



## Exempt Action Final Regulation Agency Background Document

<b>Agency name</b>	Virginia Department of Labor and Industry/Safety and Health Codes Board
<b>Virginia Administrative Code (VAC) citation</b>	16VAC25-90-1910.102
<b>Regulation title</b>	Acetylene Standard, §1910.102, Revising Other Standards Referenced Therein; Direct Final Rule
<b>Action title</b>	Acetylene Standard, §1910.102, Revising Other Standards Referenced Therein; Direct Final Rule
<b>Final agency action date</b>	May 24, 2012
<b>Document preparation date</b>	June 5, 2012

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the Virginia Administrative Process Act (APA), the agency is encouraged to provide information to the public on the Regulatory Town Hall using this form.

Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of the Virginia Register Act, Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Summary

*Please provide a brief summary of all regulatory changes, including the rationale behind such changes. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.*

This Direct Final Rule (DFR) updates the standards-developing organization (“SDO”) standards referenced in paragraph (a) of §1910.102 (Cylinders) by deleting the reference to the 2003 edition of the Compressed Gas Association (“CGA”) Pamphlet G-1 (“Acetylene”) and replacing it with CGA Pamphlet G-1-2009 (“Acetylene”), which is the most recent edition of that pamphlet.

There were also minor changes found to the titles of CGA reports referenced in paragraph 4 of Section 3.2, Physical and chemical properties, and Section 4.2, Valves. Federal OSHA determined that these changes were not substantive. In Section 4.5 (Marking and labeling), CGA also provided additional guidance clarifying Department of Transportation labeling regulations, and labeling requirements for transporting acetylene in Canada. Federal OSHA determined that this information provided guidance

only, and therefore, imposed no additional burden on employer.

Finally, federal OSHA identified an addition to the note in Section 5.2 (Rules for storing acetylene) that designates as “in service” single cylinders of acetylene and oxygen located at a work station (e.g., chained to a wall or building column, secured on a cylinder cart). OSHA determined that this change was consistent with current industry practice, and does not increase employers’ burden.

### Statement of final agency action

*Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.*

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On May 24, 2012, the Safety and Health Codes Board adopted federal OSHA’s Direct Final Rule for Revising Standards Referenced in the Acetylene Standard, §1910.102, as published in 76 FR 75782 on December 5, 2011, with an effective date of September 15, 2012.

### Family impact

*Assess the impact of this regulatory action on the institution of the family and family stability.*

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This regulatory action will have no impact on the institution of the family and family stability.

To access the Direct Final Rule for Revising Standards Referenced in the Acetylene Standard, §1910.102, please refer to:

[http://www.osha.gov/FedReg\\_osha\\_pdf/FED20111205A.pdf](http://www.osha.gov/FedReg_osha_pdf/FED20111205A.pdf)



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**DEPARTMENT OF LABOR**
**Occupational Safety and Health Administration**
**29 CFR Part 1910**
**[Docket No. OSHA–2011–0183]**
**RIN 1218–AC64**
**Revising Standards Referenced in the Acetylene Standard**
**AGENCY:** Occupational Safety and Health Administration (OSHA), Department of Labor.

**ACTION:** Direct final rule; request for comments.

**SUMMARY:** In this direct final rule, the Agency is revising its Acetylene Standard for general industry by updating a reference to a standard published by a standards-developing organization (“SDO standards”). This rulemaking is a continuation of OSHA’s ongoing effort to update references to SDO standards used throughout its rules.

**DATES:** This direct final rule will become effective on March 5, 2012 unless OSHA receives significant adverse comment by January 4, 2012. If OSHA receives adverse comment, it will publish a timely withdrawal of the rule in the **Federal Register**. Submit comments to this direct final rule (including comments to the information-collection (paperwork) determination described under the section titled Procedural Determinations), hearing requests, and other information by January 4, 2012. All submissions must bear a postmark or provide other evidence of the submission date. (The following section

titled **ADDRESSES** describes methods available for making submissions.)

The Director of the Federal Register approved the incorporation by reference of specific publications listed in this direct final rule as of March 5, 2012.

**ADDRESSES:** Submit comments, hearing requests, and other information as follows:

- *Electronic:* Submit comments electronically to <http://www.regulations.gov>, which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

- *Facsimile:* OSHA allows facsimile transmission of comments and hearing requests that are 10 pages or fewer in length (including attachments). Send these documents to the OSHA Docket Office at (202) 693–1648; OSHA does not require hard copies of these documents. Instead of transmitting facsimile copies of attachments that supplement these documents (e.g., studies, journal articles), commenters must submit these attachments to the OSHA Docket Office, Technical Data Center, Room N–2625, OSHA, U.S. Department of Labor, 200 Constitution Ave. NW., Washington, DC 20210. These attachments must clearly identify the sender’s name, date, subject, and docket number (OSHA–2011–0183) so that the Agency can attach them to the appropriate document.

- *Regular mail, express delivery, hand (courier) delivery, and messenger service:* Submit comments and any additional material (e.g., studies, journal articles) to the OSHA Docket Office, Docket No. OSHA–2011–0183 or Regulation Identification Number (RIN) 1218–AC08, Technical Data Center, Room N–2625, OSHA, U.S. Department of Labor, 200 Constitution Ave. NW., Washington, DC 20210; telephone: (202) 693–2350. (OSHA’s TTY number is (877) 889–5627.) Note that security-related procedures may result in significant delays in receiving comments and other written materials by regular mail. Please contact the OSHA Docket Office for information about security procedures concerning delivery of materials by express delivery, hand delivery, and messenger service. The hours of operation for the OSHA Docket Office are 8:15 a.m. to 4:45 p.m., e.t.

- *Instructions:* All submissions must include the Agency name and the OSHA docket number (OSHA–2011–0183). OSHA will place comments and other material, including any personal information, in the public docket without revision, and these materials will be available online at <http://www.regulations.gov>



[www.regulations.gov](http://www.regulations.gov). Therefore, the Agency cautions commenters about submitting statements they do not want made available to the public, or submitting comments that contain personal information (either about themselves or others) such as Social Security numbers, birth dates, and medical data.

- *Docket*: The electronic docket for this direct final rule established at <http://www.regulations.gov> lists most of the documents in the docket. However, some information (e.g., copyrighted material) is not publicly available to read or download through this Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Contact the OSHA Docket Office for assistance in locating docket submissions.

**FOR FURTHER INFORMATION CONTACT:**

*Press inquiries:* Contact Frank Meilinger, OSHA Office of Communications, Room N-3647, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone: (202) 693-1999.

*General and technical information:* Contact Ted Twardowski, Office of Safety Systems, Directorate of Standards and Guidance, Room N-3609, OSHA, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone: (202) 693-2255; fax: (202) 693-1663.

**SUPPLEMENTARY INFORMATION:**

*Copies of this Federal Register notice:* Electronic copies of this **Federal Register** notice are available at <http://www.regulations.gov>. This notice, as well as news releases and other relevant information, also are available at OSHA's Web page at <http://www.osha.gov>.

*Availability of Incorporated Standards:* OSHA is incorporating by reference into this section the standard published by the Compressed Gas Association required in § 1910.102(a) with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than the editions specified in § 1910.102(a), OSHA must publish a notice of change in the **Federal Register**, and the material must be available to the public. All approved material is available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, telephone (202) 741-6030, or go to: <http://www.archives.gov/federal-register/code-of-federal-regulations/ibr-locations.html>. Also, the material is available for inspection at any OSHA

Regional Office or the OSHA Docket Office (U.S. Department of Labor, 200 Constitution Avenue NW., Room N-2625, Washington, DC 20210; telephone (202) 693-2350 (TTY number: (877) 889-5627)).

**Table of Contents**

- I. Background
- II. Direct Final Rulemaking
  - A. General
  - B. Relationship Between this Direct Final Rule and the Companion Proposed Rule
  - C. Request for Comment
- III. Summary and Explanation of Revisions to the Acetylene Standard
- IV. Procedural Determinations
  - A. Legal Considerations
  - B. Final Economic Analysis and Regulatory Flexibility Act Certification
  - C. OMB Review Under the Paperwork Reduction Act of 1995
  - D. Federalism
  - E. State Plan States
  - F. Unfunded Mandates Reform Act of 1995
  - G. Public Participation
  - V. Authority and Signature

**I. Background**

This action is part of a rulemaking project instituted by the Occupational Safety and Health Administration ("OSHA" or "the Agency") to update OSHA standards that reference or include language from outdated standards published by standards developing organizations ("SDO standards") (69 FR 68283). A SDO standard referenced in OSHA's Acetylene Standard (29 CFR 1910.102) is among the SDO standards that the Agency identified for revision.

OSHA adopted the original Acetylene Standard in 1974 pursuant to Section 6(a) of the Occupational Safety and Health Act of 1970 (OSH Act; 29 U.S.C. 651, 655). This section allowed OSHA, during the first two years after passage of the OSH Act, to adopt existing Federal and national consensus standards as OSHA safety and health standards, including the Acetylene Standard.

On August 11, 2009, OSHA published a direct final rule (DFR) and accompanying notice of proposed rulemaking that updated references to recognize the latest edition of the Compressed Gas Association standard, CGA G-1-2003, in the Acetylene Standard. See 74 FR 40442 and 74 FR 40450, respectively. OSHA received no adverse comments on the DFR, and it became effective on November 9, 2009. See 74 FR 57883.

The Compressed Gas Association published a new edition of CGA G-1 in June 2009. OSHA did not include CGA G-1-2009 in the DFR because that edition was not available to OSHA prior to publication of the DFR. However,

three of the eight comments received on the DFR (Exs. OSHA-2008-0034-0017, -0010, and -0022) recommended that the Agency reference CGA G-1-2009 instead. OSHA did not include the 2009 edition of CGA G-1 in the DFR because that edition was not available to OSHA prior to publication of the DFR. This rulemaking is removing CGA G-1-2003 from the existing Acetylene Standard and replacing it with CGA G-1-2009.

**II. Direct Final Rulemaking**

*A. General*

In a direct final rulemaking, an agency publishes a DFR in the **Federal Register** along with a statement that the rule will become effective unless the agency receives significant adverse comment within a specified period. An agency uses direct final rulemaking when it anticipates the rule will be non-controversial. The agency concurrently publishes a proposed rule that is essentially identical to the DFR. If, however, the agency receives significant adverse comment within the specified period, the agency withdraws the DFR and treats the comments as submissions on the proposed rule.

OSHA is using a DFR for this rulemaking because it expects the rule to: be noncontroversial; provide protection to employees that is at least equivalent to the protection afforded to them by the outdated standard; and impose no significant new compliance costs on employers (69 FR 68283, 68285). OSHA used DFRs previously to update or, when appropriate, revoke references to outdated national SDO standards in OSHA rules (see, e.g., 69 FR 68283, 70 FR 76979, and 71 FR 80843).

For purposes of this direct final rulemaking, a significant adverse comment is one that explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach. In determining whether a comment necessitates withdrawal of the DFR, OSHA will consider whether the comment raises an issue serious enough to warrant a substantive response in a notice-and-comment process. OSHA will not consider a comment recommending an addition to the rule to be a significant adverse comment unless the comment states why the DFR would be ineffective without the addition. If OSHA receives a timely significant adverse comment, the Agency will publish a **Federal Register** notice withdrawing the DFR no later than February 3, 2012.

OSHA determined that updating and replacing the SDO standard in the Acetylene Standard is appropriate for



direct final rulemaking. First, the revision made to the Acetylene Standard by this DFR does not compromise the safety of employees, and instead enhances employee protection. As described below, the revision will make the requirements of OSHA's Acetylene Standard consistent with current industry practices, thereby eliminating confusion and clarifying employer obligations, which will increase employee safety by encouraging compliance. Furthermore, bringing the Acetylene Standard in line with industry practice will not produce additional costs for employers, and may reduce compliance costs. Finally, the revision is non-controversial because it merely updates the SDO standard referenced in the rule to the most current version of that standard.

#### *B. Relationship Between This Direct Final Rule and the Companion Proposed Rule*

This direct final rule is the companion document to a notice of proposed rulemaking also published in the "Proposed Rules" section of today's **Federal Register**. If OSHA receives no significant adverse comment on this direct final rule, it will publish a **Federal Register** document confirming the effective date of this direct final rule and withdrawing the companion proposed rule. The confirmation may include minor stylistic or technical corrections to the document. For the purpose of judicial review, OSHA considers the date that it confirms the effective date of the direct final rule to be the date of issuance. However, if OSHA receives significant adverse comment on the direct final rule, it will publish a timely withdrawal of this direct final rule and proceed with the proposed rule, which addresses the same revisions to the Acetylene Standard.

#### *C. Request for Comment*

OSHA requests comments on all issues related to this direct final rulemaking, including economic or other regulatory impacts of this action on the regulated community. OSHA will consider all of the comments, and the comments will become part of the record.

### **III. Summary and Explanation of Revisions to the Acetylene Standard**

This DFR updates the SDO standard referenced in paragraph 1910.102(a) of the Acetylene Standard. To ensure that employers have access to the latest safety requirements for managing acetylene, this rulemaking is adopting the requirements specified in the most

recent, 2009, edition of the SDO standard, CGA G-1-2009. The following discussion provides a summary of the revisions OSHA is making to paragraph (a) of the Acetylene Standard.

For paragraph (a) of § 1910.102 (Cylinders), this DFR is replacing the reference to the 2003 edition of CGA Pamphlet G-1 ("Acetylene") (Ex. OSHA-2008-0034-0006) with the most recent (*i.e.*, 2009) edition of that standard, also entitled "Acetylene" (Ex. OSHA-2011-0183-0003). In reviewing CGA G1-2009, the Agency prepared a side-by-side comparison of the 2009 and 2003 editions (Ex. OSHA-2011-0183-0004). OSHA found minor changes to the titles of CGA reports referenced in paragraph 4 of section 3.2 (Physical and chemical properties) and section 4.2 (Valves); these changes are not substantive. In section 4.5 (Marking and labeling), CGA also provides additional guidance clarifying Department of Transportation labeling regulations, and labeling requirements for transporting acetylene in Canada. The Agency determined that this information provides guidance only, and, therefore, imposes no additional burden on employers. Finally, OSHA identified an addition to the note in section 5.2 (Rules for storing acetylene) that designates as "in service" single cylinders of acetylene and oxygen located at a work station (*e.g.*, chained to a wall or building column, secured on a cylinder cart). The Agency determined that this change is consistent with current industry practice, and, consequently, does not increase employers' burden.<sup>1</sup>

OSHA believes that the provisions of CGA G-1-2009 are consistent with the usual and customary practice of employers in the industry, and determined that incorporating CGA G-1-2009 into paragraph (a) of § 1910.102 does not add compliance burden for employers. OSHA invites the public to comment on whether the revisions made to the Acetylene Standard represent current industry practice.

### **IV. Procedural Determinations**

#### *A. Legal Considerations*

The purpose of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 *et seq.*), is "to assure so far as possible every working man and woman in the nation safe and healthful working conditions and to preserve our human resources." 29 U.S.C. 651(b). To achieve

<sup>1</sup> In its comments to the 2009 DFR revising OSHA's Acetylene Standard, CGA made the following statement regarding the addition to this note: "CGA does not envision a hardship or economic burden on the industry nor any reduction in industrial safety as a result of this change."

this goal, Congress authorized the Secretary of Labor to promulgate and enforce occupational safety and health standards. 29 U.S.C. 655(b), 654(b). A safety or health standard is a standard "which requires conditions, or the adoption or use of one or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe or healthful employment or places of employment." 29 U.S.C. 652(8). A standard is reasonably necessary or appropriate within the meaning of Section 652(8) when a significant risk of material harm exists in the workplace and the standard would substantially reduce or eliminate that workplace risk.

This DFR will not reduce the employee protections put into place by the standard OSHA is updating under this rulemaking. Instead, this rulemaking likely will enhance employee safety by clarifying employer obligations. Therefore, it is unnecessary to determine significant risk, or the extent to which this rule would reduce that risk, as typically is required by *Industrial Union Department, AFL-CIO v. American Petroleum Institute* (448 U.S. 607 (1980)).

#### *B. Final Economic Analysis and Regulatory Flexibility Act Certification*

This DFR is not "economically significant" as specified by Executive Order 12866, or a "major rule" under Section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996 ("SBREFA"; 5 U.S.C. 804). The DFR does not impose significant additional costs on any private-sector or public-sector entity, and does not meet any of the criteria for an economically significant or major rule specified by Executive Order 12866 and the relevant statutes. OSHA developed the rule with attention to the approaches to rulemaking outlined in Executive Orders 12866 and 13563.

This DFR simply updates a reference to an outdated SDO standard in OSHA's Acetylene Standard. The Agency concludes that the revisions will not impose any additional costs on employers because it believes that the updated SDO standard represents the usual and customary practice of employers in the industry. Consequently, the DFR imposes no costs on employers. Therefore, OSHA certifies that this rulemaking will not have a significant economic impact on a substantial number of small entities. Accordingly, the Agency is not preparing a regulatory flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).



#### C. OMB Review Under the Paperwork Reduction Act of 1995

Neither the existing nor updated SDO standard addressed by this DFR contain collection of information requirements. Therefore, this DFR does not impose or remove any information-collection requirements for purposes of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.* and 5 CFR 1320. Accordingly, the Agency does not have to prepare an Information Collection Request in association with this rulemaking.

Members of the public may respond to this paperwork determination by sending their written comments to the Office of Information and Regulatory Affairs, Attn: OSHA Desk Officer (RIN 1218-AC08), Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503. The Agency encourages commenters to submit these comments to the rulemaking docket, along with their comments on other parts of the DFR. For instructions on submitting these comments and accessing the docket, see the sections of this **Federal Register** notice titled **DATES** and **ADDRESSES**. However, OSHA will not consider any comment received on this paperwork determination to be a "significant adverse comment" as specified under Section II ("Direct Final Rulemaking") of this notice.

To make inquiries, or to request other information, contact Mr. Todd Owen, Directorate of Standards and Guidance, OSHA, Room N-3609, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693-2222.

#### D. Federalism

OSHA reviewed this DFR in accordance with the Executive Order on Federalism (Executive Order 13132, 64 FR 43255, August 10, 1999), which requires that Federal agencies, to the extent possible, refrain from limiting State policy options, consult with States prior to taking any actions that would restrict State policy options, and take such actions only when clear constitutional authority exists and the problem is national in scope.

Under Section 18 of the Occupational Safety and Health Act of 1970 ("OSH Act"; U.S.C. 651 *et seq.*), Congress expressly provides that States may adopt, with Federal approval, a plan for the development and enforcement of occupational safety and health standards; OSHA refers to States that obtain Federal approval for such a plan as "State Plan States." 29 U.S.C. 667. Occupational safety and health

standards developed by State Plan States must be at least as effective in providing safe and healthful employment and places of employment as the Federal standards. Subject to these requirements, State Plan States are free to develop and enforce their own requirements for occupational safety and health standards. While OSHA drafted this DFR to protect employees in every State, Section 18(c)(2) of the Act permits State Plan States and Territories to develop and enforce their own standards for acetylene operations provided these requirements are at least as effective in providing safe and healthful employment and places of employment as the requirements specified in this DFR.

In summary, this DFR complies with Executive Order 13132. In States without OSHA-approved State Plans, any standard developed from this DFR would limit State policy options in the same manner as every standard promulgated by OSHA. In States with OSHA-approved State Plans, this rulemaking would not significantly limit State policy options.

#### E. State Plan States

When Federal OSHA promulgates a new standard or a more stringent amendment to an existing standard, the 27 States or U.S. Territories with their own OSHA-approved occupational safety and health plans ("State Plan States") must amend their standards to reflect the new standard or amendment, or show OSHA why such action is unnecessary (*e.g.*, if an existing State standard covering this area is already "at least as effective" as the new Federal standard or amendment). 29 CFR 1953.5(a). The State standard must be "at least as effective" as the final Federal rule, and must be completed within six months of the publication date of the final Federal rule. 29 CFR 1953.5(a). When OSHA promulgates a new standard or amendment that does not impose additional or more stringent requirements than the existing standard, State Plan States are not required to amend their standards, although OSHA may encourage them to do so.

While this DFR does not impose any additional or more stringent requirements on employers than the existing Acetylene Standard, OSHA believes that the provisions of this DFR will provide employers with critical, updated information and methods that will help protect their employees from the hazards found in workplaces engaged in acetylene operations. Therefore, OSHA encourages the State Plan States to adopt provisions comparable to the provisions in this

DFR within six months after the promulgation date of the rule. The 27 States and territories with OSHA-approved State Plans are: Alaska, Arizona, California, Connecticut, Hawaii, Illinois, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, New Jersey, New York, North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Virgin Islands, Washington, and Wyoming. Connecticut, Illinois, New Jersey, New York, and the Virgin Islands have OSHA-approved State Plans that apply to State and local government employees only.

#### F. Unfunded Mandates Reform Act of 1995

OSHA reviewed this DFR in accordance with the Unfunded Mandates Reform Act of 1995 ("UMRA"; 2 U.S.C. 1501 *et seq.*) and Executive Order 12875 (56 FR 58093). As discussed above in Section IV.B ("Final Economic Analysis and Regulatory Flexibility Act Certification") of this notice, the Agency determined that this DFR will not impose additional costs on any private-sector or public-sector entity. Accordingly, this DFR requires no additional expenditures by either public or private employers.

As noted above under Section IV.E ("State Plan States") of this notice, the Agency's standards do not apply to State and local governments except in States that have elected voluntarily to adopt a State Plan approved by the Agency. Consequently, this DFR does not meet the definition of a "Federal intergovernmental mandate" (*see* Section 421(5) of the UMRA (2 U.S.C. 658(5)). Therefore, for the purposes of the UMRA, the Agency certifies that this DFR does not mandate that State, local, or tribal governments adopt new, unfunded regulatory obligations, or increase expenditures by the private sector of more than \$100 million in any year.

#### G. Public Participation

OSHA requests comments on all issues concerning this DFR. The Agency also welcomes comments on its determination that this DFR has no negative economic impacts on employers, and will increase employee protection. If OSHA receives no significant adverse comment, it will publish a **Federal Register** document confirming the effective date of this direct final rule and withdrawing the companion proposed rule. Such confirmation may include minor stylistic or technical corrections to the

document. For a full discussion of what constitutes a significant adverse comment, see Section II ("Direct Final Rulemaking") of this notice.

The Agency will withdraw this DFR if it receives significant adverse comment on the amendments contained in it, and proceed with the companion proposed rule by addressing the comment(s) and publishing a new final rule. The comment period for this DFR runs concurrently with that of the companion proposed rule. Therefore, OSHA will treat any comments received under this DFR as comments regarding the companion proposed rule. Similarly, OSHA will consider a significant adverse comment submitted to this DFR as a comment to the companion proposed rule; the Agency will consider such a comment in developing a subsequent final rule.

OSHA will post comments received without revision to <http://www.regulations.gov>, including any personal information provided. Accordingly, OSHA cautions commenters about submitting personal information such as Social Security numbers and birth dates.

**List of Subjects in 29 CFR Part 1910**

Acetylene, General industry, Incorporation by reference, Occupational safety and health, Safety.

**V. Authority and Signature**

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210, authorized the preparation of this notice. The Agency is issuing this notice under Sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657), Secretary of Labor's Order 4-2010 (75 FR 55355), and 29 CFR part 1911.

Signed at Washington, DC, on November 22, 2011.

**David Michaels,**

*Assistant Secretary of Labor for Occupational Safety and Health.*

**Amendments to the Standard**

For the reasons discussed in the preamble, the Occupational Safety and Health Administration is amending 29 CFR part 1910 as set forth below:

**PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS**

**Subpart A—[Amended]**

■ 1. The authority citation for subpart A continues to read as follows:

**Authority:** Sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12-71 (36 FR 6754), 8-76 (41 FR 25059), 9-83 (48 FR 35736), 1-90 (55 FR 9033), 6-96 (62 FR 111), 3-2000 (65 FR 50017), 5-2002 (67 FR 65008), 5-2007 (72 FR 31159), and 4-2010 (75 FR 55355), as applicable.

Sections 1910.6, 1910.7, 1910.8 and 1910.9 also issued under 29 CFR part 1911. Section 1910.7(f) also issued under 31 U.S.C. 9701, 29 U.S.C. 9a, 5 U.S.C. 553; Pub. L. 106-113 (113 Stat. 1501A-222); Pub. L. 111-8 and 111-317; and OMB Circular A-25 (dated July 8, 1993) (58 FR 36142, July 15, 1993).

**Subpart H—[Amended]**

■ 4. Amend § 1910.102 by revising paragraph (a) to read as follows:

**§ 1910.102 Acetylene.**

(a) *Cylinders.* Employers must ensure that the in-plant transfer, handling, storage, and use of acetylene in cylinders comply with the provisions of CGA Pamphlet G-1-2009 ("Acetylene") (incorporated by reference, see § 1910.6).

\* \* \* \* \*  
[FR Doc. 2011-30653 Filed 12-2-11; 6:45 am]  
**BILLING CODE 4510-26-P**

To access the confirmation of the effective date for the Direct Final Rule for Revising Standards Referenced in the Acetylene Standard, §1910.102, please refer to:

[http://www.osha.gov/FedReg\\_osha\\_pdf/FED20120308.pdf](http://www.osha.gov/FedReg_osha_pdf/FED20120308.pdf)






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**DEPARTMENT OF LABOR**
**Occupational Safety and Health Administration**
**29 CFR Part 1910**

[Docket No. OSHA–2011–0183]

RIN 1218–AC64

**Revising Standards Referenced in the Acetylene Standard**

**AGENCY:** Occupational Safety and Health Administration (OSHA), Department of Labor.

**ACTION:** Final rule; confirmation of effective date.

**SUMMARY:** OSHA is confirming the effective date of its direct final rule that revises the Acetylene Standard for general industry by updating the reference to a standard published by a standards-developing organization, the Compressed Gas Association. In the December 5, 2011, direct final rule, OSHA stated that it would withdraw the companion proposed rule and confirm the effective date of the direct final rule

if the Agency received no significant adverse comments. OSHA did not receive significant adverse comments on the direct final rule. Therefore, OSHA is confirming that the direct final rule will become effective on March 5, 2012.

**DATES:** The direct final rule published on December 5, 2011 (76 FR 75782), is effective on March 5, 2012. For the purposes of judicial review, OSHA considers March 5, 2012, as the date of issuance.

**FOR FURTHER INFORMATION CONTACT:**

*General information and press inquiries:* Contact Frank Meilinger, Director, OSHA Office of Communications, Room N–3647, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone: (202) 693–1999.

*Technical information:* Contact Ken Stevanus, Directorate of Standards and Guidance, Room N–3609, OSHA, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone: (202) 693–2260; fax: (202) 693–1663.

*Copies of this Federal Register notice.*

Electronic copies of this Federal Register notice are available at <http://www.regulations.gov>. This Federal Register notice, as well as news releases and other relevant information, also is available at OSHA's Web page at <http://www.osha.gov>.

**ADDRESSES:** In compliance with 28 U.S.C. 2112(a), OSHA designates the Associate Solicitor of Labor for Occupational Safety and Health as the recipient of petitions for review of the final standard. Contact Joseph M. Woodward, Associate Solicitor at the Office of the Solicitor, Room S–4004, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone: (202) 693–5445.

**SUPPLEMENTARY INFORMATION:** On December 5, 2011, OSHA published a direct final rule (DFR) in the **Federal Register** that revised the Acetylene Standard for general industry by updating a reference to the Compressed Gas Association (CGA) acetylene standard (see 76 FR 75782). In the DFR, OSHA deleted reference to CGA G–1–2003 and replaced it with CGA G–1–2009. In that **Federal Register** document, OSHA also stated that it would confirm the effective date of the DFR if the Agency received no significant adverse comments.

OSHA received one comment on the DFR, which it determined was not a significant adverse comment. The commenter observed differences between provisions of the most recent Compressed Gas Association acetylene standard (CGA G–1–2009) and provisions of OSHA's oxygen-fuel gas

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**13970** Federal Register / Vol. 77, No. 46 / Thursday, March 8, 2012 / Rules and Regulations

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welding and cutting standard at 29 CFR 1910.253. After describing the differences, the commenter stated that "the rulemaking process should include an assessment of how other existing OSHA Rules may be affected by the new or amended rule." However, the commenter did not object to the revised provisions adopted by the CGA G-1-2009 standard that are the subject of this rulemaking. Therefore, the Agency determined that this comment was neither significant nor adverse.

**List of Subjects in 29 CFR Part 1910**

Acetylene, General industry,  
Occupational safety and health, Safety.

**Authority and Signature**

David Michaels, Ph.D., MPH,  
Assistant Secretary of Labor for  
Occupational Safety and Health, U.S.  
Department of Labor, 200 Constitution  
Avenue NW., Washington, DC 20210,  
authorized the preparation of this final  
rule. OSHA is issuing this final rule  
pursuant to Sections 4, 6, and 8 of the  
Occupational Safety and Health Act of  
1970 (29 U.S.C. 653, 655, and 657), 5  
U.S.C. 553, Secretary of Labor's Order  
1-2012 (77 FR 3912), and 29 CFR part  
1911.

Signed at Washington, DC on March 2,  
2012.

**David Michaels,**

*Assistant Secretary of Labor for Occupational  
Safety and Health.*

[FR Doc. 2012-05809 Filed 3-7-12; 8:45 am]

**BILLING CODE 4510-26-P**

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To access the withdrawal of the proposed rule, please refer to:

[http://www.osha.gov/FedReg\\_osha\\_pdf/FED20120308.pdf](http://www.osha.gov/FedReg_osha_pdf/FED20120308.pdf)

**DEPARTMENT OF LABOR****Occupational Safety and Health Administration****29 CFR Part 1910**

[Docket No. OSH-2011-0183]

RIN No. 1218-AC64

**Revising Standards Referenced in the Acetylene Standard****AGENCY:** Occupational Safety and Health Administration (OSHA), Labor.**ACTION:** Proposed rule; withdrawal.**SUMMARY:** With this document, OSHA is withdrawing the proposed rule that accompanied its direct-final rule revising the Acetylene Standard for general industry.**DATES:** Effective March 8, 2012, the proposed rule published December 5, 2011 (76 FR 75840), is withdrawn.**FOR FURTHER INFORMATION CONTACT:***General information and press inquiries:* Contact Frank Meilinger, Director, OSHA Office of Communications, Room N-3647, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone: (202) 693-1999.*Technical information:* Contact Ken Stevanus, Directorate of Standards and Guidance, Room N-3609, OSHA, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone: (202) 693-2260; fax: (202) 693-1663.**Copies of this Federal Register notice:**Electronic copies of this **Federal Register** notice are available at <http://www.regulations.gov>. This **Federal Register** notice, as well as news releases and other relevant information, is also available at OSHA's Web page at <http://www.osha.gov>.**SUPPLEMENTARY INFORMATION:** On December 5, 2011, OSHA published a direct-final rule to update the incorporated references in its Acetylene Standard for general industry at 29 CFR 1910.102 (76 FR 75782). OSHA also published a companion proposed rule along with the direct-final rule (76 FR 75840). In the direct-final rule, OSHA stated that it would withdraw the companion proposed rule and confirm the effective date of the direct-final rule if it received no significant adverse comments on the direct-final rule by January 4, 2012. OSHA received one comment on the direct-final rule by that date, which it determined was not a significant adverse comment. OSHA is publishing a notice announcing this determination and confirming the effective date of the direct-final rule as March 5, 2012. Accordingly, OSHA is

not proceeding with the proposed rule, and is withdrawing it from the rulemaking process.

**List of Subjects in 29 CFR Part 1910**

Acetylene, General industry, Occupational safety and health, Safety.

**Authority and Signature**

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210, authorized the preparation of this document. OSHA is issuing this document pursuant to Sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, and 657), 5 U.S.C. 553, Secretary of Labor's Order 1-2012 (77 FR 3912), and 29 CFR part 1911.

Signed at Washington, DC, on March 2, 2012.

**David Michaels,***Assistant Secretary of Labor for Occupational Safety and Health.*

[FR Doc. 2012-5585 Filed 3-7-12; 8:45 am]

**BILLING CODE 4510-26-P**