

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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Attachment No. 2

INITIAL STATEMENT OF REASONS

CALIFORNIA CODE OF REGULATIONS

TITLE 8: Chapter 4, Subchapter 7, Article 69, Section 4543
of the General Industry Safety Orders

Guarding of Meat Cutting Band Saw Blades**SUMMARY**

This rulemaking action was initiated as a result of a Division of Occupational Safety and Health (Division) Request for New, Or Change in Existing, Safety Order, memorandum to the Occupational Safety and Health Standards Board (Board) dated January 9, 2003.

The Division's Form 9 request indicates that the language contained in General Industry Safety Orders (GISO) Section 4543 does not afford the user of a meat cutting band saw any explicit protection from the bottom of the sliding guard to the working table. Board staff agrees with the Division's suggestions and proposes additional changes to provide employees with proper protection.

Existing Section 4543 causes confusion because the standard calls for guarding of the meat cutting band saws, but is not technically specific in nature. The situation is compounded because woodworking equipment is similar to the meat cutting equipment; however, the woodworking section allows an exemption for meat cutting band saw equipment. This is not because the meat cutting equipment is safer than the woodworking equipment; it is because the meat cutting safety order is industry specific.

Federal standards contained in 29 CFR 1910.213(i)(1) apply to the guarding of woodworking machinery. Meat cutting and woodworking equipment are similar in construction and use. Since there is no specific Federal OSHA standard for meat cutting band saws, Federal OSHA inspectors use this section to enforce safety requirements for guarding these band saw blades. Therefore, Section 4543 even though it deals specifically with meat cutting, must be at least as effective as the federal standard. The proposed subsections (a) and (d) provide consistency with the federal standard.

The Division provided a U. S. Department of Labor Integrated Management Information System report listing several accidents involving meat cutting band saws that occurred from January 1,

1995, through December 31, 2005, in California. Typically these accidents involve amputation or partial amputation of the thumb or the fourth and fifth finger(s). Since these saws cut through bone, the amputation of a finger, fingers or even a whole hand can occur in an instant. The amputated or partially amputated finger(s) can sometimes be re-attached; however, the full use of the injured finger(s) may not be fully restored.

The Division also provided a U. S. Department of Labor Integrated Management Information System report listing ten complaint related inspections involving meat cutting band saws that occurred from January 1, 1995, through December 31, 2005, in California. The employers each received a serious violation of Section 4543 on their citation.

All new meat cutting band saws have guards as standard equipment that would comply with the proposed standard. The proposed revisions would have a very slight impact on the meat cutting industry as a whole. An estimated 99% of the machines and most of the standard's proposed practices are currently in use by the meat processing industry. This proposal may impact about 170 saws in this classification. This proposed revision includes few changes in the actual equipment guarding or usage practices; it primarily provides technical clarification of the standard.

SPECIFIC PURPOSE AND FACTUAL BASIS OF PROPOSED ACTION

Section 4543. Guarding of Meat Cutting Band Saw Blades.

Section 4543 provides for the proper guarding of meat cutting band saw blades that must be in place prior to an operator performing the process of cutting meat on the band saw. Section 4543 currently requires a guard for the portion of the blade between the sliding guide and the upper-saw-wheel guard that will protect the saw blade at the front and outer side of the blade. The guard shall be self-adjusting to raise and lower with the guide.

This rulemaking action proposes an amendment to Section 4543 to be more specific on the individual guarding requirements. Meat cutting saw blades can cut off fingers or sever the hand of the operator in an instant if not properly guarded. These saws are designed to cut through meat and bone. The object of this standard is to protect the operator from the exposed saw blade, yet still allow operation of the equipment. The current standard lacks technical specificity in the guarding requirements. This proposed standard is to ensure that the operator is properly protected to the fullest extent possible.

A new subsection (a) is proposed which would require all portions of the saw blade to be guarded except that portion between the bottom of the guide rolls and the table. The language is verbatim of one sentence in 29 CFR 1910.213 of the federal rule. The proposed revision is necessary to prevent the employee's fingers from coming in contact with the point of operation which could result in a serious injury, amputation or fatality.

An editorial revision is proposed to reformat the regulatory text as new subsection (b), and replace the term "self-adjusting" with "easily hand adjustable by the saw operator; without the

use of tools.” This amendment is necessary to clarify the intent of the standard by replacing the term “self-adjusting” with the proposed language.

A revision is proposed to add a new subsection (b)(1), that states, “The adjustable saw blade guard shall be designed and manufactured so that the guard is capable of reaching the saw table.” This amendment is necessary to require employers that do not already have guards with these capabilities to use or install a guard that can reach the saw table.

A revision is proposed to add a new subsection (b)(2) which states, “The guard must be adjusted as close as possible to the table without interfering with the movement of the material being cut.” The proposed revision is necessary to minimize the hazard of employee contact with the point of operation while still permitting the product (meat) to be cut.

A new subsection (c) is proposed to require the use of pusher plates to hold the meat against the gauge plate when slicing short ends (i.e., the narrow end of the loin). This amendment is necessary to ensure that all employees are required to use the pusher plates to avoid working close to the saw blade without this protection.

A revision is proposed to add a new subsection (d) to include the following terminology, “Saw wheels shall be fully guarded.” The proposed subsection (d) is necessary to ensure that, to the fullest extent possible, the points of operation on the meat cutting band saw are protected from inadvertent employee contact which could result in serious employee injury or fatality.

DOCUMENTS RELIED UPON

1. Memorandum from the Division of Occupational Safety and Health dated January 9, 2003, to the Occupational Safety and Health Standards Board with attached Request for New, or Change in Existing, Safety Order, (Form 9).
2. Andrea Hildebrand, Ecotrust, The California Food System in Numbers: A Fact Sheet, November 2004.
3. U.S. Department of Labor, Occupational Safety and Health Administration, Integrated Management Information System Report, Accident Investigations with Violations of Section 4543, Title 8, California Code of Regulations, Meat Saws, provided by the Division of Occupational Safety and Health.
4. U.S. Department of Labor, Occupational Safety and Health Administration, Integrated Management Information System Report, Complaint Related Inspections of Section 4543, Meat Saws, provided by the Division of Occupational Safety and Health.

These documents are 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, CA 95833.

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. The Department of Corrections, at Folsom State Prison and Mule Creek State Prison were contacted regarding their use of meat cutting band saws. The Mule Creek Prison Facility in Ione, California, operates the Prison Industries Authority (PIA) rehabilitation program for inmates working in their meat processing plant. The facility currently has two meat-cutting band saws stored in a warehouse and is preparing to dispose of them. This is the only prison facility in the California prison system that does meat processing. They prepare meat for all State Prisons, State hospitals and other governmental 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 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 proposed language is more specific than the current performance standard and will make it clear to meat cutting shops that additional guarding may be needed. There are a small number of meat cutting band saws that are not properly guarded; it is estimated to be less than one percent of the total meat cutting band saws in California. These machines can be retrofitted with a replacement guard for under \$75 and the owner or saw operator can install the new guard in about five minutes. There are an estimated 170 saws in this category and replacement parts, including longer guards are still available for these older saws. The improved guarding reduces the chance of finger(s) or hand amputation. Most companies would have only one, if any, of these machines per location. These machines cost about \$5,000 new and remain in service for 30 years or more since the replacement parts are still readily available and the machines are made of high quality stainless steel. The employer will benefit from higher productivity if use of

the meat saw equipment does not result in lost work time accidents, reduced workers' compensation expenses and litigation. Employees will benefit from safer working conditions.

Cost Impact on Private Persons or Businesses

The Board believes that few businesses will be affected by the proposed action. Any costs that businesses may incur to be in compliance with the proposed standard are in line with the preceding section, "Impact on Businesses."

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 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 a few 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.