

**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 **December 13, 2012**, at 10:00 a.m.
in the Auditorium, Room 102 of the Social Services, Office Building 9,
744 P Street, Sacramento, 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 **December 13, 2012**, following the Public Meeting,
in the Auditorium, Room 102 of the Social Services, Office Building 9,
744 P Street, Sacramento, 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 **December 13, 2012**, following the Public Hearing,
in the Auditorium, Room 102 of the Social Services, Office Building 9,
744 P Street, Sacramento, 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, General Industry Safety Orders of the California Code of Regulations, as indicated below, at its Public Hearing on **December 13, 2012**.

1. TITLE 8: **GENERAL INDUSTRY SAFETY ORDERS**
Division 1, Chapter 4, Subchapter 7, Article 59, Section 4309
[Horizontal Pull Saw \(Radial Arm Saw\) Guarding](#)

Descriptions of the proposed changes are as follows:

1. **TITLE 8: GENERAL INDUSTRY SAFETY ORDERS**
Division 1, Chapter 4, Subchapter 7, Article 59, Section 4309
[Horizontal Pull Saw \(Radial Arm Saw\) Guarding](#)

INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW

The Occupational Safety and Health Standards Board (Board) initiates this rulemaking to amend Section 4309(a) of the General Industry Safety Orders to be consistent with Federal OSHA regulations 29 CFR 1910.213(h)(1) and 1926.304(g)(1). This rulemaking action proposes requiring that radial arm saw blades be completely guarded for operator protection. The need to amend this subsection was originally brought to the attention of Board staff through informal discussions with the Division of Occupational Safety and Health (Division). The Division representative noted that the language in Title 8, Section 4309(a) is significantly less protective than the equivalent Federal OSHA regulation and that action should be taken to render Title 8 at least as effective as (ALAEA) the federal counterpart language with regard to this issue.

The proposed amendment adds language to Section 4309(a) requiring the full diameter of the saw blade be enclosed and not just the upper half of the blade and the arbor ends as is currently mandated. With the exception of the first sentence, the proposed new language duplicates 29 CFR 1910.213(h)(1) and 1926.304(g)(1). Although very similar, Board staff proposes using existing subsection 4309(a) language in lieu of Federal OSHA's first sentence, as it is clearer in the statement of its intent with respect to the blade guard enclosing the arbor ends. The remaining federal language is added verbatim to Section 4309(a). A phrase based on staff discussion with stakeholder subject-matter experts is inserted in the last sentence to clarify that the lower blade device, such as a leaf guard or chain, provides a physical barrier and visual warning to give maximum protection. Without the proposal, Title 8 is not ALAEA the federal regulation for radial arm saw blade guarding. The Board is required to promulgate standards that are ALAEA the federal standards for all issues addressed by Federal OSHA per labor Code Section 142.3(a)(2).

Board staff notes that the American National Standards Institute (ANSI) O1.1-2004 standard, Woodworking Machinery-Safety Requirements, states in Chapter 5.2.5.2 that the manufacturer is to provide a lower blade guard that covers the sides of the maximum diameter blade and that it be designed to automatically adjust to the thickness of the workpiece. The purpose of the guarding is to prevent cuts and amputations should the operator's fingers contact the rotating saw blade. This regulatory proposal is intended to provide worker safety at places of employment in California.

This proposed rulemaking action:

- Is based on the following authority and reference: Labor Code Section 142.3, which states, at Subsection (a)(1) that the Board is "the only agency in the state authorized to adopt occupational safety and health standards." When read in its entirety, Section 142.3 requires that California have a system of occupational safety and health regulations that at least mirror the equivalent federal regulations and that may be more protective of worker health and safety than are the federal occupational safety and health regulations.
- Duplicates federal language requiring that the full diameter of the saw blade be enclosed by a device that automatically adjusts to the stock being cut. The proposal will ensure that Title 8 is ALAEA the federal standards. The existing language in Title 8 is retained in lieu of Federal

OSHA's first sentence, as it is clearer in the statement of its intent with respect to the blade guard enclosing the arbor ends.

- Is not inconsistent or incompatible with existing state regulations. This proposal is part of a system of occupational safety and health regulations. The consistency and compatibility of that system's component regulations is provided by such things as the requirement of the federal government and the Labor Code to the effect that the state regulations be at least as effective as their federal counterparts.
- Is the least burdensome effective alternative. The proposal is consistent with existing federal standards and American National Safety Institute recommendations for providing upper hood enclosures and lower blade guards.

Section 4309. Horizontal Pull Saws (Radial Arm Saw)

Existing Section 4309 establishes requirements for the installation of safety devices and use limitations of horizontal pulls saws also known as radial arm saws.

Subsection (a)

Existing subsection 4309(a) requires the saw blade be encased on both sides such that at least the upper half of the blade and the arbor ends are completely covered. This amendment will add language commensurate with federal requirements that the lower exposed portion of the blade shall be guarded to the full diameter of the blade. The lack of a lower blade protection device exposes employees to potentially serious hand injuries from cuts or amputations.

The proposed amendment will render Title 8 ALAEA the federal standards as it pertains to radial arm saw blade guarding as required by the Labor Code Section 142.3(a)(2). Clarifying the regulatory language will provide enhanced safety, ensure consistency and eliminate the discrepancy between existing Section 4309 and the federal standard.

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/Significant Statewide Adverse Economic Impact Directly Affecting Businesses Including the Ability of California Businesses to Compete

The Board has made a 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 is intended to be ALAEA the federal standard which provides specific guidance on blade guarding that is clearly lacking in Title 8. The purpose of the guarding is to prevent cuts and amputations should the operator's fingers contact the rotating saw blade.

Retrofitting of older saws is not necessary as lower blade guards have been required under federal standards for many years. Further, ANSI O1.1-1975, paragraph 6.1.9.1 permitted the use of a leaf guard or similar type of guarding which Federal OSHA accepts as an alternate method of meeting the intent of 29 CFR 1910.213(h)(1). With these guarding options, employers will not need to retrofit existing saws to accept the proposed guarding requirement but rather to reinstall or replace the original equipment guard that was provided with the saw.

Therefore, the proposed regulation will not have any effect on the creation or elimination of California jobs or the creation or elimination of California businesses or affect the expansion of existing California businesses.

This regulatory proposal is intended to provide worker safety at places of employment in California.

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 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 amendments 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.)

This 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, this 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.)

This proposed regulation does 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 AND RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The Board has determined that the proposed amendments may affect small businesses. However, no economic impact is anticipated. The proposal would provide businesses, small or large, clear direction in requiring that the full diameter of the saw blade be enclosed. This regulatory proposal will promote worker safety and protect employees from the hazards of cuts, lacerations and amputations to the fingers and hand.

Therefore, the proposed regulation will not have any effect on the creation or elimination of California jobs or the creation or elimination of California businesses or affect the expansion of existing California businesses.

ALTERNATIVES STATEMENT

The Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either 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 or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law than the proposal described in this Notice.

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 **December 7, 2012**. 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 **December 13, 2012**, 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

TITLE 8

GENERAL INDUSTRY SAFETY ORDERS

DIVISION 1, CHAPTER 4, SUBCHAPTER 7, ARTICLE 59

SECTION 4309

HORIZONTAL PULL SAW (RADIAL ARM SAW) GUARDING