

**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 **January 20, 2005**, at 10:00 a.m.
in the Auditorium, Room 102 of the Office Building 9,
744 P Street, Sacramento, California 95814.

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 **January 20, 2005**, following the Public Meeting
in the Auditorium, Room 102 of the Office Building 9,
744 P Street, Sacramento, California 95814.

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 **January 20, 2005**, following the Public Hearing
in the Auditorium, Room 102 of the Office Building 9,
744 P Street, Sacramento, California 95814.

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

The meeting facilities and restrooms are accessible to the physically disabled. Requests for accommodations for the disabled (assistive listening device, sign language interpreters, etc.) should be made to the Board office no later than 10 working days prior to the day of the meeting. If Paratransit services are needed, please contact the Paratransit office nearest you.

**OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD**

STEVEN L. RANK, 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, General Industry Safety Orders and Logging and Sawmill Safety Orders of the California Code of Regulations, as indicated below, at its Public Hearing on **January 20, 2005**.

1. TITLE 8: GENERAL INDUSTRY SAFETY ORDERS
Chapter 4, Subchapter 7, Article 76
Section 4650(d)
Compressed Gas (Oxygen) Cylinder Storage

2. TITLE 8: LOGGING AND SAWMILL SAFETY ORDERS
Chapter 4, Subchapter 13, Article 1.5
Section 6251
First Aid Requirements for Fixed Sawmill Operations

A description of the proposed changes are as follows:

1. **TITLE 8: GENERAL INDUSTRY SAFETY ORDERS**
Chapter 4, Subchapter 7, Article 76
Section 4650(d)
Compressed Gas (Oxygen) Cylinder Storage

INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW

Existing General Industry Safety Orders (GISO) section 4650(d) prohibits employers from storing oxygen cylinders near combustible materials or near any substance likely to accelerate fires. The intent of this standard is to prevent or minimize the risk of accelerating a fire (given oxygen's ability to enhance combustion) at a place of employment, which could increase the potential for explosion resulting in serious employee injuries, fatalities, or property damage. In the January 16, 2003, Memorandum to the Board and attached Request for New or Amended Safety Order, the Division of Occupational Safety and Health (Division) notes that the existing section 4650(d) does not specify a minimum separation distance or warn specially against storing oxygen cylinders near fuel gas cylinders, a fire and explosion hazard. The lack of specificity raises the issue of what is meant by storing oxygen cylinders "near" combustible materials and what constitutes sufficient separation from combustible materials (e.g., oil, grease). The Division notes that Construction Safety Orders (CSO) section 1740(g) regarding the storage of oxygen cylinders addresses this issue in greater detail, and is practically verbatim of federal OSHA standards in 29CFR 1926.350(a) and 1910.253(b)(4)(iii). The federal standards are based upon national consensus standards National Fire Protection Association (NFPA) 51-7-1997 and Compressed Gas Association (CGA) Pamphlet P-1-1984, which are industry standards. Board staff also notes that the California Fire Code stipulates a minimum 20-foot separation distance for incompatible materials.

Consequently, as recommended by the Division, Board staff proposes to amend GISO section 4650(d) to read verbatim of CSO section 1740(g) rendering it consistent with the federal standards and industry-accepted national consensus standards.

The following actions are proposed:

Section 4650. Storage, Handling, and Use of Cylinders.

This section contains various requirements pertaining to cylinder storage, ventilation of cylinders, separation of oxygen cylinders from materials that could combust or act as a fire accelerant, transporting cylinders, use of valve protection devices, use of regulators, etc.

Subsection (d) prohibits employers from storing oxygen cylinders near combustible materials or any substance that is likely to accelerate fires. A revision is proposed to amend subsection (d) to clarify that oxygen cylinders are to be separated from fuel gas cylinders (e.g., propane, butane, methane) by a minimum distance of 20 feet or a half-hour, fire resistive barrier at least 5 feet high.

The proposal will require employers to evaluate their oxygen storage situation; and when necessary, either reposition their oxygen storage to meet the minimum 20-foot separation or provide a 5-foot high, half-hour rated fire resistive barrier.

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 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 standard 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 the proposed standard 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 standard does not require local agencies to carry out the governmental function of providing services to the public. Rather, the standard requires local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, the proposed standard 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.)

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

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 amendment to this standard 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 and less burdensome to affected private persons than the proposed action.

2. TITLE 8: LOGGING AND SAWMILL SAFETY ORDERS
Chapter 4, Subchapter 13, Article 1.5
Section 6251
First Aid Requirements for Fixed Sawmill Operations

INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW

On January 22, 2002, the Occupational Safety and Health Standards Board (Board) received a Form 9, Request for New or Change in Existing Safety Orders, from the Division of Occupational Safety and Health (Division) requesting that Logging and Sawmill Safety Orders (LSSO) Section 6251(d)(1) be amended to clarify first aid requirements for fixed sawmill operations.

The Division expressed concern over the meaning of the term “proximity” as used in the “Note” to Section 6251(d)(1). It refers to a 15-minute response time whereby first aid is to be provided to

employees who require such treatment. The Division believes that a 15-minute response time is too long for the sawmill employee to have to wait before effective, life saving first aid and/or cardiopulmonary resuscitation (CPR) is provided. The Division also noted that the prescribed 15-minute response time is inconsistent with Federal OSHA interpretations on what is considered an effective response time.

In a February 9, 1994 Interpretation Letter, Federal OSHA clarified that the term “in near proximity” in 29 Code of Federal Regulations (CFR) 1910.151(b) means that in areas where accidents resulting in suffocation, severe bleeding, or other life threatening or permanently disabling injury or illness can be expected, a 3 to 4 minute response time, from the time of injury to the time of administering first aid, is required. In other circumstances, i.e., where a life-threatening or permanently disabling injury is an unlikely outcome of an accident, a longer response time such as 15 minutes is acceptable. Moreover, where first aid treatment cannot be administered to injured employees by outside professionals within the required response time for the expected types of injuries, a person or persons within the facility shall be adequately trained to render first aid.

In a subsequent Federal Letter of Interpretation, dated April 18, 2002, Federal OSHA responded to an inquiry regarding whether or not an employer can use the “near proximity” interpretation to determine the quantity and location for first-aid supplies. Federal OSHA stated that the 3-4 minute (life threatening) and the 15-minute (non-life-threatening) time frames apply to response and start times to administer first aid, dependent on the severity of the injury. As an employer would not know in advance whether a life-threatening injury would occur, an employer should not use the 15-minute (non-life-threatening) time frame for providing first aid treatment; however, the 3-4 minute (life-threatening) time frame would be acceptable.

The Division provided their own interpretation of “near proximity,” given inquiries regarding General Industry Safety Orders Section 3400, Medical Services and First Aid. In an April 17, 1992, letter addressed to Ms. Catherine Hayes of the American Red Cross, the Division stated that “proximity” can be understood in terms of either the distance between the workplace and the hospital, infirmary, etc., or the duration of time needed to traverse the distance between the workplace and the infirmary, clinic or hospital. The Division stated that based on its evaluation of the medical literature, a reasonable interpretation of “near proximity” would be emergency medical care administered within four minutes. The Division made it clear that the intent of Section 3400(a) is to provide timely administration of first aid when needed, regardless of how one defines “proximity.”

A second letter from the Division, dated April 25, 1996, affirmed the intent of the medical services/first aid standard in Section 3400, and further clarified that current medical literature indicates that following a cardiopulmonary event, such as a heart attack or cardiac arrest, victims who receive basic CPR within four minutes have a much better chance of surviving.

Clearly, sawmill operations that primarily involve the processing of logs into lumber, and which involve debarking, stripping, sawing, and cutting of logs, have the potential to cause the severe bleeding, life-threatening, or permanently disabling injuries as described above in the federal response. The American Heart Association has published, via the Internet, response guidelines, entitled “Chain of Survival-Timing Is Everything,” that were developed in 1990 to give responders an idea of how critical it is to render immediate assistance to sudden cardiac arrest victims. The tables specified therein indicate that with every minute that goes by without treatment, survival chances diminish by 7-10%.

Consequently, Board staff concurs with the Division that the currently prescribed 15-minute first aid/CPR response timeframe as contained in the “Note” to LSSO Section 6251(d)(1), and which would

not require the employer to have First Aid/CPR-trained employees onsite to render assistance if emergency services were available within 15 minutes of the sawmill, is inconsistent with current medical knowledge, and federal/state interpretations, and should be amended. In the absence of an on-site infirmary, hospital, clinic, etc., the most practical way for an employer to meet a 3-4 minute response time is to have trained, on-site employees readily available to render assistance.

Section 6251(d):

Existing Section 6251(d)(1) specifies that at fixed sawmills where there are no emergency medical services in proximity to the workplace, the employer shall ensure that there are persons who are certified in first aid/CPR and readily accessible to render emergency assistance. The section also states that the standards for first aid and CPR training shall be in accordance with the principles of the American Heart Association, the American Red Cross or other nationally recognized agency, and contains an informative "Note" which defines "proximity" as used in subsection (d) to mean providing emergency medical services to employees in need within 15 minutes.

A revision is proposed to amend the first sentence of the subsection from "First-aid training shall be provided as follows:" to "First-aid and cardiopulmonary resuscitation (CPR) training shall be provided as follows." Additional amendments are proposed to delete a portion of the current text pertaining to emergency medical services (i.e. hospitals, infirmaries, etc.), and the accessibility of persons trained in first aid/CPR, as well as the "Note" which defines the term "proximity." It is proposed to replace this text with language requiring that employers maintain readily available (on-site) personnel, including persons in charge of the work being done and as many employees as necessary, certified to render first aid and CPR in order to ensure a timely response for medical emergencies.

The proposed performance-based revisions would require the employer to have trained/certified first aid/CPR personnel on site and in sufficient numbers so as to provide timely medical response to injured employees. The proposed revision to the subsection title is for clarification purposes, and to ensure consistency with the contents of subsection (d).

The proposed amendments will have no effect other than to ensure that a sufficient number of personnel certified to administer first aid and cardiopulmonary resuscitation are present at a work site in order to provide an immediate medical response to injured employees, consistent with current medical literature, industry practice, and federal counterpart standards.

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. Board staff has not identified any State owned or operated fixed sawmills; consequently, the proposed rulemaking action will have no effect upon state agencies.

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. Fixed sawmill operations in California who do not have onsite medical services, such as an infirmary or clinic, have for the most part, been training both supervisory and non supervisory employees on-site in first aid and CPR to give the employer the ability to render first aid and CPR within the 3-4 minutes following a medical emergency. Consequently, the Board staff believes the proposal is entirely consistent with current industry practice in this area and should not result in significant adverse economic impact on businesses in California who operate fixed sawmills.

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 standard 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 amendments will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, the standard 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 standard does not require local agencies to carry out the governmental function of providing services to the public. Rather, the standard requires local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, the proposed standard 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.)

The proposed standard does not impose unique requirements on local governments. All state, local and private employers who perform agricultural operations will be required to comply with the prescribed standard.

EFFECT ON SMALL BUSINESSES

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

ASSESSMENT

The adoption of the proposed amendments to this standard 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 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 January 14, 2005. 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 January 20, 2005, 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@hq.dir.ca.gov. The Occupational Safety and Health Standards Board may thereafter adopt the above proposal 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 Keith Umemoto, Executive Officer, or Michael 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

STEVEN L. RANK, Chairman

TITLE 8

GENERAL SAFETY ORDERS

CHAPTER 4, SUBCHAPTER 7, ARTICLE 76

SECTION 4650(d)

COMPRESSED GAS (OXYGEN) CYLINDER STORAGE

TITLE 8

LOGGING AND SAWMILL SAFETY ORDERS

CHAPTER 4, SUBCHAPTER 13, ARTICLE 1.5

SECTION 6251

FIRST AID REQUIREMENTS FOR FIXED SAWMILL OPERATIONS

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, Chapter 4, Subchapter 7, General Industry Safety Orders, Article 107, Section 5144, Fit-Testing for Tuberculosis (Emergency).

Adopted on September 23, 2004; filed with the Secretary of State on October 7, 2004; became effective on October 7, 2004; and will expire on February 5, 2005.

2. Title 8, Chapter 4, Subchapter 7, General Industry Safety Orders, Article 13, Section 3456, Hand Weeding, Hand Thinning, and Hand-Capping Operations in Agriculture (Emergency).

Adopted on September 23, 2004; filed with the Secretary of State on October 7, 2004; became effective on October 7, 2004; and will expire on February 5, 2005.

A copy 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**.

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD

Keith Umemoto, Executive Officer