







Board staff notes, however, that federal OSHA, not Cal/OSHA, has authority over NRTLs, and opines that it is unlikely that federal OSHA would be able to regulate manufacturers from selling products built to inappropriate UL standards, especially when many manufacturers are located in foreign countries. Board staff concludes that the Petitioner's concern, though valid, is unlikely to be resolved by any Board regulatory action.

Board staff finds that Petitioner's second concern, regarding the location of the AR device requirement in the LVESO, may also be valid, but could apply to any Cal/OSHA requirement located outside of the GISO. Additionally, the Petitioner's suggestion that the LVESO requirement include the word "machines," similar to the federal OSHA woodworking requirement may not be a necessary amendment. Board staff points to the National Electric Code (NEC), NFPA 70, 2020 Ed. and LVESO Section 2530.43(b), noting that neither includes the word "machines".

Finally, Board staff was informed by a Division representative that Section 2530.43(b) has been cited one time since 2014. The minimal citation history could indicate general compliance with the performance standard requirement. Furthermore, because the regulatory language used closely resembles the dominant consensus standard on the topic (i.e. the NEC), staff is hesitant to recommend amending the language without substantive evidence of a deficiency in the status quo.

Board staff recommends the Petition be DENIED.

#### DISCUSSION

Both the Division and Board staff agree that the safety concerns at issue in Petitioner's request are addressed elsewhere in Title 8 and are therefore unnecessary, or concern matters that are outside Cal/OSHA's jurisdiction and the jurisdiction of the Board's authority.

Petitioner's requests that the Board direct Cal/OSHA to work with NRTLs to withdraw consensus standards, publish notices, and require explicit statements in product literature and labeling are outside the jurisdiction of this Board. Further, Petitioner's request to better "align" Title 8 with federal OSHA regulations is unnecessary, as Title 8 subsection 4296(q) is identical to 29 CFR subsection 1910.213(b)(3). The Board also notes that the safety concern the Petitioner raises related to automatic restart after power failure are addressed by Sections 4002 (Moving Parts of Machinery or Equipment) and 3314 (Lockout/Tagout).

While the Division makes note of its support for convening an Advisory Committee to determine if employee safety could be enhanced by the requirement for AR devices on other machinery not currently addressed by Title 8 regulations, this matter is outside the scope of the Petition. The Division is encouraged to pursue the convening of an Advisory Committee with Board staff through established channels.

CONCLUSION AND ORDER

Having considered Petition 580, and evaluations of it by the Division and Board staff, the Board hereby DENIES the Petition.