

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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Attachment No. 2

INITIAL STATEMENT OF REASONS

CALIFORNIA CODE OF REGULATIONS

TITLE 8: Section 4542 of the General Industry Safety Orders

Guarding of Vertical Food Mixers**SUMMARY**

The proposed rulemaking is the result of a Form 9 request for a new or change in existing safety order dated December 18, 2012, from the Division of Occupational Safety and Health (Division). The Division contends that Section 4542 does not adequately address the hazard of entanglement in commercial vertical food mixers and stated that the mixers are frequently operated without covers or guards, permitting workers to be entangled by rotating shafting or attachments.

Vertical mixers are manufactured in various bowl sizes and are separated into those that are designed to operate on a countertop and those that are larger and operated while resting on the floor. Bowl sizes for the larger floor mixers are typically 30 quarts or more. Current regulations, which specifically address vertical food mixers, do not require guarding for the moving spindle or attachments of either the countertop or floor stand mixers.

Several manufacturers of vertical mixers currently supply their mixers with interlocked bowl guards, but there are no Title 8 requirements for the guard to be in place or maintained in working order, nor do all manufacturers make such guarding available. Due to the potential for employee exposure to the rotating parts, the Division has requested that a regulation be written to require the use of the guards supplied with a mixer and for mixers without such guarding to have the guarding installed. To assist Board staff in the development of a rulemaking proposal to address the guarding issue, a representative advisory committee was convened by Board staff on August 27, 2013. The proposal described herein is the consensus proposal of that committee.

For vertical food mixers manufactured after January 1, 2015, the proposal would require employers to use an interlocked bowl guard to prevent employees from contacting the moving parts inside the mixing bowl. Because the advisory committee determined that accident data only showed a necessity for guarding the larger floor model mixers, the proposed amendments would only apply to mixers with a bowl size of 30 quarts or larger.

SPECIFIC PURPOSE AND FACTUAL BASIS OF PROPOSED ACTION

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

The proposed 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.
- Differs from existing federal standards in that it requires interlocked bowl guarding on certain vertical (stand) mixers where federal standards do not.
- 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: (1) 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, and (2) the requirement that all state occupational safety and health rulemaking be channeled through a single entity (the Standards Board).
- Was determined to be the least burdensome effective alternative by consensus of an advisory committee.

Section 4542. Mixers.

This section addresses various standards that apply to horizontal and vertical dough and food mixers, which include, but are not limited to, interlocking covers/enclosures, means and methods to prevent inadvertent contact by the operator with moving parts, and the use of bowl locking devices.

A new subsection (e) is proposed to require vertical food mixers with a bowl size of 30 quarts or larger and manufactured after January 1, 2015, to utilize a manufacturer-supplied interlocked bowl guard, or its equivalent, and be so arranged that power cannot be applied to the agitators unless the cover/enclosure and the bowl are in place on the mixer.

The proposed amendment, which includes a requirement for an interlocked bowl guard, is necessary to ensure that employees will not be injured as a result of coming in contact with the point of operation of the vertical mixer, which could result in entanglement, and/or injury to the hands or extremities.

Federal regulations do not have a corresponding requirement for bowl guards on vertical mixers, so the proposed regulation is more protective than current federal requirements.

DOCUMENTS RELIED UPON

1. Division memo dated December 18, 2012, regarding Vertical Dough Mixers, plus attachments.
2. U.S. Department of Labor, "OSHA IntraNet" Accident Search Results, pages 1-5, dated June 27 and July 1, 2013.
3. August 27, 2013 Advisory Committee minutes, members roster and attendance sheets.

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.

Economic Impact Analysis

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 requires the use of bowl guards which are presently supplied as standard equipment with the majority of stand mixers sold in California. Because several manufacturers supply mixers with the proposed guarding, employers would not experience an economic impact because they could choose from several makes and models when purchasing a newly manufactured mixer. This determination is based upon input from attendees at the advisory committee meeting.

Therefore, 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.

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 standard does not impose a local mandate. There are no costs to any local government or school district which must be reimbursed in accordance with Government Code Sections 17500 through 17630.

EFFECT ON SMALL BUSINESSES

The Board has determined that the proposed amendment may affect small businesses. However, no economic impact is anticipated because the amendment does not require retrofitting, nor is presently-used equipment rendered illegal by the regulation, and several manufacturers produce equipment that complies with the proposal. The new equipment may be put into service as the useful life of present equipment ends.

RESULTS OF THE ECONOMIC IMPACT
ANALYSIS/ASSESSMENT

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.

BENEFITS OF THE REGULATION

The proposal will protect employees by requiring that floor stand mixers be operated with the bowl guard supplied with the mixer or its equivalent.

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, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.