

Technical Regulations & GATT

Under the “General Agreement on Tariffs and Trade (GATT) ’94 Uruguay Round ” it was agreed that the signatory countries, to GATT, would empower the World Trade Organization (WTO) to remove “Technical Barriers to Trade (TBT)”. These TBT are usually government regulations that impede trade and are usually in the area of Environment, Health & Safety (EH&S). To remove TBT the WTO tasked the International Standards Organization (ISO) and International Electrotechnical Commission (IEC) to develop consensus standards that signatory countries would adopt as their national standards and hence become that country’s technical regulation. Thus, removal of “Technical Barriers to Trade” is achieved by having all signatory countries, to GATT, operate from the same “technical regulations”.

GATT further specifies that regulatory bodies of the signatory countries will enforce these technical regulations. Where a signatory country does not conform to this process they are to inform the WTO and provide justification. Their non-conformance will be posted for all signatory countries to view and comment.

Reference: *Chapter Seven Technical Barriers to Trade - General Agreement on Tariffs and Trade (GATT) ’94 Uruguay Round*

Note: The US is a signatory country to GATT and has committed compliance with this process. The ISO & IEC have developed numerous ‘state of the art’ standards. The US is in the process of adopting these safety standards, via ANSI (American National Standards Institute).

Note: Under ISO & IEC rules these standards are to be reviewed and re-ratified every 5 years to prevent them from becoming outdated.

OSHA’s acceptance of Industrial Consensus Standards:

OSHA states where engineering controls are used to achieve a safety measure, those controls are required to conform to industrial consensus standards. Abatement of machine hazards is performed by the use of engineering controls.

Note: OSHA is obligated to accept industrial consensus standards per Public Law 104-113, OMB Circular A-119 and GATT trade agreement.

Note: OSHA also requires compliance to industry consensus standards in their machine safeguarding regulation i.e. CFR 1910.212.

Note: OSHA also requires conformance to industrial consensus standards as a means of satisfying their requirements under their current voluntary “Safety and Health Management Systems” e.g. OSHA’s VPP program. The means of determining the degree of compliance to OSHA’s “Safety and Health Management Systems” is determined by conformance to their ‘Program Evaluation Profile’ (PEP).

OSHA’s ‘Program Evaluation Profile (PEP) states:

- “Hazard Control: Workforce exposure to all current and potential hazards should be prevented or controlled by using engineering controls wherever feasible ...”
- “The employer requires strict and complete compliance with all OSHA, consensus, and industry standards...”

OSHA also strongly recommends the usage of Industrial Consensus Standards for safe operation of equipment (see below)



Chapter 5 - The Utilization of Industry Consensus Standards

The Utilization of Industry Consensus Standards

OSHA uses industry consensus standards, related to the safe operation of equipment, as guidance of the industry accepted practice for safe operations. Industry consensus standards which describe equipment configuration or design but which do not describe safe and/or healthful use and operation of the equipment are of limited assistance to OSHA. In any event, even when an industry consensus standard addresses safety/health considerations, OSHA may determine that the safety/health practices described by that industry consensus standard are deficient when related to the requirement(s) set forth by the pertinent OSHA regulation(s). However, many of the various ANSI safety standards devoted to the safe use of equipment and machines are pertinent and provide valuable guidance as they relate to the multitude of safe operating procedures regularly discussed in ANSI safety standards.

All of the requirements of [29 CFR 1910.212](#), are applicable to machines found in industry. Paragraph (a)(1), requires that employees be protected from the hazards created by the point of operation, ingoing nip points, and rotating parts. Paragraph (a)(2), describes the manner in which guards shall be affixed. The proper application of devices are not described; therefore, other similar OSHA or pertinent industry standards must be referred to for guidance. Paragraph (a)(3) describes, with particularity, the requirements for safeguarding the point of operation.

The OSHA standard specifically requires that at the point of operation, "the guarding device shall be in conformity with any appropriate standards therefore, or in the absence of applicable specific standards, shall be so designed and constructed as to prevent the operator from having any part of his body in the danger zone during the operating cycle. "Applicable standards include any similar OSHA standard or any OSHA adopted industry consensus standard(s) which provide for the safety of the operator during the operating cycle. However, any specific industry consensus standard, such as an ANSI standard for the particular machine or equipment, should be used for guidance relative to the accepted procedures for safeguarding workers and operators from the recognized hazards of the equipment.

Employers who comply with the requirements of an industry consensus standard rather than a specific OSHA standard, where such compliance deviates from the OSHA requirements but provides for a more conservative safeguarding concept, are categorized as having created a de minimis violation of the specific OSHA standard. (A de minimis violation is a violation of an OSHA standard that has no direct or immediate relationship to safety or health. Such de minimis violations require no correction and result in no penalty.)

OSHA encourages employers to abide by the more current industry consensus standards since those standards are more likely to be abreast of the state of the art than an applicable OSHA standard may be. Furthermore, the industry consensus standards will usually discuss a variety of techniques for averting exposure to the identified hazards of the machine or process.