

**OCCUPATIONAL SAFETY  
AND HEALTH STANDARDS BOARD**

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Attachment No. 3

**INITIAL STATEMENT OF REASONS****CALIFORNIA CODE OF REGULATIONS**

TITLE 8: Chapter 4, Subchapter 7, Article 81,  
Section 4799 of the General Industry Safety Orders

**Oxygen or Fuel-Gas Operator Training****SUMMARY**

This rulemaking action is based upon the findings of Board staff and the Division of Occupational Safety and Health (Division) resulting from the evaluation of Petition File No. 392, submitted by Mr. Steve Ababan, General Manager of Torchmaster. The petition requested that Sections 4799 and 4848 of the General Industry Safety Orders (GISO) be amended to provide more specific training requirements for employees in charge of oxygen or fuel-gas supply or distribution equipment for welding and cutting operations. Evaluation of the petition by Board and Division staff concluded that existing Section 4799, Section 4848, and Section 3203 Injury and Illness Prevention Program adequately addressed this training issue. Consequently, the Board denied the Petitioner's proposed amendments to Sections 4799 and 4848. However, in evaluating the merits of Petition No. 392, the Board concurred with Board and Division staff that Section 4848(a) be revised to reference the 1994 edition of American National Standards Institute (ANSI) Z49.1, Safety In Welding, Cutting and Allied Processes. Board staff has, through a separate rulemaking action in progress, proposed amendments to Section 4848 to replace the outdated ANSI reference with the 1994 edition of the ANSI standard. Chapter 10 of this standard contains specific safety procedures to be followed that are applicable to employees who operate oxygen or fuel-gas welding and cutting equipment.

Board staff proposes to amend Section 4799 in this rulemaking action to include a reference to the Injury and Illness Prevention Program requirements in Section 3203 in order to make it clear as to when employers are to train employees in charge of oxygen or fuel-gas equipment, and how such training is to be documented. Subsections (a)(7)(A) through (F) of Section 3203 establish requirements for employee training, and subsection (b) addresses written documentation of such training. As stated in the Board's Decision of OSHSB Petition File No. 392, the Division and Board staff concluded that the training requirements in Section 3203 apply to oxygen or fuel-gas operations and, in conjunction with the training requirements in Section 4799, adequately address the training needs of employees and supervisors involved in these hazardous operations.

**SPECIFIC PURPOSE AND FACTUAL BASIS OF PROPOSED ACTION**

Section 4799. Training of Operators and Instructions.

The first sentence in existing Section 4799 requires employers to instruct (train) employees who are in charge of oxygen or fuel-gas supply equipment, including generators and oxygen or fuel-gas distribution piping systems, before being left in charge. A revision is proposed to reword this sentence to read, "Employees in charge of the oxygen or fuel-gas supply equipment including generators, and oxygen or fuel-gas distribution piping systems shall be instructed for this work in accordance with the requirements of Section 3203 of the General Industry Safety Orders before being left in charge." The proposed revision is necessary to clarify to the employer that all employees left in charge of oxygen or fuel-gas supply equipment must receive training and instruction in accordance with the employer's Injury and Illness Prevention Program as outlined in Section 3203 of the General Industry Safety Orders. Section 3203 addresses, in part, requirements for initial and periodic training, supervisor training, and documentation of training.

DOCUMENTS RELIED UPON

- Occupational Safety and Health Standards Board Petition Decision, Petition File No. 392, Torchmaster, dated January 14, 1999.

This document is available for review during normal business hours at the Standards Board Office located at 2520 Venture Oaks Drive, Suite 350, Sacramento, California.

DOCUMENTS INCORPORATED BY REFERENCE

None

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 the attention of the Board would lessen the adverse 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 an initial determination that this proposal will not result in a significant, 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 impact 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, 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.)

The 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, the 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.)

The proposed regulations do not impose unique requirements on local governments. All employers - state, local and private - 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.

#### 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 alternative considered by the Board 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.