

**OCCUPATIONAL SAFETY  
AND HEALTH STANDARDS BOARD**

2520 Venture Oaks Way, Suite 350  
Sacramento, CA 95833  
(916) 274-5721  
FAX (916) 274-5743  
[www.dir.ca.gov/oshsb](http://www.dir.ca.gov/oshsb)



Attachment No. 2

**INITIAL STATEMENT OF REASONS**

## CALIFORNIA CODE OF REGULATIONS

TITLE 8: Chapter 7, Subchapter 4, Article 76, Section 4650(d)  
of the General Industry Safety Orders

**Compressed Gas (Oxygen) Cylinder Storage****SUMMARY**

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 Occupational Safety and Health Standards Board (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 specifically 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 section 4650(d) to read verbatim of section 1740(g) rendering it consistent with federal standards and industry-accepted national consensus standards.

## SPECIFIC PURPOSE AND FACTUAL BASIS OF PROPOSED ACTION

### 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 is necessary to clarify the existing standard and ensure oxygen stored in oxygen cylinders is not exposed to combustible materials, potentially causing a fire or explosion that would severely compromise the safety of employees in the immediate area or make fire suppression more difficult. The proposal is also necessary to prevent oxygen from acting as an accelerator, which could further threaten employees, structures and raise the risk for an explosion possibly resulting in multiple fatalities.

### DOCUMENTS RELIED UPON

1. Memorandum from Suzanne P. Marria, Acting Chief Deputy Director, Division of Occupational Safety and Health, to John MacLeod, Executive Officer, Occupational Safety and Health Standards Board dated January 16, 2003, with attached Request for New, or Change in Existing, Safety Order for section 4650(d) with attachments.

This document is available for review Monday through Friday from 8:00 a.m. to 4:30 p.m. at the Standards Board Office located at 2520 Venture Oaks Way, Suite 350, Sacramento, California.

### REASONABLE ALTERNATIVES THAT WOULD LESSEN ADVERSE ECONOMIC IMPACT ON SMALL BUSINESSES

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

### SPECIFIC TECHNOLOGY OR EQUIPMENT

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

## COST ESTIMATES OF PROPOSED ACTION

### Costs or Savings to State Agencies

No costs or savings to state agencies will result as a consequence of the proposed action.

### Impact on Housing Costs

The Board has made an initial determination that this proposal will not significantly affect housing costs.

### Impact on Businesses

The Board has made 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, this 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 regulation 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.

#### ALTERNATIVES THAT WOULD AFFECT PRIVATE PERSONS

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