

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

2520 Venture Oaks Way, Suite 350
Sacramento, CA 95833
(916) 274-5721
FAX (916) 274-5743
www.dir.ca.gov/oshsb



Attachment No. 2

INITIAL STATEMENT OF REASONS**CALIFORNIA CODE OF REGULATIONS
TITLE 8: GENERAL INDUSTRY SAFETY ORDERS
Chapter 4, Subchapter 7, Article 54, Section 4188(b)****Specific Definitions for Power Operated Presses****PROBLEM ADDRESSED BY PROPOSED ACTION**

This rulemaking was initiated as a result of a March 15, 1999, Appeals Board decision (Docket 97-R4D4-2138) concerning a citation of a workplace accident that resulted in the amputation of a worker's fingers. In that decision, the Administrative Law Judge determined that the General Industry Safety Order (GISO) Section 4188(b) definition of "ram" was ambiguous and that applicability of point of operation guarding requirements could not be proven.

Power operated presses are defined in Section 4188(b), "Specific Definitions for Power Operated Presses," to be "mechanically powered machines that shear, punch, form, or assemble metal or other materials by means of tools or dies attached to slides..." (emphasis added). However, Section 4188(b) does not specifically define the term "slide." An indirect reference to a definition of "slide" is found in the definition for "ram" which states that a ram "is sometimes called plunger, slide or mandrel" (emphasis added). However, the Administrative Law Judge determined that the definition for "ram" was sufficiently ambiguous; therefore applicability for point of operation guarding could not be proven. Ambiguous and inconsistent terms used in defining power operated presses have contributed to confusion and inconsistent application of safety requirements for point of operation guarding.

The purpose of the rulemaking is to clarify specific definitions for power operated presses to eliminate ambiguities and misunderstandings and to enable consistent and uniform application of the GISO. Furthermore, non-substantive changes to power press definitions are proposed to address technological changes in the industry regarding types of, and attachment of, power press dies.

SPECIFIC PURPOSE AND FACTUAL BASIS OF PROPOSED ACTION

The existing definitions for power presses utilize the term "slide." However, "slide" is not specifically defined in the GISO, other than by reference from the definition for "ram." The proposed rulemaking action consists of revisions to make clear the definition of "slide," and thus to clarify the definitions for power presses. Non-substantive modifications to power press

definitions are also proposed to address current practices and methods of die attachment and actuation.

Section 4188(b) Specific Definitions for Power Operated Presses.

"Power Operated Presses" defines such machinery as including "all mechanically powered machines that shear, punch, form, or assemble metal or other materials by means of tools or dies attached to slides, commonly referred to as mechanical power presses (punch presses), press brakes, hydraulic power presses (punch presses), and rivet setting machines." A non-substantive revision is proposed to clarify that dies used in power presses may be attached to or actuated by slides. These dies may include unitary or "bump" dies which are normally attached to the bed or anvil (sometimes called "bolster") of the press, rather than to the slide. This revision is necessary to clarify the definition of a power operated press and update the definition to account for changes in technology that have occurred since the GISO was last published. These changes will facilitate consistent application of point of operation guarding.

Definitions for "Power Press, Hydraulic (Punch Press)" and "Power Press, Mechanical (Punch Press)" are likewise proposed to be clarified to be consistent with language for "Power Operated Presses;" i.e., to clarify that dies used in power presses may be attached to or actuated by slides. These revisions to the definitions for hydraulic and mechanical power presses are necessary to clarify the definitions consistent with industry usage, and to account for changes in technology that have occurred since the GISO was last published. These changes will facilitate consistent application of point of operation guarding.

Definitions for "Ram" and "Slide." The GISO definitions for power presses use the term "slide," consistent with Federal regulation 29 CFR 1910.211. However, the term "slide" is not specifically defined in the GISO. There is, however, an indirect reference to "slide" in the definition for "ram;" i.e., a ram "is sometimes called plunger, slide, or mandrel" (emphasis added). The proposal specifically defines and makes clear the definition of the term "slide." The definition for "ram" is revised to refer the reader to the definition of "slide." These proposed revisions are necessary to eliminate ambiguity in the definitions for power presses and thus to assure uniform and consistent application of point of operation guarding to ensure employees will not come in contact with moving parts which could cause injury or amputation.

DOCUMENTS RELIED UPON

Appeals Board decision (Docket 97-R4D4-2138), dated March 15, 1999, regarding applicability of GISO Article 55, Power Operated Presses, and point of operation requirements of GISO Section 4208(g)(3), based on definitions in Section 4188(b) and the scope specified in Section 4189.

This document is available for review during normal business hours at the Standards Board Office located at 2520 Venture Oaks Drive, Suite 350, Sacramento, California.

IDENTIFIED ALTERNATIVES THAT WOULD LESSEN ADVERSE IMPACT ON SMALL BUSINESSES

No adverse impact on small businesses is anticipated from the implementation of the proposed amendments, as no new requirements would be imposed. The proposed rulemaking is simply a clarification of existing requirements; therefore, no alternatives which would lessen the impact on small businesses have been identified.

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 proposal will not significantly affect housing costs.

Impact on Businesses

This proposal will not result in a significant adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states.

Cost Impact on Private Persons or Entities

The proposal will not require private persons or entities to incur additional costs in complying with the proposal.

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 regulations 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 these regulations 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 regulations do not require local agencies to carry out the governmental function of providing services to the public. Rather, the regulations require local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, these proposed regulations 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 regulations do not impose unique requirements on local governments. All employers - state, local and private - will be required to comply with the prescribed standards.

PLAIN ENGLISH STATEMENT

It has been determined that the proposal may affect small business. The express terms of the proposal written in plain English have been prepared by the Board pursuant to Government Code Sections 11342(e) and 11346.2(a)(1) and are available from the agency contact person named in this notice. The informative digest for this proposal constitutes a plain English overview.

ASSESSMENT

The adoption of the proposed amendments to these regulations 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 alternatives considered by the Board 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.