

extending upward from the surface of the earth are published in Paragraph 5000 of FAA Order 7400.9J, dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Class D designation listed in this document would be published subsequently in the Order.

The FAA is also considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend Class E airspace designated as a surface area at Knob Noster, Whiteman AFB, MO. Class E airspace areas designated as a surface area for an airport are published in Paragraph 6002 of FAA Order 7400.9J, dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designated as a surface area listed in this document would be published subsequently in the Order.

Further, the FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend Class E airspace designated as extending upward from 700 feet above the surface of the earth at Knob Noster, Whiteman AFB, MO. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in Paragraph 6005 of FAA Order 7400.9J, dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designated as extending upward from 700 feet above the surface of the earth listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

#### List of Subjects in CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

#### The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

#### PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

##### § 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

*Paragraph 5000 Class D Airspace.*

\* \* \* \* \*

#### ACE MO D Knob Noster, MO [Revised]

Whiteman AFB, MO

(Lat. 38°43'49"N., long. 93°32'53"W.)

Whiteman TACAN

(Lat. 38°44'09"N., long. 93°33'02"W.)

Hawks NDB

(Lat. 38°37'49"N., long. 93°34'21"W.)

That airspace extending upward from the surface to and including 3,400 feet MSL and within a 6.5-mile radius of Whiteman AFB. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

\* \* \* \* \*

*Paragraph 6002 Class E airspace areas designated as a surface area for an airport.*

\* \* \* \* \*

#### ACE MO E2 Knob Noster, MO [Revised]

Whiteman AFB, MO

(Lat. 38°43'49" N., long. 93°32'53" W.)

Whiteman TACAN

(Lat. 38°44'09" N., long. 93°33'02" W.)

Hawks NDB

(Lat. 38°37'49" N., long. 93°34'231" W.)

That airspace extending upward from the surface within a 6.5-mile radius of Whiteman AFB. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

\* \* \* \* \*

*Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.*

\* \* \* \* \*

#### ACE MO E2 Knob Noster, MO [Revised]

Whiteman AFB, MO

(Lat. 38°43'49"N., long. 93°32'53"W.)

Whiteman TACAN

(Lat. 38°44'09"N., long. 93°33'02"W.)

Hawks NDB

(Lat. 38°37'49"N., long. 93°34'21"W.)

That airspace extending upward from 700 feet above the surface of the earth within a 7-mile radius of Whiteman AFB.

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Issued in Kansas City, MO, on July 30, 2002.

**Herman J. Lyons, Jr.,**

*Manager, Air Traffic Division, Central Region.*

[FR Doc. 02–21136 Filed 8–27–02; 8:45 am]

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#### DEPARTMENT OF LABOR

#### Occupational Safety and Health Administration

#### 29 CFR Part 1910

[Docket No. S225A]

RIN 1218–AC03

#### Notice of a Regulatory Flexibility Act Review of Presence Sensing Device Initiation of Mechanical Power Presses

**AGENCY:** Occupational Safety and Health Administration (OSHA), Labor.

**ACTION:** Notice of a Section 610 review; request for comments.

**SUMMARY:** The Occupational Safety and Health Administration (OSHA) is conducting a review of the Presence Sensing Device Initiation (PSDI) requirements of the Mechanical Power Presses Standard pursuant to section 610 of the Regulatory Flexibility Act and section 5 of Executive Order 12866 on Regulatory Planning and Review. In 1988, in order to assist small and large businesses in improving productivity while also improving worker protection, OSHA adopted provisions to permit PSDI. However, the PSDI provisions have not been utilized. The purpose of this review is to determine, while protecting worker safety, whether there are ways to modify this standard to make implementation more practical, to reduce regulatory burden on small business and to improve its effectiveness. Written public comments on these and other relevant issues are welcomed.

**DATES:** Written comments to OSHA must be sent or postmarked by January 27, 2003.

**ADDRESSES:** You may submit three copies of your written comments to the OSHA Docket Office, Docket No. S225A,

Technical Data Center, Room N-2625, U.S. Department of Labor, 200 Constitution Ave., NW., Washington, DC 20210; telephone (202) 693-2350. If your written comments are 10 pages or fewer, you may fax them to the OSHA Docket Office at (202) 693-1648. You do not have to send OSHA a hard copy of your faxed comments.

You may submit comments electronically through OSHA's Home Page at <http://ecommments.osha.gov/>. Please note that you may not attach materials such as studies or journal articles to your electronic comments. If you wish to include such materials, you must submit three copies of the material to the OSHA Docket Office at the above address. When submitting such material to the OSHA Docket Office, you must clearly identify your electronic comments by name, date, subject, and docket number so that we can attach the materials to your electronic comments.

**FOR FURTHER INFORMATION CONTACT:**

Joanna Dizikes Friedrich, Directorate of Policy, Occupational Safety and Health Administration, Room N3641, 200 Constitution Avenue, NW., Washington, DC 20210, Telephone (202) 693-2400, Fax (202) 693-1641.

**SUPPLEMENTARY INFORMATION:**

**Background**

A mechanical power press is a mechanically powered machine that shears, punches, forms or assembles metal or other material by means of cutting, shaping or combination dies attached to slides. A press consists of a stationary bed or anvil, and a slide having a controlled reciprocating motion. The slide, called the ram, is equipped with special punches and moves downward into a die block which is attached to the rigid bed. The punches and the die block assembly are generally referred to as a "die set."

The main function of a stamping press is to provide sufficient power to close and open the die set, thus shaping or cutting the metal part set on the die block. The metal part is fed into the die block and the ram descends to perform the desired stamping operation. The danger zone for the operator is between the punches and the die block. This area is referred to as the "point of operation."

If the employee's hand is in the point of operation when the press strokes, amputation of the finger, hand or arm is quite possible. Safeguards are needed to prevent or greatly reduce the possibility of this happening. However, there are a significant number of such amputations each year because of failure of safeguards, improper operation or other causes.

OSHA regulates mechanical power presses at 29 CFR 1910.217. OSHA adopted that standard in 1971 based on the 1971 revision of the American National Standards Institute (ANSI) voluntary consensus standard ANSI B11.1, "Safety Requirements for Construction, Care and Use of Mechanical Power Presses."

Until 1988, based on the 1971 ANSI Standard, the OSHA standard required manual actuation of a press stroke, to prevent the actuation of a press stroke when the employee's hand was in the point of operation. A typical method of actuation was dual palm buttons set sufficiently far apart to prevent part of the employee's body from being in the point of operation when the press stroked.

A presence sensing device, typically a light curtain, senses when an object, such as a hand, is within its field. The 1971 OSHA standard based on the 1971 ANSI standard permitted presence sensing devices (PSD) to be used as a guard, but it did not permit the PSD to initiate (actuate) the stroke of the press.

Presence sensing device initiation (PSDI) actuates the stroke of the press when the PSD senses that the employee has fed the press and removed the employee's hands and arms from the point of operation. PSDI increases the speed of the operation, consequently improving productivity. Experts also believe, if done correctly, it would be more protective of employees by protecting non-operator employees near the press (who would not be protected by manual actuation alone) and by reducing employee fatigue.

Several European countries permitted PSDI of mechanical power presses in the 1950's, based on government certification of the safety of the system. OSHA granted a temporary variance to Interlock Stamping Company in 1976 to utilize and test PSDI.

In 1982, in order to study PSDI, OSHA contracted with an expert, Mr. Trygve Hauge, and the National Institute of Occupational Safety and Health (NIOSH) contracted with Purdue Research Foundation to study PSDI. Their reports were widely circulated by OSHA and comments were received.

Based on this considerable body of experience, expert views and comments, OSHA proposed to amend 29 CFR 1910.217 to permit PSDI on March 29, 1985 at 50 FR 12700. Those amendments included requirements for designing PSDI systems. They also included requirements that manufacturers certify the system and that an independent organization validate that certification. These provisions are located at 29 CFR

1910.217(h) and Appendixes A, B and C.

The large majority of comments on the proposal supported the provision and believed it was workable. The minority who opposed the proposal were split between those who believed that PSDI was not safe and those who believed fewer requirements were appropriate.

OSHA issued the final rule permitting PSDI on March 14, 1988 at 53 FR 8327. The rule would permit either manufacturer or user associations to set up a validating organization if it had independent member and employee participation. OSHA believed, based on the studies, expert opinions, European experience, experimental variance and comments, that the regulation would substantially improve productivity, better protect workers, and be implemented.

However, PSDI has not been adopted for mechanical power presses. No organization has agreed to validate PSDI installations. PSDI is still widely used in Europe, and it is used for other types of equipment in the United States, where it had not been prohibited.

In addition, there is a much updated ANSI B.11.1-2001 standard on mechanical power presses. This updated standard does not require certification, but it has a number of requirements for PSDI which are integrated throughout the standard.

In Europe, the various specific certification requirements for PSDI have been replaced by the European Union Directive on Machinery (Directive 98/37/Ec). This directive covers a broad class of machinery, has many requirements, and requires self certification, but it does not have separate PSDI requirements.

**Regulatory Review**

The original PSDI rulemaking was, in part, a response to the Regulatory Flexibility Act of 1980, to increase small business options and productivity while protecting workers. However, the goal has not been achieved.

Accordingly, OSHA has decided to review the PSDI provisions of the Mechanical Power Press Standard pursuant to section 610 of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) and section 5 of Executive Order 12866 (59 FR 51739, 51739, October 4, 1993). A major goal of the review is to determine whether there are changes that can be made which will encourage the implementation of PSDI, to improve business and, particularly, small business productivity, while protecting workers. OSHA particularly welcomes public comment on this issue as it relied

heavily on expert and public comments in its earlier rulemaking.

The purpose of a review under section 610 of the Regulatory Flexibility Act:

“(S)hall be to determine whether such rule should be continued without change, or should be rescinded, or amended consistent with the stated objectives of applicable statutes to minimize any significant impact of the rule on a substantial number of small entities.”

“The Agency shall consider the following factors:

(1) The continued need for the rule:

(2) The nature of complaints or comments received concerning the rule from the public;

(3) The complexity of the rule;

(4) The extent to which the rule overlaps, duplicates or conflicts with other Federal rules; and, to the extent feasible, with state and local governmental rules; and

(5) The length of time since the rule has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the areas affected by the rule.”

The review requirements of section 5 of Executive Order 12866 require agencies:

“To reduce the regulatory burden on the American people, their families, their communities, their state, local and tribal governments, and their industries; to determine whether regulations promulgated by the [Agency] have become unjustified or unnecessary as a result of changed circumstances; to confirm that regulations are both compatible with each other and not duplicative or inappropriately burdensome in the aggregate; to ensure that all regulations are consistent with the President’s priorities and the principles set forth in this Executive Order, within applicable law; and to otherwise improve the effectiveness of existing regulations.”

An important step in the review process involves the gathering and analysis of information from affected persons about their experience with the rule and any material changes in circumstances since issuance of the rule. This notice requests written comments on the continuing need for the PSDI rule, its adequacy or inadequacy, its small business impacts, and other and all issues raised by section 610 of the Act and section 5 of the Executive Order. However, it would be particularly helpful for commenters to suggest how the PSDI provisions can be improved or changed to achieve its productivity and worker protection goals.

### Some Possible Options

This section discusses several possible options for changing the PSDI requirement so that it will be utilized and its benefits realized. Some of the implications of these options are also presented. There may be other options with various advantages and disadvantages, and there may be additional implications of the options presented.

The public is invited to comment on the options OSHA has presented, other options which the commenter may wish to have considered, and the advantages and disadvantages of the various options. One very important consideration which needs to be discussed is whether an option will lead to the implementation of PSDI while protecting workers. The availability of OSHA regulatory resources to implement an option is a factor, however.

One option would be to make relatively minor changes to the PSDI and validation requirements to reduce the apparent difficulties for its implementation. It has been suggested that eliminating the requirement that no single failure could lead to injury, making some adjustments to the technical requirements, and making it easier for nationally recognized testing laboratories (NRTL’s) to become validators may make the implementation of PSDI more likely.

This approach is easier for OSHA to implement since it requires the fewest regulatory resources, raises fewer issues, and would take less time. Suggestions along this line by organizations willing to undertake validation responsibilities are welcome. However, it may be that a manageable number of adjustments to the current approach to PSDI would not lead to its implementation.

A second approach would be to update the mechanical power presses standard to the new ANSI B11.1–2001 standard or something quite similar. PSDI is an integral part of that ANSI standard, and there is no validation requirement. Many in the field believe this updating is long over due, that there would be a range of benefits, and that it would lead to implementation of PSDI. However, this approach would require a major commitment and reallocation of OSHA regulatory resources, and it would take considerable time. It also raises the OSHA priorities question of whether such a large commitment of resources could more effectively be committed to updating other safety standards.

Another approach would be to eliminate the validation requirements

and possibly replace it with a self-certification requirement. This is clear as an issue, simple in terms of the language changes to the standard, and may allow the widespread adoption of PSDI. However, OSHA reached the firm conclusion in 1988 that validation was necessary for worker safety in the context of the present mechanical power press standard. A reversal of OSHA position legally requires evidence (which OSHA does not now have in its possession) that worker safety would be protected. OSHA welcomes submission of data on this issue.

Another option would be to replace the current PSDI requirements with the requirements for PSDI in the ANSI B.11.1–2001. This presents technical issues since the current OSHA mechanical power press standard is substantially different than the 2001 ANSI standard. Comments are welcome on whether these technical issues can be resolved and the safety of this approach.

Comments are requested on the above options and other options or variations. Comments are also requested on all other issues relevant to this regulatory review of the PSDI requirements of the mechanical power press standard, pursuant to section 610 of the Regulatory Flexibility Act and section 5 of the Executive Order. Commenters may wish to review the extensive technical information and economic data presented in the preamble to the final PSDI **Federal Register** Notice at 53 FR 8322–8365, March 14, 1988.

Comments must be mailed or submitted by January 27, 2003. Comments should be submitted to the addresses and in the manner specified at the beginning of the notice.

**Authority:** This document was prepared under the direction of John L. Henshaw, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue, NW., Washington, DC 20210. It is issued pursuant to section 610 of the Regulatory Flexibility Act (5 U.S.C. 610) and Section 5 of Executive Order 12866 (59 FR 51724, October 4, 1993).

Signed at Washington, DC, this 21st day of August, 2002.

**John Henshaw,**

*Assistant Secretary of Labor.*

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