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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 **November 16, 2006**, at 10:00 a.m.  
in the Council Chambers of the Glendale City Hall,  
613 East Broadway, Glendale, California 91026-4308.

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 **November 16, 2006**, following the Public Meeting  
in the Council Chambers of the Glendale City Hall,  
613 East Broadway, Glendale, California 91026-4308.

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 **November 16, 2006**, following the Public Hearing  
in the Council Chambers of the Glendale City Hall,  
613 East Broadway, Glendale, California 91026-4308.

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

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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 **November 16, 2006**.

1. TITLE 8:     **GENERAL INDUSTRY SAFETY ORDERS**  
Chapter 4, Subchapter 7, Article 5  
Section 3291 and  
Article 6  
Sections 3292, 3295, and 3296  
**Load Sustaining Devices Used in Window Cleaning and Building  
Maintenance Operations**
  
2. TITLE 8:     **GENERAL INDUSTRY SAFETY ORDERS**  
Chapter 4, Subchapter 7, Article 69  
Section 4543  
**Guarding of Meat Cutting Band Saw Blades**

Descriptions of the proposed changes are as follows:

1. **TITLE 8:**        **GENERAL INDUSTRY SAFETY ORDERS**  
Chapter 4, Subchapter 7, Article 5  
Section 3291 and  
Article 6  
Sections 3292, 3295, and 3296  
**Load Sustaining Devices Used in Window Cleaning and Building  
Maintenance Operations**

### **INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW**

The proposed amendments for this rulemaking action are in part related to the Occupational Safety and Health Standards Board Petition File No. 421 submitted by Mr. John “Eric” Pearce from Pearce Building Services. The Petitioner recommended a number of amendments related to the procedures, methods and time intervals for the testing of load sustaining devices used in window cleaning and building maintenance operations. The proposal contains amendments for Articles 5 and 6 of the General Industry Safety Orders that address provisions such as the inspection, testing, and record keeping for building safety devices and equipment used in window cleaning and building maintenance operations.

The rulemaking also incorporates proposed amendments recommended by the Division of Occupational Safety and Health (Division) memorandum and Cal/OSHA Form 9, Request for New, or Change in Existing Safety Order dated May 18, 2005. The Division recommended amendments for Section 3291(f) regarding the strength of roof tie-back anchors for consistency with other standards. The Division further recommended language specifying limitations for the maximum size and assembled weight of portable davits<sup>1</sup> in proposed new Section 3295(c)(3)(G) consistent with the provisions outlined in current national consensus standards. The proposal was developed with the assistance of an advisory committee.

The references to Title 24 are proposed for deletion. Prior to September 30, 2002, the Board was mandated by Health and Safety Code Section 18943(b) to submit Title 8 building standards to the California Building Standards Commission for their approval and adoption into Title 24, the California Building Code.

Assembly Bill 3000 (Stats. 2002. c. 1124), which was signed by the Governor and filed with the Secretary of State on September 30, 2002, repealed Labor Code Section 142.6 and Health and Safety Code Section 18943(b), thus exempting the Board from the building standard requirements contained in these codes. The outdated references in the proposal to Title 24 and Section 18943(b) of the Health and Safety Code are unnecessary and proposed for deletion.

#### **Section 3291. Special Design Considerations – Permanent Roof Top Installations.**

##### **Section 3291(a)**

Section 3291 contains provisions for the design of permanent roof top installations. Subsection (a), in part, requires that a civil or mechanical engineer registered in the State of California prepare

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<sup>1</sup> A davit is a device used singularly or in pairs, for suspending a powered platform from work, storage and rigging locations on the building being serviced. A portable davit is designed and dedicated for a specific building or roof area and is capable of being moved manually within a dedicated work area.

calculations and/or plans substantiating the structural integrity of all facets of the complete installation, including the eyebrow sleeves, roof davit systems, roof outrigger beams, and roof tie-backs.

### **Section 3291(f)(1)**

Subsection (f) addresses the design requirements for roof tie-backs. Existing subsection (f)(1) requires that every building constructed 3 stories or 36 feet or more in height shall have eyebolts or other permanent devices installed at the roof level for the purpose of securing or tying back suspended scaffold hooks or clamps and safety lines. The advisory committee for this proposal determined that the term “eyebolt” was confusing and lacked clarity and that for consistency within Section 3291, should be replaced with the term “roof tie-back.” Deleting the term “eyebolt” would clarify that common eyebolts not engineered to the design specifications of these safety orders are not suitable for roof tie-back installation. Therefore, an amendment is proposed to delete the term “eyebolt” and replace it with “roof tie-backs.” A similar amendment is proposed in subsection (f)(1), Exception No. 2. The proposed amendments would have the effect of providing clarity to the standard.

### **Section 3291(f)(2)(A)**

Existing subsection (f)(2)(A) provides that tie-backs shall be “drop forged eyebolts or other components of equivalent strength” having at least a 2-inch diameter closed eye. Existing Section 3291(a) requires that a civil or mechanical engineer design roof tie-backs so it is unnecessary to specify the design materials. Further, this proposal would delete the reference to “eyebolts” for the same rationale described for Section 3291(f)(1). An amendment is proposed to delete language that references drop forged eyebolts so that the standard states that “roof tie-backs” shall have at least a 2-inch inside diameter closed eye. The proposed amendment would have the effect of providing clarity to the standard.

### **Section 3291(f)(2)(C)**

Existing Section 3291(f)(2)(C) requires that the assembly and anchorage provisions for roof tie-backs be adequate to sustain a 5400 pound (tensile) load applied in any direction. An amendment to provide clarity is proposed to delete the reference to “tensile” loads. The word “tensile” can mean testing in one direction at the longitudinal axis, and that conflicts with the provisions in this subsection that require strength factors for a load applied in any direction. An additional amendment would change the load sustaining requirements for roof tie-backs from 5400 pounds to 5000 pounds. According to the Division, the origin of the 5400-pound design load is related to the use of ¾-inch manila rope which is no longer used in window cleaning and building maintenance work. This amendment would have the effect of making the strength factors for roof tie-backs consistent with the 5000-pound strength requirement for anchors used in fall protection systems that are referenced in federal OSHA standards and national consensus standards such as ANSI/International Window Cleaning Association (IWCA) I-14.1-2001 standard for “Window Cleaning Safety.”

### **Section 3291(f)(3)**

Section 3291(f)(3) states that roof tie-backs or other devices shall not be installed in a wood roof framing system. Section 3291(a) requires a civil or mechanical engineer to substantiate the structural integrity of roof tie-backs which are required on every building 3 stories or 36 feet in height with several exceptions. However, at the advisory committee meeting, members stated that Section 3291(f)(3) lacked clarity and one might infer from the wording that roof tie-backs are not to be installed in any wood framed building regardless of the building height. Therefore, an amendment is proposed to delete Section 3291(f)(3). In Section 3291(a), it is the engineer’s responsibility to ensure that roof tie-backs for wood frame buildings are attached and installed to adequate and substantial structural members of a building. The amendment would have the effect of providing clarity to the standard.

**Section 3291(f)(4)**

Existing Section 3291(f)(4) is renumbered in the proposal as Section 3291(f)(3) and a non-substantive amendment deletes an obsolete reference to the California Building Code, Title 24, Part 2 for the same rationale described for Section 3291(a).

**Section 3292. General. (General requirements for Article 6. Powered Platforms and Equipment for Building Maintenance)**

Section 3292(a) provides the scope statement for Article 6 and, in part, provides that building maintenance includes, but is not limited to such tasks as window cleaning, caulking, metal polishing and reglazing.

**Section 3292(c)(5)**

Section 3292(c) "Assurance," in part, specifies the building owner's requirements to provide in writing that building maintenance installations have been inspected, tested and maintained in accordance with the applicable provisions in Article 6. Existing Section 3292(c)(5) provides that the employer shall not permit employees to use an installation prior to receiving assurance from the building owner that the installation meets the requirements contained in subsections (c)(1), (c)(3) and (c)(4) of Section 3292. Section 3292(c)(1) and (c)(3) require the building owner to provide the employer "written" assurance that installations are in compliance with the applicable provisions in Article 6. An editorial amendment is proposed for Section 3292(c)(5) that would specify that the assurance received by the employer from the building owner, must be "written" assurance. The amendment would have the effect of providing consistency with Section 3292(c)(1) and (c)(3) that assurances received from the building owner to an employer are in writing.

**Section 3295. Powered Platform Installations – Equipment.**

Section 3295 provides requirements that apply to equipment for powered platform installations such as platforms, stabilizing components, carriages, outriggers, davits, hoisting machines, wire ropes and electrical components. In addition to the amendment for new Section 3295(c)(3)(G), several non-substantive renumbering and editorial revisions are included in the proposal for clarity.

**New Section 3295(c)(3)(G)**

Section 3295(c) provides that elevated building maintenance equipment shall be suspended by a carriage, outriggers, davits or an equivalent method. Section 3295(c) provides specific design and installation requirements for davits. A new Section 3295(c)(3)(G) is proposed that would require portable davits to have a maximum reach of 8 feet, 6 inches (2600 mm) and a maximum fully assembled weight of 300 pounds (135 kg). The proposed amendment would have the effect of keeping portable davits at a size that are already specified in national consensus standards for window cleaning and building maintenance operations. The amendment would also have the effect of ensuring that portable davits are designed so that they can be safely moved from one drop location to another by window cleaning and building maintenance personnel.

**Section 3296. Inspection and Tests.**

Section 3296 contains requirements related to the inspection and testing of completed building maintenance equipment installations before being placed into service. This section also requires periodic inspection, testing, maintenance and documentation of inspection and testing for existing installations.

**Section 3296(a)**

Existing Section 3296(a) requires all completed building maintenance equipment installations to be inspected and tested in the field before being placed in initial service to determine that all parts of the installation conform to applicable requirements of Article 6, and that all safety and operating equipment is functioning as required. This subsection requires a similar inspection and test to be made following any major alteration to an existing installation. This subsection further states that no hoist in an installation shall be subjected to a load in excess of 125 percent of its rated load.

A non-substantive formatting amendment would move the last sentence of this subsection to a new Section 3296(a)(1) for clarity.

A new subsection 3296(a)(2) is proposed that would require the building owner to keep a certification record of each inspection and test that is required for completed installations under subsection (a) of this section. The amendment would have the effect of requiring similar certification and documentation of inspection and testing for completed installations that are required in Section 3296(b)(2) for existing installations, thus avoiding confusion as to which inspections and tests require that a record be kept.

### **Section 3296(b)(2)**

Subsection (b)(1), in part, requires building maintenance equipment and installations to undergo periodic inspection and testing at least every 12 months. Existing Section 3296(b)(2) requires the building owner to keep a certification record of each inspection and test required under subsection (b)(1) of Section 3296. An amendment is proposed in subsection (b)(2) that would require the certification record (documentation) to be maintained for each inspection and test required under all of subsection (b) of Section 3296. The proposed amendment would have the effect of ensuring that the building owner has a certification record of professional engineer inspections and any load testing of building safety devices and equipment required under the provisions of subsection (b), including proposed Section 3296(b)(3).

### **New Section 3296(b)(3)**

Existing Section 3296(b)(3) is relocated to Section 3296(b)(7) in the proposal. A new Section 3296(b)(3) would require that building safety devices and equipment as described in Section 3282(p)(1)(A) shall be load tested if damage, corrosion or deterioration affecting the load bearing integrity of the equipment is detected or suspected. The effect of this amendment would result in identifying conditions that would require load testing to verify the structural and load bearing integrity of safety devices and equipment.

### **New Section 3296(b)(3)(A)**

Proposed Section 3296(b)(3)(A) would require that the safety device or equipment shall be removed from service until repaired or replaced if testing indicates that the load sustaining integrity of a safety device or equipment has been compromised. The effect of this amendment would be to ensure that unsafe devices or equipment are repaired or removed from service.

### **New Section 3296(b)(3)(B)**

Proposed Section 3296(b)(3)(B) would require that a professional engineer experienced in the design of building safety devices and equipment inspect and evaluate such equipment when any of the following occur; 1) The design documents are not available; 2) The design is deficient; or 3) Inspections or tests determine that the safety devices or equipment are not safe for use. The proposed amendments would have the effect of ensuring that a building's safety devices and equipment that are integral for safe window cleaning or building maintenance operations are evaluated by a professional engineer when

such devices or equipment's operational or structural integrity is not documented, or is suspect or compromised.

**New Section 3296(b)(3)(C)**

Proposed new Section 3296(b)(3)(C) would require that damage to safety devices or equipment, or damage to the building structure from testing operations shall be reported to the building owner. The proposed amendment would have the effect of ensuring that the building owner is notified when the safety devices, equipment or the building structure is damaged from the testing operations.

**New Section 3296(b)(3)(D)**

Proposed new Section 3296(b)(3)(D) would require that if safety deficiencies affecting the load bearing integrity of devices or equipment have not been corrected within 60 days from the date the building owner was notified, the deficiencies shall be reported to the Division by the inspecting agency. The proposed amendment would have the effect of ensuring that unsafe building conditions associated with the use of load bearing devices and equipment are corrected.

**New Section 3296(b)(4)(A)**

Proposed new Section 3296(b)(4)(A) would require that load suspension devices shall not be tested to more than 2 times the rated working load which the device is designed to lift and/or support. Load suspension devices such as davits and outrigger beams are required by Section 3291 to be designed with a safety factor of 4 times the rated load. It is an accepted engineering practice in window cleaning operations that load sustaining devices such as davits and outrigger beams be load tested to no more than 2 times the rated load. Therefore, the proposed amendment would have the effect of testing these devices sufficiently to ensure their structural integrity but not testing them to the extent that the devices or building structure sustains damage.

**New Section 3296(b)(4)(B)**

Proposed new Section 3296(b)(4)(B) would require that roof tie-backs be tested to no more than 50 percent of their rated capacity. For example, a roof tie-back with a rated capacity of 5000 pounds would not be tested in excess of 2500 pounds. Design standards for roof tie-backs do not specify a specific required safety factor or rated working load. However, engineers familiar with the window cleaning industry indicate that a safety factor of 4 to 1 is included in the overall load design limits or rated capacity of the devices. Therefore, the amendment would have the effect of testing these devices sufficiently to ensure their structural integrity but not testing them to the extent that the devices or building roof structure sustains damage.

**New Section 3296(b)(5)**

Proposed new Section 3296(b)(5) would require that test equipment is calibrated at least annually and these records be available to the Division. The proposed amendment would have the effect of ensuring accurate tests are performed on devices that are integral for safe window cleaning and building maintenance operations.

**New Section 3296(b)(6)**

Proposed new Section 3296(b)(6) would require the load testing methodology and load testing procedures for a building's safety devices and equipment to be prescribed in writing by a professional engineer and that load tests are performed by qualified persons under the direction of the engineer. The proposed amendment would have the effect of ensuring effective and safe testing procedures that are planned and performed by persons with the appropriate expertise.

## **SPECIFIC TECHNOLOGY OR EQUIPMENT**

This proposal will not mandate the use of specific technologies or equipment. In Section 3291, the proposal clarifies existing requirements, and would reduce the design strength requirements for roof tie-backs consistent with strength requirements for anchors used in fall protection systems and those specified in window cleaning related national consensus standards. The proposed amendment for Section 3292 is editorial and provides clarity to the standard.

The proposed amendment for Section 3295 would limit the maximum reach and fully assembled weight of portable davits. National consensus standards for window cleaning safety and the use of powered platforms for building maintenance such as AMSE A120.1-2001, contain similar portable davit size limits. The Division states that it has prohibited the installation of huge, oversized davits for a number of years and does not expect that existing buildings will be subject to retrofitting.

Proposed amendments for Section 3296 would require building owners to maintain records of initial inspections and testing that is performed on completed building maintenance installations. The proposal also clarifies and specifies when load testing should be performed on building safety devices and equipment. It is believed that building owners and their scaffold inspection and testing agencies are already testing building safety devices and equipment that show damage or deterioration affecting the load bearing integrity of such equipment.

The proposal also requires, under certain conditions, that a professional engineer would evaluate building safety devices and equipment and that the testing procedures are prescribed by a professional engineer. An engineer is already required by Sections 3291 and 3294(a)(1) to prepare calculations and/or plans for the design and structural integrity of all facets of building installations. Scaffold inspection testing agencies and members of the Building Owners and Managers Association indicate that they already use professional engineers to plan and prescribe load testing procedures. Therefore, it is not anticipated that the proposal will result in any significant new costs to building owners or businesses.

## **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. Also, see the statement above under the heading "Specific Technology or Equipment."

### **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. Also, see the statement above under the heading "Specific Technology or Equipment."

### **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. Also, see the statement above under the heading “Specific Technology or Equipment.”

#### **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. Also, see the statement above under the heading “Specific Technology or Equipment.”

### **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**  
Chapter 4, Subchapter 7, Article 69  
Section 4543  
**Guarding of Meat Cutting Band Saw Blades**

### **INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW**

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, Form 9, 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 proposal would provide the specific performance requirements to address the confusion in the existing language.

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.

### **Section 4543. Guarding of Meat Cutting Band Saw Blades.**

Section 4543 provides for the proper guarding of meat cutting band saws 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 effect of the proposed revision would be to require the employer to guard or adjust the existing guard of the saw blade to prevent fingers from coming in contact with the point of operation.

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 any tools." The effect of this amendment would be 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), which states, "The adjustable saw blade guard shall be designed and manufactured so that the guard is capable of reaching the saw table." The effect of this amendment would be 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) that states, "The guard must be adjusted as close as possible to the table without interfering with the movement of the material being cut." The effect of the proposed revision would be to clarify to the employer to minimize the hazard of employee contact with the point of operation through adjustment of the guard 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). The effect of this amendment would be to clarify to the employer 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 enclosed by a guard." The effect of the proposed subsection (d) would be 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.

### **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 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 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.

**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 November 10, 2006. 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 November 16, 2006, 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](mailto:oshsb@dir.ca.gov). The Occupational Safety and Health Standards Board may thereafter adopt the above proposal 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 Keith Umemoto, Executive Officer, or Michael 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

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JOHN D. MACLEOD, Chairman

**TITLE 8**

**GENERAL INDUSTRY SAFETY ORDERS**

**CHAPTER 4, SUBCHAPTER 7, ARTICLE 5**

**SECTION 3291**

**ARTICLE 6**

**SECTIONS 3292, 3295, AND 3296**

**LOAD SUSTAINING DEVICES USED IN WINDOW CLEANING AND  
BUILDING MAINTENANCE OPERATIONS**

**TITLE 8**

**GENERAL INDUSTRY SAFETY ORDERS**

**CHAPTER 4, SUBCHAPTER 7, ARTICLE 69**

**SECTION 4543**

**GUARDING OF MEAT CUTTING BAND SAW BLADES**

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; Chapter 4; Subchapter 14; Petroleum Safety Orders; Articles 2, 9, and 15; Sections 6505, 6533, 6551 and New Section 6552; Drilling and Production; Chapter 4; Subchapter 15; Petroleum Safety Orders; Articles 2, 16, and 18; Sections 6755, 6845, 6857 and New Section 6838; Refining, Transportation and Handling.~~

~~Heard at the August 18, 2005, Public Hearing; adopted on May 18, 2006; filed with the Secretary of State on June 26, 2006; and became effective on July 26, 2006.~~

2. ~~Title 8, Chapter 4, Subchapter 4, General Industry Safety Orders, Group 2, Article 10, Section 3395, Heat Illness Prevention.~~

~~Heard at the April 20, 2006, Public Hearing; adopted on June 15, 2006; filed with the Secretary of State on July 27, 2006; and became effective on July 27, 2006.~~

3. ~~Title 8, Chapter 4, Subchapter 4, Construction Safety Orders, Appendix B, Plate B-1-a, Sanitation of Personal Safety Devices.~~

~~Heard at the March 16, 2006, Public Hearing; adopted on June 15, 2006; filed with the Secretary of State on July 28, 2006; and will become effective on August 28, 2006.~~

4. ~~Title 8, Chapter 4, Subchapter 7, General Industry Safety Orders, Article 107, Section 5154.1, Ventilation Requirements for Laboratory Type Hood Operations.~~

~~Heard at the September 15, 2005, Public Hearing; adopted on June 15, 2006; filed with the Secretary of State on July 31, 2006; and will become effective on August 30, 2006.~~

A copy 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](mailto:oshsb@dir.ca.gov)**.

OCCUPATIONAL SAFETY AND HEALTH  
STANDARDS BOARD

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Keith Umemoto, Executive Officer