



## SPECIFIC PURPOSE AND FACTUAL BASIS OF PROPOSED ACTION

### Section 4188. Definitions.

This section contains various definitions for terms used in the standards comprising GISO, Group 8 Points of Operation and Other Hazardous Parts of Machinery.

An amendment is proposed for Section 4188 consisting of the insertion in alphabetical order of a definition for the term Press Brake Die, General Purpose based in part on language contained in the ANSI B11.3-1982 standard, Chapter 3.14 definition and input from SMACNA. The proposed definition is necessary to clarify to the employers who operate general purpose press brakes and Division enforcement staff in determining the proper application of standards to which the newly-added definition pertains.

### DOCUMENTS RELIED UPON

1. American National Standard Institute (ANSI) B 11.3-1982, American National Standard for Machine Tools-Power Press Brakes-Safety Requirements for Construction, Care, and Use
2. Memorandum from the Division of Occupational Safety and Health to the Occupational Safety and Health Standards Board dated May 2, 2011, Form 9-071: GISO 4188-Definition of General Purpose Press Brake Dies
3. E-mail transmission dated April 29, 2011 from Mike McCullion, Director of Safety and Health, SMACNA to the Division of Occupational Safety and Health.
4. E-mail transmission dated May 31, 2011 from Cyndi Marshall, SMACNA containing the response to proposal from Mr. Dennis Carnevari, Business Manager and President of Sheet Metal Workers Local 162

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, California.

### 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. The proposed national consensus definition will relieve any confusion or misunderstanding on the part of employers over whether the exception for general purpose press brakes apply to those situations where general purpose press brake dies are used.

### 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.

### 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.

### 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 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 amendment 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.)

The 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, the 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.)

The proposed regulation 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 small businesses. However, no economic impact is anticipated.

#### ASSESSMENT

The adoption of the proposed amendment to this regulation 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.