

**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 **June 17, 2010**, at 10:00 a.m.
in the Auditorium of the Harris State Building,
1515 Clay Street, Oakland, California.

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 **June 17, 2010**, following the Public Meeting,
in the Auditorium of the Harris State Building,
1515 Clay Street, Oakland, California.

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 **June 17, 2010**, following the Public Hearing,
in the Auditorium of the Harris State Building,
1515 Clay Street, Oakland, California.

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

DISABILITY ACCOMMODATION NOTICE: Disability accommodation is available upon request. Any person with a disability requiring an accommodation, auxiliary aid or service, or a modification of policies or procedures to ensure effective communication and access to the public hearings/meetings of the Occupational Safety and Health Standards Board should contact the Disability Accommodation Coordinator at (916) 274-5721 or the state-wide Disability Accommodation Coordinator at 1-866-326-1616 (toll free). The state-wide Coordinator can also be reached through the California Relay Service, by dialing 711 or 1-800-735-2929 (TTY) or 1-800-855-3000 (TTY-Spanish).

Accommodations can include modifications of policies or procedures or provision of auxiliary aids or services. Accommodations include, but are not limited to, an Assistive Listening System (ALS), a Computer-Aided Transcription System or Communication Access Realtime Translation (CART), a sign-language interpreter, documents in Braille, large print or on computer disk, and audio cassette recording. Accommodation requests should be made as soon as possible. Requests for an ALS or CART should be made no later than five (5) days before the hearing.

**OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD**

JOHN D. MACLEOD, 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, Construction Safety Orders and the General Industry Safety Orders of the California Code of Regulations, as indicated below, at its Public Hearing on **June 17, 2010**.

1. TITLE 8: **CONSTRUCTION SAFETY ORDERS**
Division 1, Chapter 4, Subchapter 4
Article 2, Section 1504
Article 21, Section 1637, and
Appendix C, Plate C-17
GENERAL INDUSTRY SAFETY ORDERS
Division 1, Chapter 4, Subchapter 7, Article 23
Section 3622
Scaffold Plank Design Requirements

- TITLE 8: **GENERAL INDUSTRY SAFETY ORDERS**
Division 1, Chapter 4, Subchapter 7, Article 108
Section 5158
Other Confined Space Operations

Descriptions of the proposed changes are as follows:

1. **TITLE 8:** **CONSTRUCTION SAFETY ORDERS**
Division 1, Chapter 4, Subchapter 4
Article 2, Section 1504
Article 21, Section 1637, and
Appendix C, Plate C-17
GENERAL INDUSTRY SAFETY ORDERS
Division 1, Chapter 4, Subchapter 7, Article 23
Section 3622
Scaffold Plank Design Requirements

INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW

This rulemaking action was initiated by the Division of Occupational Safety and Health (Division) in its memorandum to the Occupational Safety and Health Standards Board (Board), dated December 22, 2006. The Division noted an increase in use of engineered and manufactured types of scaffold planking, particularly planks made from laminated veneer lumber (LVL). The Construction Safety Orders (CSO) standards addressing scaffold planking focus primarily on solid sawn Douglas Fir planking or planking products equivalent to solid sawn products. The standards do not adequately address scaffold planking made from products other than solid sawn lumber. In its memorandum, the Division indicated that the substantial differences between solid sawn plank and LVL plank and other engineered/manufactured planking products is such that determining equivalency is difficult to assess for both the Division and employers.

The proposal clarifies that solid sawn planking products other than Douglas Fir are acceptable for scaffold plank provided that appropriate lumber grading rules are met. The proposal addresses the design and strength requirements for manufactured planking and requires such planking to be used in accordance with the manufacturer's specifications. The Division and lumber inspection agencies have noted that some LVL planking products have substandard bonding and adhesive properties. The proposal would require that LVL planking manufactured after the effective date of the proposal bear the seal of an independent, nationally recognized inspection agency prior to being placed into service. Among other provisions, the proposal also establishes planking deflection limits consistent with federal OSHA standards. Finally, the proposal would require visual inspections of planking for defects and that damaged scaffold planks are not used and be removed from service.

Section 1504. Definitions.

Existing Section 1504 defines a broad category of words and terms used throughout the CSO. The definition for "Lumber" includes a list of terms defined in alphabetical order and existing subsection (C) provides the definition for "Structural Plank" that would be used with scaffolds to provide a working platform. The current definition of structural planking refers only to Douglas Fir plank products that meet the appropriately listed lumber grading rules. However, Southern Pine is the predominant species of wood used for scaffold planking. Under the definition for "Structural Plank", the proposal adds definitions for Southern Pine and other solid sawn scaffold planking that meet the appropriate lumber grading rules for scaffold planking.

The proposal would have the effect of clarifying and expanding the definition of "structural plank" to include other species of wood that are available and used for scaffold planking.

Section 1637. General Requirements.

Section 1637 contains a number of provisions addressing the design, construction and use of scaffolds.

Subsection (f).

Existing subsection (f) contains provisions for scaffold planking and focuses primarily on solid sawn wood planking and the related permissible spans for the use of such planking. An amendment is proposed to add an introductory sentence to subsection (f) showing that the subsection includes provisions for solid sawn scaffold planking and manufactured planking such as, laminated wood planking, metal planking, and planking manufactured from other materials.

The effect of this amendment is to broaden the scope of subsection (f) to include the types of scaffold planking products available. An amendment is also proposed for subsection (f)(1) to clarify that this subsection is applicable to solid sawn planking products.

Subsection (f)(2).

Subsection (f)(2) is reformatted as subsections (f)(2)(A) and (B). An amendment is proposed for subsection (f)(2)(A) to state that the permissible span table is specific to Douglas Fir and Southern Pine scaffold planking. The term “live” load essentially means the “working load” and is parenthetically inserted into the chart of subsection (f)(2)(A) for clarity and consistency with other subsections in proposed Section 1637.

New subsection (f)(2)(B) would require that the maximum permissible spans allowed for other wood species of scaffold planking to be determined by a licensed professional engineer.

The effect of these amendments will be to provide permissible spans specific for the type of wood planking used.

Subsection (f)(3).

A new subsection (f)(3)(A) is proposed that would require manufactured planking as described in this subsection to be capable of supporting, without failure, its own weight and 4 times the maximum intended working (live) load.

The effect of this subsection is to provide suitable strength requirements for planking, fabricated or manufactured, from various materials that is consistent with the overall safety factor required for scaffold systems.

Existing subsection (f)(3) is relocated, in part, to new proposed subsection (f)(3)(B) with editorial changes consistent with the other portions of the proposal. Proposed new subsection (f)(3)(C) has the effect of ensuring that manufactured scaffold planks are used in accordance with the manufacturer’s specifications.

Subsection (f)(4).

Language in existing subsection (f)(4) stating that all planks shall be capable of safely sustaining the intended load is proposed for deletion as the proposal provides specific criteria for the safe and suitable use of scaffold planking.

An amendment is proposed to require that prior to being placed in service, all LVL scaffold planks manufactured after the effective date of the regulation be labeled with the seal of an independent, nationally recognized, inspection agency certifying compliance with ASTM D 5456-09a and ANSI/ASSE A10.8-2001, Section 5.2.10. An informational NOTE for this subsection provides that ASTM D 5456-09a is the standard for the evaluation of structural composite lumber products (which includes LVL products). This NOTE also states that ANSI/ASSE A10.8-2001, Section 5.2.10 requires the inspection agency to certify that LVL scaffold planks are compliant with the design criteria in the ANSI/ASSE A10.8 standard.

This Division initiated this rulemaking action in large part because an increasing number of inferior LVL scaffold planks were being sold in California having sub-standard bonding and adhesive qualities causing them to delaminate prematurely rendering them defective for safe use as scaffold planking. The proposed amendments will have the effect of ensuring that bonding and adhesive properties of LVL planking are suitable for safe use. The seal of an independent inspection agency is already required in the ANSI A10.8 consensus standard for scaffold related safety requirements and will have the effect of providing the manufacturer guidance and the employer reasonable assurance that the product is suitable for use as scaffold planking.

New Subsection (f)(5).

A new subsection (f)(5) would require that prior to being placed into service, all solid sawn wood scaffold planks be certified by, or bear the grade stamp of, a grading agency approved by the American Lumber Standards Committee (ALSC). The ALSC is the appropriate accreditation/oversight organization for agencies inspecting solid sawn lumber products including scaffold planking. The provisions in this subsection have been a long standing requirement in the ANSI A10.8 consensus standard for scaffold safety requirements.

The effect of this provision will be to provide the employer reasonable assurance that the planking is suitable for use with scaffold systems.

New Subsection (f)(6).

A new proposed subsection (f)(6) would require all scaffold planks to be visually inspected for defects before use each day.

The effect of this amendment is that regular inspections of scaffold planking before use each day would identify planks that are defective/damaged.

New Subsection (f)(7).

A new proposed subsection (f)(7) would have the effect of requiring that defective or damaged scaffold planks are not used and that they be removed from service.

New Subsection (w).

A new proposed subsection (w) would require that platforms, including, but not limited to, solid sawn wood planks, engineered wood products, laminated veneer lumber, metal, composite, plastic, or any other manufactured planks, shall not deflect more than 1/60 of the span when loaded to the manufacturer's recommended maximum load.

This amendment is necessary for equivalency with a similar federal OSHA standard in 29 CFR 1926.451(f)(16) and would have the effect of reducing the likelihood that scaffold platforms or planking would be overloaded.

Construction Safety Orders, Appendix C, Plate C-17 "Suggested Test For Scaffold Planks."

Plate C-17 includes a simple impact field test for scaffold planks that involves loading the plank with personnel and listening for cracking sounds and looking for splitting wood. It was determined that the suggested test was subjective, did not include appropriate weight/load limits, and could result in overloading a scaffold plank in the testing process.

It is proposed to delete Plate C-17 in its entirety having the effect of removing a suggested testing method that is obsolete and possibly could damage scaffold planking.

General Industry Safety Orders (GISO), Article 23. "Mobile Ladder Stands and Scaffolds (Towers)."

Section 3622. General.

GISO, Article 23 contains requirements for mobile work platforms, ladder stands and mobile scaffolds. Section 3622 includes general requirements for certain mobile scaffolds.

Subsection (f). Work Levels.

Existing subsection (f) includes provisions for the work level platforms of mobile scaffold towers and states that work level platforms shall be made of wood, aluminum, or plywood planking, steel or expanded metal for the full width of the scaffold, except for necessary openings. This subsection also states in part, that all planking shall be Douglas Fir or equivalent. An informational "NOTE" refers to the appropriate lumber grading rules for wood planking. The existing standard has clarity concerns similar to those that prompted amendments for CSO, Section 1637. There are substantial differences between solid sawn plank and LVL plank, as well as other engineered/manufactured planking products, so that determining equivalency to Douglas Fir is difficult for both the Division and employers.

Amendments are proposed to delete references to various types of planking design materials and to delete the informational "NOTE" in subsection (f). A proposed amendment in subsection (f)(5) states that all scaffold platforms shall meet the requirements of CSO, Section 1637.

The proposed amendments will have the effect of providing clarity and consistency with provisions in the CSO that pertain to scaffold platforms and planking.

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. The proposal includes a provision that scaffold planking be visually inspected before use which is not a new concept and employers should already be including inspections of equipment as part of their Injury and Illness Prevention Programs.

Scaffold plank manufacturers attended the advisory committee for this rulemaking and stated that the provisions that pertain to plank design and strength in this proposal are currently being met by legitimate manufacturers that produce scaffold planking suitable for use with scaffold systems. The proposal would require the seal of an independent nationally recognized inspection agency for laminated veneer lumber (LVL) scaffold planking prior to it being placed into service. Manufacturers indicated that this third party quality assurance inspection/monitoring of scaffold plank production is not a new concept and is standard practice for scaffold plank manufacturers and no new or significant costs are anticipated. A similar grade stamp or certification provision is included for solid sawn scaffold planking which has been a long standing requirement in national consensus standards for scaffold safety requirements and no new or significant costs are anticipated.

Cost Impact on Private Persons or Businesses

The Board is not aware of any cost 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 standards 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 amendments will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, these standards 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 standards do not require local agencies to carry out the governmental function of providing services to the public. Rather, these standards require local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, these proposed standards 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 standards 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 amendments may affect small businesses. However, no economic impact is anticipated as outlined under the heading “Impact on Businesses.”

ASSESSMENT

The adoption of the proposed amendments to these standards 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 as and less burdensome to affected private persons than the proposed action.

2. **TITLE 8:** **GENERAL INDUSTRY SAFETY ORDERS**
Division 1, Chapter 4, Subchapter 7, Article 108
Section 5158
Other Confined Space Operations

INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW

Section 5158(e)(1)(D)1 contains a reference to Section 5144(e). At the time that reference was included in Section 5158(e)(1)(D)1, Section 5144(e) concerned air quality. In a rulemaking undertaken in 1998, the provisions of Section 5144(e) were modified and moved to Section 5144(i). However, the reference in Section 5158(e)(1)(D)1 to Section 5144(e) was not modified accordingly. The purpose of this rulemaking is to correct that discrepancy. This rulemaking was initiated by an e-mail received on June 3, 2009 from Mariano Kramer of the Division of Occupational Safety and Health.

Section 5158. Other Confined Space Operations.

This provision of the General Industry Safety Orders concerns breathing hazards regarding the industries and operations specified in Section 5156(b)(2)—such industries and operations as certain construction, agricultural, marine terminal, grain handling, telecommunications, natural gas utility and electric utility operations. Section 5158(e) concerns confined space operations, and Section 5158(e)(1)(D)1 states in part that the standby employee must have “an independent source of breathing air which conforms with Section 5144(e), available for immediate use.” Currently, Section 5144(e) has nothing to do with air quality (it did prior to the 1998 rulemaking referred to above); instead, it pertains to medical evaluations. The air quality provisions that Section 5158(e)(1)(D)1 intends to refer to are now found in Section 5144(i). This proposal would amend Section 5158(e)(1)(D)1 by replacing the existing Section 5144(e) reference with a Section 5144(i) reference. The proposal has the effect of ensuring that Section 5158(e)(1)(D)1 contains the intended cross reference rather than a cross reference that has no relation to the purpose or wording of Section 5158(e)(1)(D)1.

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 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.”

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed regulation 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, 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 regulation does not require local agencies to carry out the governmental function of providing services to the public. Rather, the regulation requires local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, the proposed regulation 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 regulation does not impose unique requirements on local governments. All employers - state, local and private - 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 regulation 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 as 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 June 11, 2010. 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 June 17, 2010, 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@dir.ca.gov. The Occupational Safety and Health Standards Board may thereafter adopt the above proposals 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 Marley Hart, Executive Officer, or Mike 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

JOHN D. MACLEOD, Chairman

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, Division 1, Chapter 4, Subchapter 7, General Industry Safety Orders, Article 59, Section 4301(c), **Spreaders for Self-Feed Circular Ripsaws.**

Heard at the January 21, 2010, Public Hearing; adopted on February 18, 2010; filed with the Secretary of State on March 24, 2010; and will become effective on April 23, 2010.

2. Title 8, Division 1, Chapter 4, Subchapter 5, Low-Voltage Electrical Safety Orders, Group 2, **Low-Voltage Electrical Safety Orders—Addendum.**

Heard at the November 19, 2009, Public Hearing; adopted on February 18, 2010, filed with the Secretary of State on April 6, 2010; and will become effective on May 6, 2010.

Copies 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/oshsb> and follow the links to the Standards Board. This information is updated monthly. The Standards Board's e-mail address is: oshsb@dir.ca.gov.

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD

Marley Hart, Executive Officer