMENT RELIED UPON

Hi Temp Products, Power Point presentation slides by Reginald Travis of Hi Temp Products of Canada.

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.

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. Copies of this document 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.

REASONABLE ALTERNATIVES THAT WOULD LESSEN ADVERSE ECONOMIC
IMPACT ON SMALL BUSINESSES

No reasonable alternatives were identified by the Board and no reasonable alternatives identified by the Board or otherwise brought to its attention would lessen the impact on small businesses.

SPECIFIC TECHNOLOGY OR EQUIPMENT

This proposal will not mandate the use of specific technologies or equipment.

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 a 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 costs 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 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 amendment 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 amendment 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.

ALTERNATIVES THAT WOULD AFFECT PRIVATE PERSONS

No reasonable alternatives have been identified by the Board or have otherwise been identified and brought to its attention that would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.