

Occupational Safety and Health Standards Board

Public Meeting and Business Meeting

January 21, 2021

Via teleconference / videoconference

Board Meeting Packet

DEPARTMENT OF INDUSTRIAL RELATIONS
Occupational Safety and Health Standards Board
2520 Venture Oaks Way, Suite 350
Sacramento, CA 95833
Tel: (916) 274-5721 Fax: (916) 274-5743
www.dir.ca.gov/oshsb



MISSION STATEMENT

The mission of the Occupational Safety and Health Standards Board is to promote, adopt, and maintain reasonable and enforceable standards that will ensure a safe and healthful workplace for California workers.

January 21, 2021 at 10:00 a.m.
TELECONFERENCE AGENDA

PUBLIC MEETING AND BUSINESS MEETING
OF THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

PLEASE NOTE: In accordance with [Executive Order N-29-20](#), and [Executive Order N-33-20](#), the **PHYSICAL** meeting location has been cancelled for January.

Attend the meeting via Video-conference:

1. Go to www.webex.com
2. Select "Join"
3. Enter the meeting information: **268 984 996**
4. Enter your name and email address then click "Join Meeting"
5. Video-conference will be opened to the public at 9:50 a.m.

Attend the meeting via Teleconference:

1. Dial (844) 992-4726
2. When prompted, enter **268-984-996**
3. When prompted for an Attendee ID, press #
4. Teleconference will be opened to the public at 9:50 a.m.

Live video stream and audio stream (English and Spanish):

1. Go to <https://videobookcase.com/california/oshsb/>
2. Video stream and audio stream will launch as the meeting starts at 10:00 a.m.

Public Comment Queue:

Stakeholders who wish to comment on agenda items may submit a request to be added to the public comment queue. Please provide the following information*: 1) name; 2) affiliation; 3) comment topic; and 4) phone number (if not attending via Webex).

**Information requested is voluntary and not required to address the Board.*

In advance of the meeting: Email the requested information to OSHSB@dir.ca.gov.

During the meeting: Email the requested information to OSHSB@dir.ca.gov, request to speak via Webex "Chat" function, or dial 916-274-5721 to be placed in the queue.

NOTE: In accordance with [Executive Order N-29-20](#), Board Members will participate via Video-conference and/or Teleconference.

I. CALL TO ORDER AND INTRODUCTIONS

II. PUBLIC MEETING (Open for Public Comment)

This portion of the Public Meeting is open to any interested person to propose new or revised standards to the Board or to make any comment concerning occupational safety and health (Labor Code Section 142.2). *The Board is not permitted to take action on items that are not on the noticed agenda, but may refer items to staff for future consideration.*

This portion of the meeting is also open to any person who wishes to address the Board on any item on today's Business Meeting Agenda (Government Code Section 11125.7).

Any individual or group planning to make a presentation during the Public Meeting is requested to contact Sarah Money, Executive Assistant, or Christina Shupe, Executive Officer, at (916) 274-5721 in advance of the meeting so that any logistical concerns can be addressed.

A. PUBLIC COMMENT

B. ADJOURNMENT OF THE PUBLIC MEETING

III. BUSINESS MEETING – All matters on this Business Meeting agenda are subject to such discussion and action as the Board determines to be appropriate.

The purpose of the Business Meeting is for the Board to conduct its monthly business.

A. PROPOSED VARIANCE DECISIONS FOR ADOPTION

1. [Consent Calendar](#)

B. REPORTS

1. Division Update

2. Legislative Update

3. Executive Officer's Report

C. NEW BUSINESS

1. Future Agenda Items

Although any Board Member may identify a topic of interest, the Board may not substantially discuss or take action on any matter raised during the meeting that is not included on this agenda, except to decide to place the matter on the agenda of a future meeting. (Government Code Sections 11125 & 11125.7(a).)

D. CLOSED SESSION

1. Western States Petroleum Association (WSPA) v. California Occupational Safety and Health Standards Board (OSHSB), et al. United States District Court (Eastern District of California) Case No. 2:19-CV-01270
2. WSPA v. OSHSB, et al., County of Sacramento, CA Superior Court Case No. 34-2019-00260210
3. National Retail Federation, et. al., v OSHSB, et. al., County of San Francisco, CA Superior Court Case No. CGC-20-588367
4. Western Growers Association, California Farm Bureau Federation, et. al. v OSHSB, et al., County of Los Angeles, CA Superior Court Case No. 20STCP04292
5. Personnel

E. RETURN TO OPEN SESSION

Report from Closed Session

F. ADJOURNMENT OF THE BUSINESS MEETING

Next Meeting: February 18, 2021
Teleconference and Video-conference
(In accordance with Executive Orders [N-29-20](#) and [N-33-20](#))
10:00 a.m.

CLOSED SESSION

1. If necessary, consideration of personnel matters. (Government Code section 11126(a)(1)).
2. If necessary, consideration of pending litigation pursuant to Government Code section 11126(e)(1).

PUBLIC COMMENT

In addition to public comment during Public Hearings, the Occupational Safety and Health Standards Board (Board) affords an opportunity to members of the public to address the Board on items of interest that are either on the Business Meeting agenda, or within the Board's jurisdiction but are not on the noticed agenda, during the Public Meeting. The Board is not permitted to take action on items that are not on the noticed agenda, but may refer items to staff for future consideration. The Board reserves the right to limit the time for speakers.

DISABILITY ACCOMMODATION NOTICE

Disability accommodation is available upon request. Any person with a disability requiring an accommodation, auxiliary aid or service, or a modification of policies or procedures to ensure effective communication and access to the public hearings/meetings of the Occupational Safety and Health Standards Board should contact the Disability Accommodation Coordinator at (916) 274-5721 or the state-wide Disability Accommodation Coordinator at 1-866-326-1616 (toll free). The state-wide Coordinator can also be reached through the California Relay Service, by dialing 711 or 1-800-735-2929 (TTY) or 1-800-855-3000 (TTY-Spanish).

Accommodations can include modifications of policies or procedures or provision of auxiliary aids or services. Accommodations include, but are not limited to, an Assistive Listening System (ALS), a Computer-Aided Transcription System or Communication Access Realtime Translation (CART), a sign-language interpreter, documents in Braille, large print or on computer disk, and audio cassette recording. Accommodation requests should be made as soon as possible. Requests for an ALS or CART should be made no later than five (5) days before the meeting.

TRANSLATION

Requests for translation services should be made no later than five (5) days before the meeting.

NOTE: Written comments may be emailed directly to oshsb@dir.ca.gov no later than 5:00 p.m. on the Tuesday prior to a scheduled Board Meeting.

Under Government Code section 11123, subdivision (a), all meetings of a state body are open and public, and all persons are permitted to attend any meeting of a state body, except as otherwise provided in that article. The Board Chair may adopt reasonable time limits for public comments in order to ensure that the purpose of public discussion is carried out. (Gov. Code, §11125.7, subd. (b).)

Pursuant to Executive Orders N-29-20 and N-35-20, certain provisions of the Bagley-Keene Open Meeting Act are suspended due to a State of Emergency in response to the COVID-19 pandemic. Consistent with the Executive Orders, this meeting of the Occupational Safety and Health

Standards Board will be conducted remotely via video/teleconference only. None of the locations from which the Board Members will participate will be open to the public. Members of the public who wish to participate in the meeting may do so via livestream on our website at <https://videobookcase.com/california/oshsb/>. The video recording and transcript of this meeting will be posted on our website as soon as practicable.

For questions regarding this meeting, please call (916) 274-5721.

DEPARTMENT OF INDUSTRIAL RELATIONS
Occupational Safety and Health Standards Board
2520 Venture Oaks Way, Suite 350
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NOTICE OF PUBLIC MEETING AND BUSINESS MEETING
OF THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Pursuant to Government Code Section 11346.4 and the provisions of Labor Code Sections 142.1, 142.2, 142.3, 142.4, and 144.6, the Occupational Safety and Health Standards Board of the State of California has set the time and place for a Public Meeting and Business Meeting:

PLEASE NOTE: In accordance with Executive Order N-29-20, and Executive Order N-33-20, the PHYSICAL meeting location has been cancelled for January.

PUBLIC MEETING: On **January 21, 2021**, at 10:00 a.m. via the following:

- Video-conference at www.webex.com (meeting ID 268 984 996)
- Teleconference at (844) 992-4726 (Access code 268 984 996)
- Live video stream and audio stream (English and Spanish) at <https://videobookcase.com/california/oshsb/>

At the Public Meeting, the Board will make time available to receive comments or proposals from interested persons on any item concerning occupational safety and health.

BUSINESS MEETING: On **January 21, 2021**, at 10:00 a.m. via the following:

- Video-conference at www.webex.com (meeting ID 268 984 996)
- Teleconference at (844) 992-4726 (Access code 268 984 996)
- Live video stream and audio stream (English and Spanish) at <https://videobookcase.com/california/oshsb/>

At the Business Meeting, the Board will conduct its monthly business.

DISABILITY ACCOMMODATION NOTICE: Disability accommodation is available upon request. Any person with a disability requiring an accommodation, auxiliary aid or service, or a modification of policies or procedures to ensure effective communication and access to the public hearings/meetings of the Occupational Safety and Health Standards Board should contact the Disability Accommodation Coordinator at (916) 274-5721 or the state-wide Disability Accommodation Coordinator at 1-866-326-1616 (toll free). The state-wide Coordinator can also be reached through the California Relay Service, by dialing 711 or 1-800-735-2929 (TTY) or 1-800-855-3000 (TTY-Spanish).

Accommodations can include modifications of policies or procedures or provision of auxiliary aids or services. Accommodations include, but are not limited to, an Assistive Listening System (ALS), a Computer-Aided Transcription System or Communication Access Realtime Translation (CART), a sign-language interpreter, documents in Braille, large print or on computer disk, and audio cassette recording. Accommodation requests should be made as soon as possible. Requests for an ALS or CART should be made no later than five (5) days before the hearing.

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD

A handwritten signature in black ink, appearing to read "Dave Thomas".

DAVE THOMAS, Chairman

Occupational Safety and Health Standards Board

Business Meeting

Occupational Safety and Health Standards Board

Business Meeting
Variance Consent Calendar

**CONSENT CALENDAR—PROPOSED VARIANCE DECISIONS
 JANUARY 21, 2021, MONTHLY BUSINESS MEETING
 OF THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD**

A. OTIS E2 CONTROLLER LABELING CONDITION— HEARD DECEMBER 18, 2020

OSHSB FILE NUMBER	APPLICANT NAME	SAFETY ORDERS	PROPOSED DECISION
15-V-169M2	350 Bush Street Owner LLC	Elevator	GRANT

B. MILLENNIUM SANTA MONICA LLC— HEARD DECEMBER 18, 2020

OSHSB FILE NUMBER	APPLICANT NAME	SAFETY ORDERS	PROPOSED DECISION
17-V-066M1	Millennium Santa Monica LLC	Elevator	GRANT

C. DUNLOP 7, LLC — HEARD DECEMBER 18, 2020

OSHSB FILE NUMBER	APPLICANT NAME	SAFETY ORDERS	PROPOSED DECISION
18-V-420M1	Dunlop 7, LLC	Elevator	GRANT

D. DEPARTMENT OF STATE HOSPITALS — HEARD AUGUST 30, 2019

OSHSB FILE NUMBER	APPLICANT NAME	SAFETY ORDERS	PROPOSED DECISION
19-V-028	Department of State Hospitals	General Industry	DENIED

E. SI 55 LLC — HEARD DECEMBER 18, 2020

OSHSB FILE NUMBER	APPLICANT NAME	SAFETY ORDERS	PROPOSED DECISION
19-V-439M1	SI 55 LLC	Elevator	GRANT

F. 88 BROADWAY FAMILY GROUP LP — HEARD DECEMBER 18, 2020

OSHSB FILE NUMBER	APPLICANT NAME	SAFETY ORDERS	PROPOSED DECISION
20-V-025M1	88 Broadway Family LP	Elevator	GRANT

G. SCHINDLER MODEL 3300 ELEVATORS WITH VARIANT GOV. ROPES & SHEAVES (GROUP IV) HEARD DECEMBER 18, 2020

OSHSB FILE NUMBER	APPLICANT NAME	SAFETY ORDERS	PROPOSED DECISION
20-V-172	TPSC IX, LLC.	Elevator	GRANT
20-V-173	TPSC IX, LLC.	Elevator	GRANT
20-V-413	DC Walnut Holdings, LLC	Elevator	GRANT
20-V-414	DC Walnut Holdings, LLC	Elevator	GRANT
20-V-424	DWF v 250 California Owner, LLC	Elevator	GRANT
20-V-433	S&B Milpitas, LLC	Elevator	GRANT

H. NASH-HOLLAND T&C RESIDENTIAL INVESTORS, LLC — HEARD DECEMBER 18, 2020

OSHSB FILE NUMBER	APPLICANT NAME	SAFETY ORDERS	PROPOSED DECISION
20-V-222M1	Nash-Holland T&C Residential Investors, LLC	Elevator	GRANT

I. NASH-HOLLAND T&C RESIDENTIAL INVESTORS, LLC — HEARD DECEMBER 18, 2020

OSHSB FILE NUMBER	APPLICANT NAME	SAFETY ORDERS	PROPOSED DECISION
20-V-223M1	Nash-Holland T&C Residential Investors, LLC	Elevator	GRANT

**J. KONE MONOSPACE 500 ELEVATORS with RETRACTABLE PLATFORM GUARD (GROUP IV)
HEARD DECEMBER 18, 2020**

OSHSB FILE NUMBER	APPLICANT NAME	SAFETY ORDERS	PROPOSED DECISION
20-V-335	PPF Paramount One Market Plaza Owner, L.P.	Elevator	GRANT

K. OTIS GEN2S ELEVATORS (GROUP IV)— HEARD DECEMBER 18, 2020

OSHSB FILE NUMBER	APPLICANT NAME	SAFETY ORDERS	PROPOSED DECISION
20-V-379	353 Main Street Apartments, LP	Elevator	GRANT
20-V-380	1201 Broadway – Owner, LLC	Elevator	GRANT
20-V-381	1201 Fifth Avenue, LLC	Elevator	GRANT
20-V-383	Aragon (Toluca/Colton) Properties Corp.	Elevator	GRANT
20-V-384	AvalonBay Communities, Inc.	Elevator	GRANT
20-V-385	Bakerfield College	Elevator	GRANT
20-V-386	CalSTRS	Elevator	GRANT
20-V-387	CalSTRS	Elevator	GRANT
20-V-388	CI-GS Hillcrest LLC	Elevator	GRANT
20-V-389	Din/Cal 4, Inc.	Elevator	GRANT
20-V-390	Din/Cal 4, Inc.	Elevator	GRANT
20-V-391	Genentech	Elevator	GRANT
20-V-392	Hadley Apartments, LLC	Elevator	GRANT
20-V-393	Hadley Apartments, LLC	Elevator	GRANT
20-V-394	Jean W. Seto Living Trust DTD 06/09/06	Elevator	GRANT
20-V-395	Mission Bay 9 LP	Elevator	GRANT
20-V-400	NP 31 LLC	Elevator	GRANT

20-V-401	Sunnydale Block 6 Housing Partnership, LP	Elevator	GRANT
20-V-431	University of California At Riverside	Elevator	GRANT
20-V-435	Firmin Court LP	Elevator	GRANT
20-V-436	Charities Housing	Elevator	GRANT
20-V-437	MM NoHo Apartments, L.L.C.	Elevator	GRANT
20-V-438	MM NoHo Apartments, L.L.C.	Elevator	GRANT
20-V-440	Stalder Plaza LP	Elevator	GRANT

L. KONE MONOSPACE 500 ELEVATORS (GROUP IV) — HEARD DECEMBER 18, 2020

OSHSB FILE NUMBER	APPLICANT NAME	SAFETY ORDERS	PROPOSED DECISION
20-V-402	Google B40 LLC	Elevator	GRANT
20-V-403	The Regents of the University of California	Elevator	GRANT
20-V-404	The Regents of the University of California	Elevator	GRANT
20-V-405	The Regents of the University of California	Elevator	GRANT
20-V-406	The Regents of the University of California	Elevator	GRANT
20-V-407	The Regents of the University of California	Elevator	GRANT
20-V-408	The Regents of the University of California	Elevator	GRANT
20-V-409	12444 Venice Investments, LP	Elevator	GRANT
20-V-418	BSD Beverly Hills Propco, LLC	Elevator	GRANT
20-V-419	Garden Brook Pacific Associates, LP	Elevator	GRANT

20-V-420	Hollywood Park Retail/Commercial Investors, LLC	Elevator	GRANT
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M. SCHINDLER MODEL 3300 ELEVATORS (GROUP IV) — HEARD DECEMBER 18, 2020

OSHSB FILE NUMBER	APPLICANT NAME	SAFETY ORDERS	PROPOSED DECISION
20-V-422	17 Central Investors, LLC	Elevator	GRANT
20-V-423	2719 K Street, LLC	Elevator	GRANT

N. CVS GARFIELD BEACH LLC— HEARD DECEMBER 18, 2020

OSHSB FILE NUMBER	APPLICANT NAME	SAFETY ORDERS	PROPOSED DECISION
20-V-427	CVS Garfield Beach LLC	Elevator	GRANT

O. KONE ECOSPACE ELEVATORS (GROUP IV—SUSPENSION ROPE DIAMETER) HEARD DECEMBER 18, 2020

OSHSB FILE NUMBER	APPLICANT NAME	SAFETY ORDERS	PROPOSED DECISION
20-V-428	SI 55 LLC	Elevator	GRANT

P. OTIS ELEVATOR (GROUP IV) GEN2(O) AND/OR GEN2L [W/VARIANT GOV. ROPE/SHEAVE] HEARD DECEMBER 18, 2020

OSHSB FILE NUMBER	APPLICANT NAME	SAFETY ORDERS	PROPOSED DECISION
20-V-430	McCarthy Cook & Company, LLC	Elevator	GRANT

Q. SCHINDLER MODEL 5500 ELEVATORS (GROUP IV)— HEARD DECEMBER 18, 2020

OSHSB FILE NUMBER	APPLICANT NAME	SAFETY ORDERS	PROPOSED DECISION
20-V-434	Grant Street LLC	Elevator	GRANT

R. OTIS ELEVATOR (GROUP IV) GEN2(O) AND/OR GEN2L ALTERATIONS
HEARD DECEMBER 18, 2020

OSHSB FILE NUMBER	APPLICANT NAME	SAFETY ORDERS	PROPOSED DECISION
20-V-439	Hyundai Rio Vista Inc	Elevator	GRANT

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
2520 Venture Oaks Way, Suite 350
Sacramento, California 95833
(916) 274-5721

In the Matter of Application for Modification)
of Permanent Variance Regarding:)
)
)
Otis E2 Controller Labeling Condition)
)
_____)

OSHSB FILE No.: see grid in Item A of
Proposed Decision Dated: January 5, 2021

DECISION

The Occupational Safety and Health Standards Board hereby adopts the attached PROPOSED DECISION by Christina Shupe, Hearing Officer.

DAVID THOMAS, Chairman

BARBARA BURGEL, Member

KATHLEEN CRAWFORD, Member

DAVID HARRISON, Member

NOLA KENNEDY, Member

CHRIS LASZCZ-DAVIS, Member

LAURA STOCK, Member

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD

Date of Adoption: January 21, 2021

THE FOREGOING VARIANCE DECISION WAS ADOPTED ON THE DATE INDICATED ABOVE. IF YOU ARE DISSATISFIED WITH THE DECISION, A PETITION FOR REHEARING MAY BE FILED BY ANY PARTY WITH THE STANDARDS BOARD WITHIN TWENTY (20) DAYS AFTER SERVICE OF THE DECISION. YOUR PETITION FOR REHEARING MUST FULLY COMPLY WITH THE REQUIREMENTS OF CALIFORNIA CODE OF REGULATIONS, TITLE 8, SECTIONS 427, 427.1 AND 427.2.

Note: A copy of this Decision must be posted for the Applicant's employees to read, and/or a copy thereof must be provided to the employees' Authorized Representatives.

BEFORE THE
 OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
 DEPARTMENT OF INDUSTRIAL RELATIONS
 STATE OF CALIFORNIA

<p>In the Matter of Application for Modification of Permanent Variance Regarding:</p> <p>Otis E2 Controller Labeling Condition</p>	<p>OSHSB File No.: Per Section A.1 table, below</p> <p>Proposed Decision</p> <p>Hearing Date: December 18, 2020</p>
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A. Procedural Matters

- Each below listed applicant (“Applicant”) has applied for modification of permanent variances from provisions of the Elevator Safety Orders, found at Title 8 of the California Code of Regulations, with respect to the listed conveyance or conveyances, in the specified quantity, at the specified location:

Variance No.	Applicant Name	Variance Location Address	No. of Elevators
15-V-169M2	350 Bush Street Owner LLC	350 Bush Street San Francisco, CA	4

- This proceeding is conducted in accordance with Labor Code Section 143, and California Code of Regulations, Title 8, Section 401, et. seq.
- The safety order at issue is California Code of Regulations, Title 8, Elevator Safety Order (ESO), Section 3141, incorporated ASME A17.1-2004, Section 2.26.9.4.
- This hearing was held on December 18, 2020, in Sacramento, California, via teleconference by Occupational Safety and Health Standards Board (“Board”), with Hearing Officer Christina Shupe, both presiding and hearing the matter on its merit, as a basis of proposed decision to be advanced to the Board for its consideration, in accordance with California Code of Regulations, Title 8, Section 426.
- At the hearing, Dan Leacox of Leacox & Associates, and Wolter Geesink with Otis Elevator, appeared on behalf of the Applicants’ representative, the Otis Elevator Company; David Morris appeared on behalf of the Division of Occupational Safety and Health (“Division”), and Michael Nelmidia appeared on behalf of Board staff, in a technical advisory role apart from the Board.
- Oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence: each respective permanent variance modification applications per Section A table as Exhibit PD-1, Notice of Hearing as Exhibit PD-2,

Proposed Modification of Variance Decision

Otis E2 Controller Conditions

Hearing Date: December 18, 2020

Board staff Review of Application Memorandum as PD-3, Division Review of Application as PD-4, Review Draft 1 Proposed Decision as PD-5, and official notice taken of the Board's rulemaking records, and variance files and decisions, concerning the Elevator Safety Order standards at issue. At close of hearing on December 18, 2020, the record was closed, and the matter taken under submission by the Hearing Officer.

B. Findings of Fact

1. Each Applicant requests modification of the subject permanent variance—to change existing Decision and Order, enumerated Condition No. 3, subpart “a,” which states:

The SIL rated software system and related circuits shall consist of three circuit board components (SSIB, KSIB, and HSIB), each labeled or marked with the SIL rating (not less than SIL 3) and the TUV Certificate number (AEB 012) followed by the applicable revision number (as in AEB 012/2).

2. Each Applicant requests the following changes to the above Decision and Order condition:

The SIL-rated software system and related circuits shall consist of three circuit board components (SSIB, KSIB, and HSIB), each labeled or marked with the SIL rating (not less than SIL 3), the name or mark of the certifying organization, and the ~~TUV Certificate~~ SIL certification number (AEB 012, EU-ESD 012 or both) followed by the applicable revision number (as in AEB 012/2, EU-ESD 012/1).

3. Each Applicant asserts that the revisions requested above permit the updating, and/or replacement of the software system and related circuit boards, without the need to modify the variance. Such updates and replacements are routine for static controls.
4. Each Applicant asserts that the revisions do not inhibit the ability of the Applicant to comply with Decision and Order, Condition(3)(b) as stated: “The software system and related circuits shall be certified for compliance with the applicable requirements of ASME A17.1-2013 Section 2.26.4.3.2” which states in part:

2.26.4.3.2 “They shall be listed/certified to a SIL rating in accordance with the applicable requirements of IEC 61508-2 and IEC 61508-3, with a SIL rating equal to or greater than the SIL indicated for the applicable device shown in Table 2.26.4.3.2. They shall be labeled/marked with part identification. Wiring diagrams (see 8.6.1.6.3) shall include part

Proposed Modification of Variance Decision

Otis E2 Controller Conditions

Hearing Date: December 18, 2020

identification, SIL, and certification information that shall be in accordance with the certifying organization's requirements."

5. Per Division's Review of Application in the subject preexisting matter, modification of which is presently requested, Applicant proposed the use of a SIL rated software system and circuits consisting of three computer control boards that communicate on a Control Area Network (CAN) to monitor elevator safety devices and perform certain safety functions. Elevator electrical protective devices (EPDs) and other control devices are connected to these control boards. Software specifically designed for this SIL system continuously monitors these devices and performs certain elevator safety functions. The design of this SIL rated software system and its related circuits includes a required redundant means to remove the power from the driving machine motor and brake under certain conditions. The ESOs do not allow this redundancy to be solely dependent on a software controlled means as proposed by the Applicant. The intent of this code requirement is to limit hazards that would be created by the failure of critical elevator safety circuits. The use of software as the sole method of controlling certain critical elevator safety circuits is also prohibited. In that matter it was the Division's well informed recommendation that safety equivalence would exist upon grant of variance, providing for conditionally limited use of SIL rated software system and related circuits, as proposed by the Applicant, in conformance with the requirements of ASME A17.1-2013, Section 2.26.9.3.2.
6. The Applicant's proposed modified Decision and Order condition specifying the identification and labeling of SIL Software system circuit boards is similar to installations for which a permanent variance has been previously granted. (e.g. OSHSB File No. 15-V-397M1)
7. Both by way of its written evaluation (Exhibit PD-4), and statements at hearing, Division has taken the position that each Applicant's proposal for modification of permanent variance and means of safety equivalence, subject to conditions in material conformity with those found in the below Decision and Order, will provide safety equivalent to the Title 8 standards from which permanent variance has been issued. Further, by way of written evaluation (Exhibit PD-3), and statements at hearing, Board staff concurs with Division in recommending that such conditional grant will provide for safety equivalence.
8. The intent of the Board in conditional grant of variance modification in this matter is for the substance of the safety requirements, to which the subject software system and related circuits must conform, to remain unmodified. It is the intent of the Board only to allow for additional, specified alternative equipment labeling, as a means of identifying equivalent safety rating and certification.

Proposed Modification of Variance Decision

Otis E2 Controller Conditions

Hearing Date: December 18, 2020

C. Conclusive Findings

The above stated procedural prerequisites, legal authority, and factual findings, as further supported by the documentary record, and hearing testimony in this matter, provide a substantive and reasonable basis of conclusion that: (1) Applicant has complied with the statutory and regulatory requirements that must be met before an application for modification of permanent variance may be conditionally granted, and (2) a preponderance of the evidence establishes that Applicant's proposal, as below revised and subject to all conditions and limitations set forth in the below Decision and Order, will provide equivalent safety and health to that which would prevail upon full compliance with the requirements of California Code of Regulation, Title 8, Elevator Safety Orders from which modified variance is being sought.

D. Decision and Order

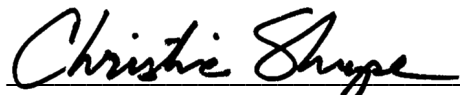
1. Each above Section Application for Modification of Permanent Variance is conditionally GRANTED, such that preexisting Permanent Variance enumerated Condition No. 3, subpart "a" is modified to be the following:

The SIL-rated software system and related circuits shall consist of three circuit board components (SSIB, KSIB, and HSIB), each labeled or marked with the SIL rating (not less than SIL 3), the name or mark of the certifying organization, and the SIL certification number (AEB 012, EU-ESD 012 or both) followed by the applicable revision number (as in AEB 012/2, EU-ESD 012/1).

2. The subject preexisting Permanent Variance terms and conditions being only modified as specified per above Decision and Order Section 1, are otherwise unchanged and remaining in full force and effect, as hereby incorporated by reference into this Modification of Permanent Variance Decision and Order.

Pursuant to California Code of Regulations, Title 8, Section 426(b), the above, duly completed Proposed Decision, is hereby submitted to the Occupational Safety and Health Standards Board for consideration of adoption.

Dated: January 5, 2021


Christina Shupe, Hearing Officer

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
2520 Venture Oaks Way, Suite 350
Sacramento, California 95833
(916) 274-5721

In the Matter of Application to Modify)
Permanent Variance by:)
)
Millennium Santa Monica LLC)
)
_____)

OSHSB FILE No. 17-V-066M1
Proposed Decision Dated: January 5, 2021

DECISION

The Occupational Safety and Health Standards Board hereby adopts the attached PROPOSED DECISION by Christina Shupe, Hearing Officer.

DAVID THOMAS, Chairman

BARBARA BURGEL, Member

KATHLEEN CRAWFORD, Member

DAVID HARRISON, Member

NOLA KENNEDY, Member

CHRIS LASZCZ-DAVIS, Member

LAURA STOCK, Member

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD

Date of Adoption: January 21, 2021

THE FOREGOING VARIANCE DECISION WAS ADOPTED ON THE DATE INDICATED ABOVE. IF YOU ARE DISSATISFIED WITH THE DECISION, A PETITION FOR REHEARING MAY BE FILED BY ANY PARTY WITH THE STANDARDS BOARD WITHIN TWENTY (20) DAYS AFTER SERVICE OF THE DECISION. YOUR PETITION FOR REHEARING MUST FULLY COMPLY WITH THE REQUIREMENTS OF CALIFORNIA CODE OF REGULATIONS, TITLE 8, SECTIONS 427, 427.1 AND 427.2.

Note: A copy of this Decision must be posted for the Applicant's employees to read, and/or a copy thereof must be provided to the employees' Authorized Representatives.

BEFORE THE
 OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
 DEPARTMENT OF INDUSTRIAL RELATIONS
 STATE OF CALIFORNIA

In the Matter of Application to Modify Permanent Variance by: <p style="text-align: center;">Millennium Santa Monica LLC</p>	OSHSB File No.: 17-V-066M1 <p style="text-align: center;"><u>PROPOSED DECISION</u></p> Hearing Date: December 18, 2020
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A. The following person or entity (“Applicant”) has applied for a modification of permanent variance from provisions of the Elevator Safety Orders, found at Title 8 of the California Code of Regulations, for each elevator having the specified preexisting variance location address of record:

Preexisting OSHSB File N.	Applicant Name	Preexisting Variance Address of Record
17-V-066	Millennium Santa Monica LLC	Millennium East Village, 2930 Colorado Ave Santa Monica, CA

B. This proceeding is conducted in accordance with Labor Code Section 143, and California Code of Regulations, Title 8, Section 401, et. seq.

C. Procedural Matters:

1. This hearing was held December 18, 2020, in Sacramento, California, via teleconference, by Occupational Safety and Health Standards Board (“Board”), with Hearing Officer Christina Shupe, both presiding and hearing the matter on its merit, as a basis of proposed decision to be advanced to the Board for its consideration, in accordance with California Code of Regulations, Title 8, Section 426.
2. At the hearing, Wolter Geesink with Otis Elevator Company, and Dan Leacox of Leacox & Associates, appeared on behalf of the Applicant; David Morris appeared on behalf of the Division of Occupational Safety and Health (“Division”); and Michael Nelmda appeared on behalf of Board staff in a technical advisory role apart from the Board.
3. Documentary and oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence: the subject modification of permanent variance application captioned above as Exhibit PD-1, Notice of Hearing as Exhibit PD-2, Board staff Pending Application(s) for Permanent Variance Opinion Letter as PD-3, Division evaluation as PD-4, Review Draft 1 Proposed Decision as PD-5, and official

Proposed Variance Decision

OSHSB File No. 17-V-066M1

Hearing Date: December 18, 2020

notice taken of the Board's rulemaking records and variance decisions concerning the safety order provisions from which variance has been requested. On December 18, 2020, the hearing and record closed, and the matter was taken under submission by the Hearing Officer.

D. Based on the record of this hearing, the Board makes the following findings of fact:

1. The Applicant requests modification of the address of the unchanging variance location specified within Board records for each elevator the subject of previously granted Permanent Variance 17-V-066.
2. Application Section 3, declared to be wholly truthful under penalty of perjury by Application signatory, states facts upon which reasonably may be based a finding that the address, specified in the records of the Board, at which Permanent Variance 17-V-066 is in effect, in fact is more completely, and correctly the different address information specified in below subsection D.5.
3. The Division has evaluated the request for modification of variance location address, finds no issue with it, and recommends that the application for modification be granted subject to the same conditions of the Decision and Order in OSHSB Permanent Variance File No. 17-V-066.
4. The Board finds the above subpart D.2 referenced declaration to be credible, uncontroverted, and consistent with available, sufficient facts, and of no bearing as to the finding of equivalent occupational health and safety upon which Grant of preexisting Permanent Variance 17-V-066 was, in part, based.
5. The Board finds the correct address by which to designate the location of each elevator the subject of Permanent Variance No. 17-V-066, to be:

Millennium East Village
2929 Pennsylvania Avenue
Santa Monica, CA

E. Decision and Order:

1. Permanent Variance Application No. 17-V-066M1 is conditionally GRANTED, thereby modifying Board records, such that, without change in variance location, each elevator being the subject of Permanent Variance Nos. 17-V-066, and 17-V-066M1, shall have the following address designation:

Millennium East Village
2929 Pennsylvania Avenue

Proposed Variance Decision
OSHSB File No. 17-V-066M1
Hearing Date: December 18, 2020

Santa Monica, CA

2. Permanent Variance No. 17-V-066, being only modified as to the subject location address specified in above Decision and Order Section 1, is otherwise unchanged and remaining in full force and effect, as hereby incorporated by reference into this Decision and Order of Permanent Variance No. 17-V-066M1.

Pursuant to California Code of Regulations, Title 8, Section 426(b), the above, duly completed Proposed Decision, is hereby submitted to the Occupational Safety and Health Standards Board for consideration of adoption.

Dated: January 5, 2021


Christina Shupe, Hearing Officer

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
2520 Venture Oaks Way, Suite 350
Sacramento, California 95833
(916) 274-5721

In the Matter of Application to Modify)
Permanent Variance by:)
)
Dunlop 7, LLC)
)
)
_____)

OSHSB FILE No. 18-V-420M1
Proposed Decision Dated: January 5, 2021

DECISION

The Occupational Safety and Health Standards Board hereby adopts the attached PROPOSED DECISION by Christina Shupe, Hearing Officer.

DAVID THOMAS, Chairman

BARBARA BURGEL, Member

KATHLEEN CRAWFORD, Member

DAVID HARRISON, Member

NOLA KENNEDY, Member

CHRIS LASZCZ-DAVIS, Member

LAURA STOCK, Member

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD

Date of Adoption: January 21, 2021

THE FOREGOING VARIANCE DECISION WAS ADOPTED ON THE DATE INDICATED ABOVE. IF YOU ARE DISSATISFIED WITH THE DECISION, A PETITION FOR REHEARING MAY BE FILED BY ANY PARTY WITH THE STANDARDS BOARD WITHIN TWENTY (20) DAYS AFTER SERVICE OF THE DECISION. YOUR PETITION FOR REHEARING MUST FULLY COMPLY WITH THE REQUIREMENTS OF CALIFORNIA CODE OF REGULATIONS, TITLE 8, SECTIONS 427, 427.1 AND 427.2.

Note: A copy of this Decision must be posted for the Applicant's employees to read, and/or a copy thereof must be provided to the employees' Authorized Representatives.

BEFORE THE
 OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
 DEPARTMENT OF INDUSTRIAL RELATIONS
 STATE OF CALIFORNIA

In the Matter of Application to Modify Permanent Variance by: <p style="text-align: center;">Dunlop 7, LLC</p>	OSHSB File No.: 18-V-420M1 <u>PROPOSED DECISION</u> Hearing Date: December 18, 2020
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A. The following person or entity (“Applicant”) has applied for a modification of permanent variance from provisions of the Elevator Safety Orders, found at Title 8 of the California Code of Regulations, for each elevator having the specified preexisting variance location address of record:

Preexisting OSHSB File No.	Applicant Name	Preexisting Variance Address of Record
18-V-420	Dunlop 7, LLC	23021 Ulric St. San Diego, CA

B. This proceeding is conducted in accordance with Labor Code Section 143, and California Code of Regulations, Title 8, Section 401, et. seq.

C. Procedural Matters:

1. This hearing was held on December 18, 2020, in Sacramento, California, via teleconference, by Occupational Safety and Health Standards Board (“Board”), with Hearing Officer Christina Shupe, both presiding and hearing the matter on its merit, as a basis of proposed decision to be advanced to the Board for its consideration, in accordance with California Code of Regulations, Title 8, Section 426.
2. At the hearing, **Manish Sablok**, with KONE, Inc., appeared on behalf of the Applicant, David Morris appeared on behalf of the Division of Occupational Safety and Health (“Division”); and Michael Nelmidia appeared on behalf of Board staff in a technical advisory role apart from the Board.
3. Documentary and oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence: the subject modification of permanent variance application captioned above as Exhibit PD-1, Notice of Hearing as Exhibit PD-2, Board staff Pending Application(s) for Permanent Variance Opinion Letter as PD-3, Division evaluation as PD-4, Review Draft 1 Proposed Decision as PD-5, and official notice taken of the Board’s files, records, recordings and decisions concerning the Elevator Safety Order requirements from which variance shall issue. On December 18,

Proposed Variance Decision

OSHSB File No. 18-V-420M1

Hearing Date: December 18, 2020

2020, the hearing and record closed, and the matter was taken under submission by the Hearing Officer.

D. Based on the record of this hearing, the Board makes the following findings of fact:

1. The Applicant requests modification of the address of the unchanging variance location specified within Board records for each elevator the subject of previously granted Permanent Variance 18-V-420.
2. Application Section 3, declared to be wholly truthful under penalty of perjury by Application signatory, states facts upon which reasonably may be based a finding that the address, specified in the records of the Board, at which Permanent Variance 18-V-420 is in effect, in fact is more completely, and correctly the different combination of addresses specified in below subsection D.5.
3. The Division has evaluated the request for modification of variance location address, finds no issue with it, and recommends that the application for modification be granted subject to the same conditions of the Decision and Order in OSHSB Permanent Variance File No. 18-V-420.
4. The Board finds the above subpart D.2 referenced declaration to be credible, uncontroverted, and consistent with available, sufficient facts, and of no bearing as to the finding of equivalent occupational health and safety upon which Grant of preexisting Permanent Variance 18-V-420 was, in part, based.
5. The Board finds the correct address by which to designate the location of each elevator the subject of Permanent Variance No. 18-V-420, to be:

2302 Ulric St.
San Diego, CA

E. Decision and Order:

1. Permanent Variance Application No. 18-V-420M1 is conditionally GRANTED, thereby modifying Board records, such that, without change in variance location, each elevator being the subject of Permanent Variance Nos. 18-V-420, and 18-V-420M1, shall have the following address designation:

2302 Ulric St.
San Diego, CA

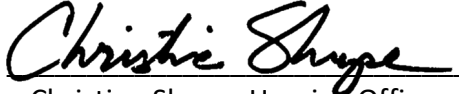
2. Permanent Variance No. 18-V-420, being only modified as to the subject location address specified in above Decision and Order Section 1, is otherwise unchanged and

Proposed Variance Decision
OSHSB File No. 18-V-420M1
Hearing Date: December 18, 2020

remaining in full force and effect, as hereby incorporated by reference into this Decision and Order of Permanent Variance No. 18-V-420M1.

Pursuant to California Code of Regulations, Title 8, Section 426(b), the above, duly completed Proposed Decision, is hereby submitted to the Occupational Safety and Health Standards Board for consideration of adoption.

Dated: January 5, 2021


Christina Shupe, Hearing Officer

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
2520 Venture Oaks Way, Suite 350
Sacramento, California 95833
(916) 274-5721

In the Matter of Application for)
Permanent Variance by:)
)
Department of State Hospitals)
)
)
)
)
_____)

OSHSB FILE No. 19-V-028
Proposed Decision Dated: November 2, 2020

DECISION

The Occupational Safety and Health Standards Board hereby adopts the attached PROPOSED DECISION by Christina Shupe, Hearing Officer.

DAVID THOMAS, Chairman

BARBARA BURGEL, Member

KATHLEEN CRAWFORD, Member

DAVID HARRISON, Member

NOLA KENNEDY, Member

CHRIS LASZCZ-DAVIS, Member

LAURA STOCK, Member

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD

Date of Adoption: January 21, 2021

THE FOREGOING VARIANCE DECISION WAS ADOPTED ON THE DATE INDICATED ABOVE. IF YOU ARE DISSATISFIED WITH THE DECISION, A PETITION FOR REHEARING MAY BE FILED BY ANY PARTY WITH THE STANDARDS BOARD WITHIN TWENTY (20) DAYS AFTER SERVICE OF THE DECISION. YOUR PETITION FOR REHEARING MUST FULLY COMPLY WITH THE REQUIREMENTS OF CALIFORNIA CODE OF REGULATIONS, TITLE 8, SECTIONS 427, 427.1 AND 427.2.

Note: A copy of this Decision must be posted for the Applicant's employees to read, and/or a copy thereof must be provided to the employees' Authorized Representatives.

BEFORE THE
OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
DEPARTMENT OF INDUSTRIAL RELATIONS
STATE OF CALIFORNIA

In the Matter of Application for Permanent Variance By: Department of State Hospitals	OSHSB File No.: 19-V-028 <u>PROPOSED DECISION</u> Hearing Date: August 30, 2019
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A. Jurisdictional and Procedural Matters

1. The State of California - Department of State Hospitals (Applicant) has applied for permanent variance from certain provisions of California Code of Regulations, title 8, section 3342, Violence Prevention in Healthcare, subdivision (g), Reporting Requirements for General Acute Care Hospitals, Acute Psychiatric Hospitals, and Special Hospitals, within the General Industry Safety Orders.
2. This proceeding is conducted in accordance with Labor Code section 143, and California Code of Regulations, title 8, section 401, et. seq.
3. The hearing was held on August 30, 2019, in Sacramento, California, by delegation of the Occupational Safety and Health Standards Board (Board), with Hearing Officer Peter Healy presiding. Serving on the Hearing Panel were Board Members David Harrison and Chris Laszcz-Davis. The matter was subsequently reassigned to Hearing Officer Autumn Gonzalez, who has reviewed the record in its entirety, and issues this proposed decision to the Board for its consideration, in accordance with California Code of Regulations, title 8, section 426 of the Board's rules of procedure.
4. Appearing for the Applicant were Ellen Bachman, Deputy Director for Statewide Quality and Improvement and Garilyn Richardson, DSH, RN and Chief of Quality Improvement. David Kernazitskas appeared on behalf of Board staff acting in a technical advisory role apart from the Board. Eric Berg represented the Division of Occupational Safety and Health (Division).

Oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence: subject Application for Permanent Variance as Exhibit PD-1; Notice of Hearing as Exhibit PD-2; Division Evaluation of Application as Exhibit PD-3; Board Staff Evaluation of Application as Exhibit PD-4. By stipulation of the parties, official notice is taken of the Board's rulemaking records, and variance decisions concerning the safety order requirements from which variance is requested.

Proposed Variance Decision

OSHSB File No. 19-V-028

Hearing Date: August 30, 2019

5. On January 8, 2020 Hearing Officer Healy granted American Federation of State, County and Municipal Employees (AFSCME) Local 2620 party status, and granted AFSCME Local 2620 the right to submit a written Position Brief, no later than January 20, 2020. Hearing Officer Healy also provided Applicant, Division, and Board staff the opportunity to prepare a written Response to the union's submission, and the union an opportunity to submit a Reply brief by January 31, 2020.
6. Following the submissions post-hearing submissions of the parties, the record was closed and matter taken under submission by Hearing Officer Healy on January 31, 2020.

B. Findings of Fact

Based upon the record of this proceeding, the Board finds the following:

1. The Applicant requests a permanent variance from the existing temporary variance from California Code of Regulations, title 8, section 3342, Violence Prevention in Healthcare, subdivision (g) Reporting Requirements for General Acute Care Hospitals, Acute Psychiatric Hospitals, and Special Hospitals, a general industry safety regulation.
2. A temporary variance from section 3342 was granted to Applicant by the Division on June 27, 2017, which expired on June 27, 2019.
3. Applicant's basis for the permanent variance include the high numbers of assaults perpetrated by patients in Applicant's five hospitals.
4. Board staff and Division recommend approval of the Applicant's request for a permanent variance from California Code of Regulations, title 8, section 3342, subdivision (g), with conditions, as described in Exhibit PD-3 and PD-4.
5. Applicant requests that it only be required to report certain violent incidents, rather than reporting any and all incidents involving physical force, per section 3342, subdivision (g)(1).
6. Applicant requests that rather than reporting these instances within 24 hours, or 72 hours, as required by section 3342, subdivisions (g)(2) and (3), it be allowed to report only certain violent events in a quarterly report to the Division.
7. Applicant also requests that it not be required to report certain information as required by section 3342, subdivision (g)(4). Specifically, Applicant proposes that it not be required to provide information as to:

- Whether security or law enforcement was contacted, and how security or law enforcement assisted the employee(s);
- Whether there is a continuing threat, and if so, what measures are being taken to protect employees by engineering control modifications, work practice modifications, or other measures;
- A unique incident identifier;
- Whether the incident was reported to the nearest Division district office as required in section 342.
(See, section 3342, subdivisions (g)(4)(E) through (I).

C. Relevant Safety Regulations

(g) Reporting Requirements for General Acute Care Hospitals, Acute Psychiatric Hospitals, and Special Hospitals.

(1) Every general acute care hospital, acute psychiatric hospital, and special hospital shall report to the Division any incident involving either of the following:

(A) The use of physical force against an employee by a patient or a person accompanying a patient that results in, or has a high likelihood of resulting in, injury, psychological trauma, or stress, regardless of whether the employee sustains an injury;

NOTE: "Injury" as used in subsection (g)(1)(A), means an injury meeting the criteria in Section 14300.7(b)(1).

(B) An incident involving the use of a firearm or other dangerous weapon, regardless of whether the employee sustains an injury.

NOTE: to (g)(1): These reports do not relieve the employer of the requirements of Section 342 to immediately report a serious injury, illness, or death to the nearest Division district office.

(2) The report to the Division required by subsection (g)(1) shall be made within 24 hours, after the employer knows or with diligent inquiry would have known of the incident, if the incident results in injury, involves the use of a firearm or other dangerous weapon, or presents an urgent or emergent threat to the welfare, health, or safety of hospital personnel. For purposes of this reporting process:

(A) "Injury" means a fatality or an injury that requires inpatient hospitalization for a period in excess of 24 hours for other than medical observation or in which an employee suffers a loss of any member of the body or suffers any serious degree of permanent disfigurement.

(B) An "urgent or emergent threat to the welfare, health, or safety of hospital personnel" means that hospital personnel are exposed to a realistic possibility of death or serious physical harm.

(3) All other reports to the Division required by subsection (g)(1) shall be made within 72 hours.

(4) Reports shall include, at a minimum, the following items:

(A) Hospital name, site address, hospital representative, phone number, and email address, and the name, representative name, and contact information for any other employer of employees affected by the incident;

(B) Date, time, and specific location of the incident;

(C) A brief description of the incident, including but not limited to, the type of attacker, the type of physical assault, the type of weapon or object used by the attacker, if any, working conditions at the time of attack, and whether the assaulted employee was alone or isolated immediately prior to the incident;

(D) The number of employees injured and the types of injuries sustained;

(E) Whether security or law enforcement was contacted, and how security or law enforcement assisted the employee(s);

(F) Whether there is a continuing threat, and if so, what measures are being taken to protect employees by engineering control modifications, work practice modifications, or other measures;

(G) A unique incident identifier;

(H) Whether the incident was reported to the nearest Division district office as required in Section 342.

(I) The report shall not include any employee or patient names. Employee names shall be furnished upon request to the Division.

(5) The employer shall provide supplemental information to the Division regarding the incident within 24 hours of any request.

(6) Reports shall be provided through a specific online mechanism established by the Division for this purpose.

D. Conclusive Findings

Applicant has failed to demonstrate “by a preponderance of the evidence that the conditions, practices, means, methods, operations, or processes used or proposed to be used by an employer will provide employment and places of employment to his employees which are as safe and healthful as those which would prevail if he complied with the standard.” (Lab. Code, § 143, subd. (b).)

Applicant’s five hospitals serve one of California’s most vulnerable populations—individuals with serious mental illness. Applicant faces a number of challenges in meeting the reporting requirements of section 3342, including the sheer volume of reportable incidents that occur in its facilities. Applicant proposes to report less information to the Division about fewer incidents, over a longer period of time. While the Panel is sympathetic to Applicant’s workload and resource issues, such considerations are not relevant to the finding of equivalent safety.

Applicant’s proposed variance would provide the Division with less data, about fewer kinds of incidents, in a less timely manner. Applicant also proposes that it not be required to identify continuing threats, and to report on measures that are being taken to protect employees. While these reporting requirements may be burdensome to Applicant, this data has value to stakeholders, including employees and their representatives, and may serve to allow the Applicant, Division, and stakeholders to identify patterns, emergent dangers, and to work towards elimination of violence in the Applicant’s facilities. Eliminating the requirements discussed above will not result in equivalent safety for Applicant’s employees.

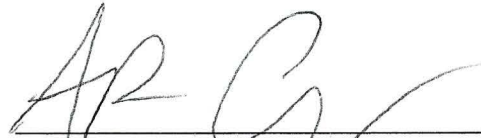
E. Decision And Order

The Application for Permanent Variance of Department of State Hospitals, OSHSB File No. 19-V-028, is DENIED.

Proposed Variance Decision
OSHSB File No. 19-V-028
Hearing Date: August 30, 2019

I hereby certify that the above Proposed Decision is the decision of the Hearing Panel, and the Hearing Panel recommends its adoption by the Occupational Safety and Health Standards Board as the Board's decision in this proceeding.

DATED: 12/23/20


Autumn Gonzalez, Hearing Officer

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
2520 Venture Oaks Way, Suite 350
Sacramento, California 95833
(916) 274-5721

In the Matter of Application to Modify)
Permanent Variance by:)
)
SI 55 LLC)
)
)
_____)

OSHSB FILE No. 19-V-439M1
Proposed Decision Dated: January 5, 2021

DECISION

The Occupational Safety and Health Standards Board hereby adopts the attached PROPOSED DECISION by Christina Shupe, Hearing Officer.

DAVID THOMAS, Chairman

BARBARA BURGEL, Member

KATHLEEN CRAWFORD, Member

DAVID HARRISON, Member

NOLA KENNEDY, Member

CHRIS LASZCZ-DAVIS, Member

LAURA STOCK, Member

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD

Date of Adoption: January 21, 2021

THE FOREGOING VARIANCE DECISION WAS ADOPTED ON THE DATE INDICATED ABOVE. IF YOU ARE DISSATISFIED WITH THE DECISION, A PETITION FOR REHEARING MAY BE FILED BY ANY PARTY WITH THE STANDARDS BOARD WITHIN TWENTY (20) DAYS AFTER SERVICE OF THE DECISION. YOUR PETITION FOR REHEARING MUST FULLY COMPLY WITH THE REQUIREMENTS OF CALIFORNIA CODE OF REGULATIONS, TITLE 8, SECTIONS 427, 427.1 AND 427.2.

Note: A copy of this Decision must be posted for the Applicant's employees to read, and/or a copy thereof must be provided to the employees' Authorized Representatives.

BEFORE THE
 OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
 DEPARTMENT OF INDUSTRIAL RELATIONS
 STATE OF CALIFORNIA

In the Matter of Application to Modify Permanent Variance by: <p style="text-align: center;">SI 55 LLC</p>	OSHSB File No.: 19-V-439M1 PROPOSED DECISION Hearing Date: December 18, 2020
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A. The following person or entity (“Applicant”) has applied for a modification of permanent variance from provisions of the Elevator Safety Orders, found at Title 8 of the California Code of Regulations, for each elevator having the below specified preexisting variance location address of record:

Preexistig OSHSB No.	Applicant Name	Variance Address of Record	Preexisting Number of Elevators
19-V-439	SI 55 LLC	2250 Lawson Lane Santa Clara, CA	4

B. This proceeding is conducted in accordance with Labor Code Section 143, and California Code of Regulations, Title 8, Section 401, et. seq.

C. Procedural Matters:

1. This hearing was held on December 18, 2020, in Sacramento, California, via teleconference, by Occupational Safety and Health Standards Board (“Board”) with Hearing Officer Christina Shupe, both presiding and hearing the matter on its merit, as a basis of proposed decision to be advanced to the Board for its consideration, in accordance with California Code of Regulations, Title 8, Section 426.
2. At the hearing, Manish Sablok, with KONE, Inc. appeared on behalf of the Applicant; David Morris appeared on behalf of the Division of Occupational Safety and Health (“Division”); and Michael Nelmidia appeared on behalf of Board staff.
3. Documentary and oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence: permanent variance applications per Section A table as Exhibit PD-1, Notice of Hearing as Exhibit PD-2, Board Staff Pending Application Memorandum as PD-3, Division evaluation as PD-4, Review Draft 1 Proposed Decision as PD-5, and official notice taken of the Board’s files, records, recordings and decisions concerning Kone elevators. On December 18, 2020, the hearing and record closed, and the matter was taken under submission by the Hearing Officer.

Proposed Variance Decision

OSHSB File No. 19-V-439M1

Hearing Date: December 18, 2020

D. Findings and Basis:

1. The Applicant requests modification as to the quantity of elevators being the subject of previously granted Permanent Variance No. 19-V-439.
2. Application 19-V-439M1, declared to be wholly truthful under penalty of perjury by Applicant signatory, states, "Standard Board File #19-V-439 adopted April 16, 2020 was granted for the following: Four (4) Elevators located at 2250 Lawson Lane, Santa Clara, CA. However, effective October 22, 2020, the number of units were reduced to the following: Three (3) Elevators located at 2250 Lawson Lane, Santa Clara, CA."
3. In a supplemental filing, received December 4, 2020, Applicant's representative declared to be wholly truthful under penalty of perjury, that the elevator to be removed was identified as "Elevator ID #5".
4. The Division has evaluated the immediate request for modification of variance, finds no issue with it, and recommends that the application for modification be granted subject to the same conditions of the Decision and Order in OSHSB Permanent Variance File No. 19-V-439.
5. The Board finds the Section 2, declaration of the Applicant Signatory to be credible, uncontroverted, and consistent with available, sufficient facts, and finds modification of Permanent Variance 19-V-439, reducing the quantity of subject elevators from four to three, to be of no bearing as to the finding of equivalent occupational health and safety upon which Grant of preexisting Permanent Variance 19-V-439 was, in part, based.

E. Decision and Order:

1. Application for Modification of Permanent Variance, No. 19-V-439M1, is conditionally GRANTED, as specified below, such that a total of three elevators are the subject of Permanent Variance No. 19-V-439M1.
2. Permanent Variance No. 19-V-439, being only modified as to the subject quantity of elevators specified in above Decision and Order Section 1, is otherwise unchanged and remaining in full force and effect, as hereby incorporated by reference into Modification of Permanent Variance 19-V-439M1.
3. The applicant shall notify its employees or their authorized representative(s), or both, of this order in the same way that the Applicant was required to notify them of the application for permanent variance, per California Code of Regulations, Title 8, Sections 411.2 and 411.3.

Proposed Variance Decision

OSHSB File No. 19-V-439M1

Hearing Date: December 18, 2020

4. This Decision and Order shall remain in effect unless modified or revoked upon application by the Applicant, affected employee(s), the Division, or by the Board on its own motion, in the manner prescribed for its issuance.

Pursuant to California Code of Regulations, Title 8, Section 426(b), the above, duly completed Proposed Decision, is hereby submitted to the Occupational Safety and Health Standards Board for consideration of adoption.

Dated: January 5, 2021


Christina Shupe, Hearing Officer

Appendix 1				
Monospace 500 Suspension Ropes Appendix 1 Table				
OSHSB File No.	Elevator ID	Minimum Quantity of Ropes (per Condition 3)	Maximum Speed in Feet per Minute (per Condition 6)	Maximum Suspended Load (per Condition 7)
19-V-439	1	8	350	11,706
19-V-439	2	8	350	11,706
19-V-439	3	8	350	11,706
19-V-439	5	6	150	10,497

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
2520 Venture Oaks Way, Suite 350
Sacramento, California 95833
(916) 274-5721

In the Matter of Application to Modify)
Permanent Variance by:)
)
88 Broadway Family LP)
)
_____)

OSHSB FILE No. 20-V-025M1
Proposed Decision Dated: January 5, 2021

DECISION

The Occupational Safety and Health Standards Board hereby adopts the attached PROPOSED DECISION by Christina Shupe, Hearing Officer.

DAVID THOMAS, Chairman

BARBARA BURGEL, Member

KATHLEEN CRAWFORD, Member

DAVID HARRISON, Member

NOLA KENNEDY, Member

CHRIS LASZCZ-DAVIS, Member

LAURA STOCK, Member

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD

Date of Adoption: January 21, 2021

THE FOREGOING VARIANCE DECISION WAS ADOPTED ON THE DATE INDICATED ABOVE. IF YOU ARE DISSATISFIED WITH THE DECISION, A PETITION FOR REHEARING MAY BE FILED BY ANY PARTY WITH THE STANDARDS BOARD WITHIN TWENTY (20) DAYS AFTER SERVICE OF THE DECISION. YOUR PETITION FOR REHEARING MUST FULLY COMPLY WITH THE REQUIREMENTS OF CALIFORNIA CODE OF REGULATIONS, TITLE 8, SECTIONS 427, 427.1 AND 427.2.

Note: A copy of this Decision must be posted for the Applicant's employees to read, and/or a copy thereof must be provided to the employees' Authorized Representatives.

BEFORE THE
 OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
 DEPARTMENT OF INDUSTRIAL RELATIONS
 STATE OF CALIFORNIA

In the Matter of Application to Modify Permanent Variance by: <p style="text-align: center;">88 Broadway Family LP</p>	OSHSB File No.: 20-V-025M1 <p style="text-align: center;"><u>PROPOSED DECISION</u></p> Hearing Date: December 18, 2020
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A. The following person or entity (“Applicant”) has applied for a modification of permanent variance from provisions of the Elevator Safety Orders, found at Title 8 of the California Code of Regulations, for each elevator having the specified preexisting variance location address of record:

Preexisting OSHSB File No	Applicant Name	Preexisting Variance Address of Record
20-V-025	88 Broadway Family LP	88 Broadway San Francisco, CA

B. This proceeding is conducted in accordance with Labor Code Section 143, and California Code of Regulations, Title 8, Section 401, et. seq.

C. Procedural Matters:

1. This hearing was held on December 18, 2020, in Sacramento, California, via teleconference, by Occupational Safety and Health Standards Board (“Board”), with Hearing Officer Christina Shupe, both presiding and hearing the matter on its merit, as a basis of proposed decision to be advanced to the Board for its consideration, in accordance with California Code of Regulations, Title 8, Section 426.
2. At the hearing, Andrew Ferris, with ThyssenKrupp Elevator, appeared on behalf of the Applicant; David Morris appeared on behalf of the Division of Occupational Safety and Health (“Division”); and Michael Nelmida appeared on behalf of Board staff, in a technical advisory role apart from the Board.
3. Documentary and oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence: the subject modification of permanent variance application captioned above as Exhibit PD-1, Notice of Hearing as Exhibit PD-2, Board staff Pending Application(s) for Permanent Variance Opinion Letter as PD-3, Division evaluation as PD-4, Review Draft 1 Proposed Decision as PD-5, and official notice taken of the Board’s files, records, recordings and decisions concerning the

Proposed Variance Decision

OSHSB File No. 20-V-025M1

Hearing Date: December 18, 2020

Elevator Safety Order requirements from which variance shall issue. On December 18, 2020, the hearing and record closed, and the matter was taken under submission by the Hearing Officer.

D. Based on the record of this hearing, the Board makes the following findings of fact:

1. The Applicant requests modification of the address of the unchanging variance location specified within Board records for each elevator the subject of previously granted Permanent Variance 20-V-025.
2. Application Section 3, declared to be wholly truthful under penalty of perjury by Application signatory, states facts upon which reasonably may be based a finding that the address, specified in the records of the Board, at which Permanent Variance 20-V-025 is in effect, in fact is more completely, and correctly the different combination of addresses specified in below subsection D.5.
3. The Division has evaluated the request for modification of variance location address, finds no issue with it, and recommends that the application for modification be granted subject to the same conditions of the Decision and Order in OSHSB Permanent Variance File No. 20-V-025.
4. The Board finds the above subpart D.2 referenced declaration to be credible, uncontroverted, and consistent with available, sufficient facts, and of no bearing as to the finding of equivalent occupational health and safety upon which Grant of preexisting Permanent Variance 20-V-025 was, in part, based.
5. The Board finds the correct address by which to designate the location of each elevator the subject of Permanent Variance No. 20-V-025, to be:

850 Front St.
San Francisco, CA

E. Decision and Order:

1. Permanent Variance Application No. 20-V-025M1 is conditionally GRANTED, thereby modifying Board records, such that, without change in variance location, each elevator

Proposed Variance Decision
OSHSB File No. 20-V-025M1
Hearing Date: December 18, 2020

being the subject of Permanent Variance Nos. 20-V-025, and 20-V-025M1, shall have the following address designation:

850 Front St.
San Francisco, CA

2. Permanent Variance No. 20-V-025, being only modified as to the subject location address specified in above Decision and Order Section 1, is otherwise unchanged and remaining in full force and effect, as hereby incorporated by reference into this Decision and Order of Permanent Variance No. 20-V-025M1.

Pursuant to California Code of Regulations, Title 8, Section 426(b), the above, duly completed Proposed Decision, is hereby submitted to the Occupational Safety and Health Standards Board for consideration of adoption.

Dated: January 5, 2021


Christina Shupe, Hearing Officer

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
2520 Venture Oaks Way, Suite 350
Sacramento, California 95833
(916) 274-5721

In the Matter of Application for Permanent Variance Regarding:)
)
)
Schindler Model 3300 Elevators with Variant Gov. Ropes & Sheaves (Group IV))
)
)
_____)

OSHSB FILE No.: see grid in Item A of Proposed Decision Dated: January 5, 2021

DECISION

The Occupational Safety and Health Standards Board hereby adopts the attached PROPOSED DECISION by Christina Shupe, Hearing Officer.

DAVID THOMAS, Chairman

BARBARA BURGEL, Member

KATHLEEN CRAWFORD, Member

DAVID HARRISON, Member

NOLA KENNEDY, Member

CHRIS LASZCZ-DAVIS, Member

LAURA STOCK, Member

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Date of Adoption: January 21, 2021

THE FOREGOING VARIANCE DECISION WAS ADOPTED ON THE DATE INDICATED ABOVE. IF YOU ARE DISSATISFIED WITH THE DECISION, A PETITION FOR REHEARING MAY BE FILED BY ANY PARTY WITH THE STANDARDS BOARD WITHIN TWENTY (20) DAYS AFTER SERVICE OF THE DECISION. YOUR PETITION FOR REHEARING MUST FULLY COMPLY WITH THE REQUIREMENTS OF CALIFORNIA CODE OF REGULATIONS, TITLE 8, SECTIONS 427, 427.1 AND 427.2.

Note: A copy of this Decision must be posted for the Applicant's employees to read, and/or a copy thereof must be provided to the employees' Authorized Representatives.

BEFORE THE
 OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
 DEPARTMENT OF INDUSTRIAL RELATIONS
 STATE OF CALIFORNIA

<p>In the Matter of Application for Permanent Variance Regarding:</p> <p style="text-align: center;">Schindler Model 3300 Elevators with variant Gov. Ropes & Sheaves (Group IV)</p>	<p>OSHSB File Nos.: Per Section A table, below</p> <p style="text-align: center;"><u>PROPOSED DECISION</u></p> <p>Hearing Date: December 18, 2020</p>
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A. Subject Matter and Jurisdiction:

- Each below listed applicant (“Applicant”) has applied for permanent variance from certain provisions of the Elevator Safety Orders, found at Title 8, of the California Code of Regulations, with respect to a conveyance, or conveyances, in the listed quantity, at the listed location:

Variance No.	Applicant Name	Variance Location Address	No. of Elevators
20-V-172	TPSC IX, LLC.	Torrey Pines Science Center, Lot 14 10265 Science Center Drive San Diego, CA	2
20-V-173	TPSC IX, LLC.	Torrey Pines Science Center, Lot 16 10285 Science Center Drive San Diego, CA	2
20-V-413	DC Walnut Holdings, LLC	709 E. Walnut St. Pasadena, CA	2
20-V-414	DC Walnut Holdings, LLC	218 N. El Molino Ave. Pasadena, CA	2
20-V-424	DWF v 250 California Owner, LLC	250 California Dr. Burlingame, CA	2
20-V-433	S&B Milpitas, LLC	1675 S. Milpitas Blvd. Milpitas, CA	4

- This proceeding is conducted in accordance with Labor Code Section 143, and California Code of Regulations, Title 8, Section 401, et. seq.
- The safety orders at issue are set out in below Section C.1—C.4.

Proposed Variance Decision

Schindler Model 3300 Elevators w/variant Gov. Rope & Sheaves

Hearing Date: December 18, 2020

B. Process and Procedure:

1. This hearing was held on December 18, 2020, in Sacramento, California, via teleconference, by Occupational Safety and Health Standards Board (“Board”), with Hearing Officer Christina Shupe, both presiding and hearing the matter on its merit, as a basis of proposed decision to be advanced to the Board for its consideration, in accordance with California Code of Regulations, Title 8, Section 426.
2. At the hearing, Jennifer Linares, with the Schindler Elevator Corporation, appeared on behalf of each Applicant; David Morris appeared on behalf of the Division of Occupational Safety and Health (“Division”); and Michael Nelmidia appeared on behalf of Board staff, in a technical advisory role apart from the Board.
3. Oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence: each respective permanent variance application per Section A table as Exhibit PD-1, Notice of Hearing as Exhibit PD-2, Board staff Pending Application Memorandum as PD-3, Division Review of Application as PD-4, Review Draft 1 Proposed Decision as PD-5, and official notice taken of the Board’s rulemaking records, and variance decisions concerning the safety order requirements from which variance is requested. At close of hearing on December 18, 2020, the record was closed, and the matter taken under submission by the Hearing Officer.

C. Findings of Fact—Based upon the record of this proceeding, the Board finds the following:

Requested Suspension Means Related Variance:

1. As each pertains to the non-circular elastomeric coated suspension means characteristic of the Schindler Model 3300 elevator, each Applicant presently seeks permanent variance from the following Title 8, Elevator Safety Order incorporated ASME Safety Code for Elevators and Escalators (ASME Code) A17.1-2004, sections and subsections:

Section 2.20.1—Wire rope suspension means

Section 2.20.2.1—Crosshead data plate

Subsection 2.20.2.2(a)—Wire rope data tag

Subsection 2.20.2.2(f)—ID of steel wire rope as preformed or nonpreformed

Section 2.20.3—Wire rope safety factor

Section 2.20.4—Number and diameter of wire ropes

Section 2.20.9.3.4—Wire rope end connections

Section 2.20.9.5.4—Wire rope sockets

Proposed Variance Decision

Schindler Model 3300 Elevators w/variant Gov. Rope & Sheaves

Hearing Date: December 18, 2020

Requested Car Top Railing Inset Variance:

2. As it pertains to top of car railing placement requiring space occupied by upper hoistway mounted elevator machinery characteristic of the Schindler Model 3300 elevator, each Applicant presently seeks permanent variance from the following Title 8, Elevator Safety Order incorporated ASME Code A17.1-2004, section:

Section 2.14.1.7.1—Top of Car Perimeter Railing Placement

Requested Seismic Reset Switch Placement Variance:

3. As it pertains to installation of the requisite seismic reset switch within a “machine room” location incompatible with machine-room-less design of the Schindler Model 3300 elevator, each Applicant presently seeks permanent variance from the following Title 8, Elevator Safety Order incorporated ASME Code subsection:

Subsection 8.4.10.1.1(a)(2)(b)--Seismic Reset Switch Placement in Machine Room

Requested Transfer Switch Placement Variance:

4. As it pertains to installation of the requisite transfer switch within a “machine room” location incompatible with machine-room-less design of the Schindler Model 3300 elevator, each Applicant presently seeks permanent variance from the following Title 8, Elevator Safety Order incorporated ASME Code A17.1-2004, subsection:

Subsection 2.26.1.4.4(a)--Transfer Switch Placement in Machine Room

Requested Governor Sheave to Rope Diameter Ratio Variance:

5. As it pertains to installation of requisite pitch diameter of the governor sheaves and governor tension sheaves, each Applicant presently seeks permanent variance from the following Title 8, Elevator Safety Order incorporated ASME Code A17.1-2004, subsection:

Section 3141 [ASME A17.1-2004, Section 2.18.7.4] states:

“The pitch diameter of governor sheaves and governor tension sheaves shall be not less than the product of the diameter of the rope and the applicable multiplier listed in Table 2.18.7.4, based on the rated speed and the number of strands in the rope.”

Proposed Variance Decision

Schindler Model 3300 Elevators w/variant Gov. Rope & Sheaves

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Table 2.18.7.4 Multiplier for Determining Governor Sheave Pitch Diameter

Rated Speed, m/s (ft/min)	Number of Strands	Multiplier
1.00 or less (200 or less)	6	42
1.00 or less (200 or less)	8	30
Over 1.00 (over 200)	6	46
Over 1.00 (over 200)	8	32

50 mm (2 in.) when tested in accordance with ASTM E 8. Forged, cast, or welded parts shall be stress relieved. Cast iron shall have a factor of safety of not less than 10.

6. Per the Application, the proposal is stated as follows: “The approved speed governor provided for this elevator has a sheave diameter-to-governor rope diameter ratio [D/d] of 33. This is not compliant with the current Group IV Elevator Safety Orders which require a [D/d] of 42-46. Equivalent safety will be attained by providing a governor rope with a breaking strength that provides a factor of safety greater than that required by the Elevator Safety Orders, and a governor sheave diameter which complies with the requirements of ASME A17.1-2010, Section 2.18.5.1, and Section 2.18.7.4, which, under certain conditions, permits the use of a governor rope and governor sheave ratio [D/d] of not less than 30.”
7. Having analyzed the request, as reflected in its Review of Application (Exhibit PD-4) Division is of the well informed professional opinion that the proposal, in as much as it is to use a governor with sheave pitch diameter of not less than the product of the governor rope diameter and a multiplier of 30, in conjunction with a steel governor rope with a diameter of 6 mm (0.25 in.), 6-strand construction, and a factor of safety of 8 or greater, will provide safety, and workplace safety and health equivalent or superior to that of the ASME A17.1-2004, Section 2.18.7.4. Division also correctly notes Applicant’s proposed governor sheave pitch diameter, and reduced diameter governor rope installation is similar to installations for which a permanent variance has been previously conditionally granted. (e.g. OSHSB File No. 19-V-076)

Official Notice and Incorporation by Reference—OSHSB File No. 15-V-349:

8. Per hereby entered stipulation offered at hearing by Applicant, Division, and Board staff, concerning preexisting Board records, including decisions in matters of permanent variance from Elevator Safety Order requirements, the Board takes Official Notice and expressly incorporates herein by reference, OSHSB File No. 15-V-349, Decision and Order adopted November 17, 2016, Section D.1—D.75 findings, and therein entered record upon which it was based.

Proposed Variance Decision

Schindler Model 3300 Elevators w/variant Gov. Rope & Sheaves

Hearing Date: December 18, 2020

Positions of Division, and Board Staff:

9. Having fully reviewed each Applicant's request for variance from the above identified Elevator Safety Order requirements, it is the concurrent opinion of Division and Board staff, that conditionally limited grant to each Applicant of permanent variance as specified per the below Decision and Order, will provide for elevator safety, and occupational safety and health, equivalent or superior to that of the Elevator Safety Order requirements from which variance is being sought. The present opinion of Division and Board staff, to any extent it may vary from those previously held with respect to the previously heard matter in OSHSB File No. 15-V-349, reflects further scrutiny of the subject matter, consultation between Division, Board staff, Applicant representatives, and refinement of recommended conditions and limitations.

D. Conclusive Findings:

The above stated procedural prerequisites, legal authority, and factual findings, as further supported by the documentary record and hearing testimony in this matter, provide a substantive and reasonable basis of conclusion that: (1) Each Applicant has complied with the statutory and regulatory requirements that must be met before an application for permanent variance may be conditionally granted, and (2) a preponderance of the evidence establishes that each Applicant's proposal, subject to all conditions and limitations set forth in the below Decision and Order, will provide equivalent safety and health to that which would prevail upon full compliance with the requirements of California Code of Regulation, Title 8, Elevator Safety Orders from which variance is being sought.

E. Decision and Order:

Each Section A table identified Applicant is hereby conditionally GRANTED Permanent Variance as specified below, and to the limited extent, as of the date the Board adopts this Proposed Decision, with respect to the Section A specified number of Schindler Model 3300 elevator(s), at the specified location, each shall conditionally hold permanent variance from the following subparts of ASME A17.1-2004, currently incorporated by reference into California Code of Regulations, Title 8, Section 3141.

Suspension Members: Each Applicant shall conditionally hold permanent variance from the following Title 8, Section 3141, incorporated sections and subsections of ASME A17.12004, to the limited extent variance is necessary to provide for use of noncircular elastomeric-coated steel suspension members and concomitant components, and configurations— Section 2.20.1; Section 2.20.2.1; Subsection 2.20.2.2(a); Subsection 2.20.2.2(f); Section 2.20.3; Section 2.20.4; Section 2.20.9.3.4; and Section 2.20.9.5.4.

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Schindler Model 3300 Elevators w/variant Gov. Rope & Sheaves

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Inspection Transfer Switch: Each Applicant shall conditionally hold permanent variance from certain requirements of the following Title 8, Section 3141 incorporated section of ASME A17.1-2004, to the extent variance is necessary to having the requisite inspection transfer switch located elsewhere than a machine room, within a Security Group I enclosure built into an upper floor landing door jam, or within other readily accessible and secure space shared with the motion controller outside the hoistway: Section 2.26.1.4.4.

Seismic Safety Switch Placement: Each Applicant shall conditionally hold permanent variance from certain requirements of the following Title 8, Section 3141, incorporated section of ASME A17.1-2004, to the limited extent variance is necessary to having the requisite seismic reset switch located elsewhere than a machine room, within a Security Group I enclosure built into an upper floor landing door jam, or within other readily accessible and secure space shared with the motion controller outside the hoistway: Section 8.4.10.1.1.

Car Top Railing: Each Applicant shall conditionally hold permanent variance from certain requirements of the following Title 8, Section 3141, incorporated section of ASME A17.1-2004, to the limited extent variance is necessary to provide for the below specified inseting of the subject elevator's top of car railing: Section 2.14.1.7.1.

Governor Rope and Sheave: Each Applicant shall conditionally hold permanent variance from certain requirements of the following Title 8, Section 3141, incorporated section of ASME A17.1-2004, to the limited extent variance is necessary to allow for the below specified governor rope and governor sheave parameters: Section 2.18.7.4.

Further Conditions and Limitations:

1. The elevator suspension system shall comply to the following:
 - 1.1. The suspension traction media (STM) members and their associated fastenings shall conform to the applicable requirements of ASME A17.1-2013, sections:
 - 2.20.4.3 – Minimum Number of Suspension Members
 - 2.20.3 – Factor of Safety
 - 2.20.9 – Suspension Member Fastening
 - 1.1.1 Additionally, STMs shall meet or exceed all requirements of ASME 17.6-2010, Standard for Elevator Suspension, Compensation, and Governor Systems, Part 3 Noncircular Elastomeric Coated Steel Suspension Members for Elevators.

Proposed Variance Decision

Schindler Model 3300 Elevators w/variant Gov. Rope & Sheaves

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- 1.2. The Applicant shall not utilize the elevator unless the manufacturer has written procedures for the installation, maintenance, inspection and testing of the STM members and fastenings and related monitoring and detection systems and criteria for STM replacement, and the Applicant shall make those procedures and criteria available to the Certified Competent Conveyance Mechanic (CCCM) at the location of the elevator, and to the Division of Occupational Safety and Health (Division) upon request.
- 1.3. STM member mandatory replacement criteria shall include:
 - 1.3.1 Any exposed wire, strand or cord;
 - 1.3.2 Any wire, strand or cord breaks through the elastomeric coating;
 - 1.3.3 Any evidence of rouging (steel tension element corrosion) on any part of the elastomeric coated steel suspension member;
 - 1.3.4 Any deformation in the elastomeric suspension member such as, but not limited to, kinks or bends.
- 1.4. Traction drive sheaves must have a minimum diameter of 72 mm. The maximum speed of STM members running on 72 mm, 87 mm and 125 mm drive sheaves shall be no greater than 2.5 m/s, 6.0 m/s and 8.0 m/s respectively.
- 1.5. If any one STM member needs replacement, the complete set of suspension members on the elevator shall be replaced. Exception: If a new suspension member is damaged during installation, and prior to any contemporaneously installed STM having been placed into service, it is permissible to replace the individual damaged suspension member. STM members that have been installed on another installation shall not be re-used.
- 1.6. A traction loss detection means shall be provided that conforms to the requirements of ASME A17.1-2013, Section 2.20.8.1. The means shall be tested for correct function annually in accordance with ASME A17.1-2013, section 8.6.4.19.12.
- 1.7. A broken suspension member detection means shall be provided that conforms to the requirements of ASME A17.1-2013, Section 2.20.8.2. The means shall be tested for correct function annually in accordance with ASME A17.1-2013, section 8.6.4.19.13(a).
- 1.8. An elevator controller integrated bend cycle monitoring system shall monitor actual STM bend cycles, by means of continuously counting, and storing in

Proposed Variance Decision

Schindler Model 3300 Elevators w/variant Gov. Rope & Sheaves

Hearing Date: December 18, 2020

nonvolatile memory, the number of trips that the STM makes traveling, and thereby being bent, over the elevator sheaves. The bend cycle limit monitoring means shall automatically stop the car normally at the next available landing before the bend cycle correlated residual strength of any single STM member drops below 80 percent of full rated strength. The monitoring means shall prevent the car from restarting. Notwithstanding any less frequent periodic testing requirement per Addendum 1 (Division Circular Letter), the bend cycle monitoring system shall be tested semi-annually in accordance with the procedures required per above Conditions 1.2, and 1.3.

- 1.9. Each elevator shall be provided with a device that electronically detects a reduction in residual strength of each STM member. The device shall be in compliance with Division Circular Letter E-10-04, a copy of which is attached hereto as Addendum 1, and incorporated herein by reference.
 - 1.10. The elevator crosshead data plate shall comply with the requirements of ASME A17.1-2013, Section 2.20.2.1.
 - 1.11. A suspension means data tag shall be provided that complies with the requirements of ASME A17.1-2013, Section 2.20.2.2.
 - 1.12. Comprehensive visual inspections of the entire length of each and all installed suspension members, in conformity with above Conditions 1.2 and 1.3 specified criteria, shall be conducted and documented every six months by a CCCM.
 - 1.13. The Applicant shall be subject to the requirements per hereto attached, and inhere incorporated, Addendum 2, "Suspension Means Replacement Reporting Condition."
 - 1.14. Records of all tests and inspections shall be maintenance records subject to ASME A17.1-2004, Sections 8.6.1.2, and 8.6.1.4, respectively.
2. Inspection Transfer switch and Seismic Reset switch placement and enclosure shall comply with the following:
 - 2.1. If the inspection transfer switch required by ASME A17.1-2004, Rule 2.26.1.4.4, does not reside in a machine room, that switch shall not reside in the elevator hoistway. The switch shall reside in the control/machinery room/space containing the elevator's control equipment in an enclosure secured by a lock openable by a Group 1 security key. The enclosure is to remain locked at all times when not in use.

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- 2.2. If the seismic reset switch does not reside in the machine room, that switch shall not reside in the elevator hoistway. The switch shall reside in the control/machinery room/space containing the elevator's control equipment in an enclosure secured by a lock openable by a Group 1 security key. The enclosure is to remain locked at all times when not in use.
3. Any and all inset car top railing shall comply with the following:
 - 3.1. Serviceable equipment shall be positioned so that mechanics and inspectors do not have to stand on or climb over the railings to perform adjustments, maintenance, repairs or inspections. The Applicant shall not permit anyone to stand or climb over the car top railing.
 - 3.2. The distance that the railing can be inset shall be limited to not more than 6 inches.
 - 3.3. All exposed areas of the car top outside the car top railing where the distance from the railing to the edge of the car top exceeds 2 inches, shall be beveled with metal, at an angle of not less than 75 degrees with the horizontal, from the mid or top rail to the outside of the car top, such that no person or object can stand, sit, kneel, rest, or be placed in the exposed areas.
 - 3.4. The top surface of the beveled area and/or car top outside the railing, shall be clearly marked. The markings shall consist of alternating 4 inch diagonal red and white stripes.
 - 3.5. The applicant shall provide durable signs with lettering not less than 1/2 inch on a contrasting background on each inset railing; each sign shall state:

CAUTION
STAY INSIDE RAILING
NO LEANING BEYOND RAILING
NO STEPPING ON, OR BEYOND, RAILING
 - 3.6. The Group IV requirements for car top clearances shall be maintained (car top clearances outside the railing will be measured from the car top and not from the required bevel).
4. The elevator shall be serviced, maintained, adjusted, tested, and inspected only by CCCM having been trained, and competent, to perform those tasks on the Schindler Model 3300 elevator system in accordance with written procedures and criteria, including as required per above Conditions 1.2, and 1.3.

Proposed Variance Decision

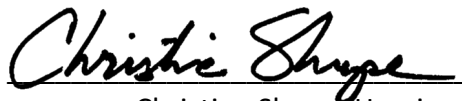
Schindler Model 3300 Elevators w/variant Gov. Rope & Sheaves

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5. The speed governor rope and sheaves shall comply with the following:
 - 5.1. The governor shall be used in conjunction with a steel 6 mm (0.25 in.) diameter governor rope with 6-strand, regular lay construction.
 - 5.2. The governor rope shall have a factor of safety of 8 or greater as related to the strength necessary to activate the safety.
 - 5.3. The governor sheaves shall have a pitch diameter of not less than 200 mm (7.87 in.).
6. The Division shall be notified when the elevator is ready for inspection. The elevator shall be inspected by the Division, and all applicable requirements met, including conditions of this permanent variance, prior to a Permit to Operate the elevator being issued. The elevator shall not be placed in service prior to the Permit to Operate being issued by Division.
7. The Applicant shall notify its employees or their authorized representative(s), or both, of this order in the same way and to the same extent that employees and authorized representatives are to be notified of docketed permanent variance applications pursuant to California Code of Regulations, Title 8, Sections 411.2, and 411.3.
8. This Decision and Order shall remain in effect unless modified or revoked upon application by the Applicant, affected employee(s), the Division, or by the Board on its own motion, in procedural accordance with Title 8, Sections 411, et. seq.

Pursuant to California Code of Regulations, Title 8, Section 426(b), the above, duly completed Proposed Decision, is hereby submitted to the Occupational Safety and Health Standards Board for consideration of adoption.

Dated: January 5, 2021



Christina Shupe, Hearing Officer

Proposed Variance Decision

Schindler Model 3300 Elevators w/variant Gov. Rope & Sheaves

Hearing Date: December 18, 2020

ADDENDUM 1

October 6, 2010

CIRCULAR LETTER E-10-04

TO: Installers, Manufacturers of Conveyances and Related Equipment and, Other Interested Parties

SUBJECT: Coated Steel Belt Monitoring

The Elevator Safety Orders require routine inspection of the suspension means of an elevator to assure its safe operation.

The California Labor Code Section 7318 allows the Division to promulgate special safety orders in the absence of regulation.

As it is not possible to see the steel cable suspension means of a Coated Steel Belt, a monitoring device which has been accepted by the Division is required on all Coated Steel Belts which will automatically stop the car if the residual strength of any belt drops below 60%. The Device shall prevent the elevator from restarting after a normal stop at a landing.

The monitoring device must be properly installed and functional. A functioning device may be removed only after a determination has been made that the residual strength of each belt exceeds 60%. These findings and the date of removal are to be conspicuously documented in the elevator machine room. The removed device must be replaced or returned to proper service within 30 days.

If upon routine inspection, the monitoring device is found to be in a non-functional state, the date and findings are to be conspicuously documented in the elevator machine room.

If upon inspection by the Division, the monitoring device is found to be non-functional or removed, and the required documentation is not in place, the elevator will be removed from service.

If the device is removed to facilitate belt replacement, it must be properly installed and functional before the elevator is returned to service.

A successful test of the device's functionality shall be conducted once a year.

This circular does not preempt the Division from adopting regulations in the future, which may address the monitoring of Coated Steel Belts or any other suspension means.

This circular does not create an obligation on the part of the Division to permit new conveyances utilizing Coated Steel Belts.

Debra Tudor
Principal Engineer
DOSH-Elevator Unit HQS

ADDENDUM 2

Suspension Means – Replacement Reporting Condition

Beginning on the date the Board adopts this Proposed Decision and continuing for a period of two years, the Applicant shall report to the Division within 30 days any and all replacement activity performed on the elevator(s) pursuant to the requirements of ASME A17.1-2004, Section 8.6.3 involving the suspension means or suspension means fastenings.

Further:

1. A separate report for each elevator shall be submitted, in a manner acceptable to the Division, to the following address (or to such other address as the Division might specify in the future): DOSH Elevator Unit, 2 MacArthur Place, Suite 700, Santa Ana, CA 92707, Attn: Engineering Section.
2. Each such report shall contain, but not necessarily be limited to, the following information:
 - a. The State-issued conveyance number, complete address, and OSHSB file number that identifies the permanent variance.
 - b. The business name, complete address, telephone number, and contact person of the elevator responsible party (presumably the Applicant or the subsequent holder of this variance).
 - c. The business name, complete address, telephone number, and Certified Qualified Conveyance Company (CQCC) certification number of the firm performing the replacement work.
 - d. The name (as listed on certification), Certified Competent Conveyance Mechanic (CCCM) certification number, certification expiration date, and signature of each CCCM performing the replacement work.
 - e. The date and time the elevator was removed from normal service for suspension replacement, the date and time the replacement work commenced, the date and time the replacement work was completed, and the date and time the elevator was returned to normal service.
 - f. A detailed description of, and clear color photographs depicting, (1) all the conditions that existed in the suspension components requiring their replacement

Proposed Variance Decision

Schindler Model 3300 Elevators w/variant Gov. Rope & Sheaves

Hearing Date: December 18, 2020

- and (2) any conditions that existed to cause damage or distress to the suspension components being replaced.
- g. A detailed list of all elevator components adjusted, repaired, or replaced in conjunction with the suspension component replacement.
 - h. All information provided on the crosshead data plate per ASME A17.1-2004, Section 2.20.2.1, unless that ASME requirement is modified by the conditions of a variance that pertains to the elevator in question, in which case, the information to be reported shall be the information required by the ASME provision as modified by the variance.
 - i. For the suspension means being replaced, all information provided on the data tag required per ASME A17.1-2004, Section 2.20.2.2, unless that ASME requirement is modified by the conditions of a variance that pertains to the elevator in question, in which case, the information to be reported shall be the information required by the ASME provision as modified by the variance.
 - j. For the replacement suspension means, all information provided on the data tag required by ASME A17.1-2004, Section 2.20.2.2, unless that ASME requirement is modified by the conditions of a variance that pertains to the elevator in question, in which case, the information to be reported shall be the information required by the ASME provision as modified by the variance.
 - k. Any other information requested by the Division regarding the replacement of the suspension means or fastenings.
3. In addition to the submission of the report to the Division, the findings of any testing, failure analysis, or other engineering evaluations performed on any portion of the replaced suspension components, or other elevator components replaced in conjunction therewith, shall be submitted to the Division referencing the information contained in item 2a above.

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
2520 Venture Oaks Way, Suite 350
Sacramento, California 95833
(916) 274-5721

In the Matter of Application to Modify)
Permanent Variance by:)
)
Nash-Holland T&C Residential Investors, LLC)
)
_____)

OSHSB FILE No. 20-V-222M1
Proposed Decision Dated: January 5, 2021

DECISION

The Occupational Safety and Health Standards Board hereby adopts the attached PROPOSED DECISION by Christina Shupe, Hearing Officer.

DAVID THOMAS, Chairman

BARBARA BURGEL, Member

KATHLEEN CRAWFORD, Member

DAVID HARRISON, Member

NOLA KENNEDY, Member

CHRIS LASZCZ-DAVIS, Member

LAURA STOCK, Member

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD

Date of Adoption: January 21, 2021

THE FOREGOING VARIANCE DECISION WAS ADOPTED ON THE DATE INDICATED ABOVE. IF YOU ARE DISSATISFIED WITH THE DECISION, A PETITION FOR REHEARING MAY BE FILED BY ANY PARTY WITH THE STANDARDS BOARD WITHIN TWENTY (20) DAYS AFTER SERVICE OF THE DECISION. YOUR PETITION FOR REHEARING MUST FULLY COMPLY WITH THE REQUIREMENTS OF CALIFORNIA CODE OF REGULATIONS, TITLE 8, SECTIONS 427, 427.1 AND 427.2.

Note: A copy of this Decision must be posted for the Applicant's employees to read, and/or a copy thereof must be provided to the employees' Authorized Representatives.

BEFORE THE
 OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
 DEPARTMENT OF INDUSTRIAL RELATIONS
 STATE OF CALIFORNIA

<p>In the Matter of Application to Modify Permanent Variance by:</p> <p style="text-align: center;">Nash-Holland T&C Residential Investors, LLC</p>	<p>OSHSB File No.: 20-V-222M1</p> <p style="text-align: center;"><u>PROPOSED DECISION</u></p> <p>Hearing Date: December 18, 2020</p>
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A. The following person or entity (“Applicant”) has applied for a modification of permanent variance from provisions of the Elevator Safety Orders, found at Title 8 of the California Code of Regulations, for each elevator having the specified preexisting variance location address of record:

Preexisting OSHSB File No	Applicant Name	Preexisting Variance Address of Record
20-V-222	Nash-Holland T&C Residential Investors, LLC	300 Del Sol Drive San Diego, CA

B. This proceeding is conducted in accordance with Labor Code Section 143, and California Code of Regulations, Title 8, Section 401, et. seq.

C. Procedural Matters:

1. This hearing was held on December 18, 2020, in Sacramento, California, via teleconference, by Occupational Safety and Health Standards Board (“Board”), with Hearing Officer Christina Shupe, both presiding and hearing the matter on its merit, as a basis of proposed decision to be advanced to the Board for its consideration, in accordance with California Code of Regulations, Title 8, Section 426.
2. At the hearing, **Manish Sablok**, with KONE, Inc., appeared on behalf of the Applicant, David Morris appeared on behalf of the Division of Occupational Safety and Health (“Division”); and Michael Nelmidia appeared on behalf of Board staff in a technical advisory role apart from the Board.
3. Documentary and oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence: the subject modification of permanent variance application captioned above as Exhibit PD-1, Notice of Hearing as Exhibit PD-2, Board staff Pending Application(s) for Permanent Variance Opinion Letter as PD-3, Division evaluation as PD-4, Review Draft 1 Proposed Decision as PD-5, and official notice taken of the Board’s files, records, recordings and decisions concerning the Elevator Safety Order requirements from which variance shall issue. On December 18,

Proposed Variance Decision

OSHSB File No. 20-V-222M1

Hearing Date: December 18, 2020

2020, the hearing and record closed, and the matter was taken under submission by the Hearing Officer.

D. Based on the record of this hearing, the Board makes the following findings of fact:

1. The Applicant requests modification of the address of the unchanging variance location specified within Board records for each elevator the subject of previously granted Permanent Variance 20-V-222.
2. Application Section 3, declared to be wholly truthful under penalty of perjury by Application signatory, states facts upon which reasonably may be based a finding that the address, specified in the records of the Board, at which Permanent Variance 20-V-222 is in effect, in fact is more completely, and correctly the different combination of addresses specified in below subsection D.5.
3. The Division has evaluated the request for modification of variance location address, finds no issue with it, and recommends that the application for modification be granted subject to the same conditions of the Decision and Order in OSHSB Permanent Variance File No. 20-V-222.
4. The Board finds the above subpart D.2 referenced declaration to be credible, uncontroverted, and consistent with available, sufficient facts, and of no bearing as to the finding of equivalent occupational health and safety upon which Grant of preexisting Permanent Variance 20-V-222 was, in part, based.
5. The Board finds the correct address by which to designate the location of each elevator the subject of Permanent Variance No. 20-V-222, to be:

310 Del Sol Drive
San Diego, CA

E. Decision and Order:

1. Permanent Variance Application No. 20-V-222M1 is conditionally GRANTED, thereby modifying Board records, such that, without change in variance location, each elevator being the subject of Permanent Variance Nos. 20-V-222, and 20-V-222M1, shall have the following address designation:

310 Del Sol Drive
San Diego, CA

2. Permanent Variance No. 20-V-222, being only modified as to the subject location address specified in above Decision and Order Section 1, is otherwise unchanged and

Proposed Variance Decision
OSHSB File No. 20-V-222M1
Hearing Date: December 18, 2020

remaining in full force and effect, as hereby incorporated by reference into this Decision and Order of Permanent Variance No. 20-V-222M1.

Pursuant to California Code of Regulations, Title 8, Section 426(b), the above, duly completed Proposed Decision, is hereby submitted to the Occupational Safety and Health Standards Board for consideration of adoption.

Dated: January 5, 2021


Christina Shupe, Hearing Officer

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
2520 Venture Oaks Way, Suite 350
Sacramento, California 95833
(916) 274-5721

In the Matter of Application to Modify)
Permanent Variance by:)
)
Nash-Holland T&C Residential Investors, LLC)
)
_____)

OSHSB FILE No. 20-V-223M1
Proposed Decision Dated: January 5, 2021

DECISION

The Occupational Safety and Health Standards Board hereby adopts the attached PROPOSED DECISION by Christina Shupe, Hearing Officer.

DAVID THOMAS, Chairman

BARBARA BURGEL, Member

KATHLEEN CRAWFORD, Member

DAVID HARRISON, Member

NOLA KENNEDY, Member

CHRIS LASZCZ-DAVIS, Member

LAURA STOCK, Member

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD

Date of Adoption: January 21, 2021

THE FOREGOING VARIANCE DECISION WAS ADOPTED ON THE DATE INDICATED ABOVE. IF YOU ARE DISSATISFIED WITH THE DECISION, A PETITION FOR REHEARING MAY BE FILED BY ANY PARTY WITH THE STANDARDS BOARD WITHIN TWENTY (20) DAYS AFTER SERVICE OF THE DECISION. YOUR PETITION FOR REHEARING MUST FULLY COMPLY WITH THE REQUIREMENTS OF CALIFORNIA CODE OF REGULATIONS, TITLE 8, SECTIONS 427, 427.1 AND 427.2.

Note: A copy of this Decision must be posted for the Applicant's employees to read, and/or a copy thereof must be provided to the employees' Authorized Representatives.

BEFORE THE
 OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
 DEPARTMENT OF INDUSTRIAL RELATIONS
 STATE OF CALIFORNIA

<p>In the Matter of Application to Modify Permanent Variance by:</p> <p style="text-align: center;">Nash-Holland T&C Residential Investors, LLC</p>	<p>OSHSB File No.: 20-V-223M1</p> <p style="text-align: center;"><u>PROPOSED DECISION</u></p> <p>Hearing Date: December 18, 2020</p>
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A. The following person or entity (“Applicant”) has applied for a modification of permanent variance from provisions of the Elevator Safety Orders, found at Title 8 of the California Code of Regulations, for each elevator having the specified preexisting variance location address of record:

Preexisting OSHSB File No	Applicant Name	Preexisting Variance Address of Record
20-V-223	Nash-Holland T&C Residential Investors, LLC	400 Del Sol Drive San Diego, CA

B. This proceeding is conducted in accordance with Labor Code Section 143, and California Code of Regulations, Title 8, Section 401, et. seq.

C. Procedural Matters:

1. This hearing was held on December 18, 2020, in Sacramento, California, via teleconference, by Occupational Safety and Health Standards Board (“Board”), with Hearing Officer Christina Shupe, both presiding and hearing the matter on its merit, as a basis of proposed decision to be advanced to the Board for its consideration, in accordance with California Code of Regulations, Title 8, Section 426.
2. At the hearing, **Manish Sablok**, with KONE, Inc., appeared on behalf of the Applicant, David Morris appeared on behalf of the Division of Occupational Safety and Health (“Division”); and Michael Nelmidia appeared on behalf of Board staff in a technical advisory role apart from the Board.
3. Documentary and oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence: the subject modification of permanent variance application captioned above as Exhibit PD-1, Notice of Hearing as Exhibit PD-2, Board staff Pending Application(s) for Permanent Variance Opinion Letter as PD-3, Division evaluation as PD-4, Review Draft 1 Proposed Decision as PD-5, and official notice taken of the Board’s files, records, recordings and decisions concerning the Elevator Safety Order requirements from which variance shall issue. On December 18,

Proposed Variance Decision

OSHSB File No. 20-V-223M1

Hearing Date: December 18, 2020

2020, the hearing and record closed, and the matter was taken under submission by the Hearing Officer.

D. Based on the record of this hearing, the Board makes the following findings of fact:

1. The Applicant requests modification of the address of the unchanging variance location specified within Board records for each elevator the subject of previously granted Permanent Variance 20-V-223.
2. Application Section 3, declared to be wholly truthful under penalty of perjury by Application signatory, states facts upon which reasonably may be based a finding that the address, specified in the records of the Board, at which Permanent Variance 20-V-223 is in effect, in fact is more completely, and correctly the different combination of addresses specified in below subsection D.5.
3. The Division has evaluated the request for modification of variance location address, finds no issue with it, and recommends that the application for modification be granted subject to the same conditions of the Decision and Order in OSHSB Permanent Variance File No. 20-V-223.
4. The Board finds the above subpart D.2 referenced declaration to be credible, uncontroverted, and consistent with available, sufficient facts, and of no bearing as to the finding of equivalent occupational health and safety upon which Grant of preexisting Permanent Variance 20-V-223 was, in part, based.
5. The Board finds the correct address by which to designate the location of each elevator the subject of Permanent Variance No. 20-V-223, to be:

201 Del Sol Drive
San Diego, CA

E. Decision and Order:

1. Permanent Variance Application No. 20-V-223M1 is conditionally GRANTED, thereby modifying Board records, such that, without change in variance location, each elevator being the subject of Permanent Variance Nos. 20-V-223, and 20-V-223M1, shall have the following address designation:

201 Del Sol Drive
San Diego, CA

2. Permanent Variance No. 20-V-223, being only modified as to the subject location address specified in above Decision and Order Section 1, is otherwise unchanged and

Proposed Variance Decision
OSHSB File No. 20-V-223M1
Hearing Date: December 18, 2020

remaining in full force and effect, as hereby incorporated by reference into this Decision and Order of Permanent Variance No. 20-V-223M1.

Pursuant to California Code of Regulations, Title 8, Section 426(b), the above, duly completed Proposed Decision, is hereby submitted to the Occupational Safety and Health Standards Board for consideration of adoption.

Dated: January 5, 2021


Christina Shupe, Hearing Officer

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
2520 Venture Oaks Way, Suite 350
Sacramento, California 95833
(916) 274-5721

In the Matter of Application for Permanent Variance Regarding:)
)
)
KONE Monospace 500 Elevators with Retractable Platform Guard (Group IV))
)
_____)

OSHSB FILE No.: see grid in Item A of Proposed Decision Dated: January 5, 2021

DECISION

The Occupational Safety and Health Standards Board hereby adopts the attached PROPOSED DECISION by Christina Shupe, Hearing Officer.

DAVID THOMAS, Chairman

BARBARA BURGEL, Member

KATHLEEN CRAWFORD, Member

DAVID HARRISON, Member

NOLA KENNEDY, Member

CHRIS LASZCZ-DAVIS, Member

LAURA STOCK, Member

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Date of Adoption: January 21, 2021

THE FOREGOING VARIANCE DECISION WAS ADOPTED ON THE DATE INDICATED ABOVE. IF YOU ARE DISSATISFIED WITH THE DECISION, A PETITION FOR REHEARING MAY BE FILED BY ANY PARTY WITH THE STANDARDS BOARD WITHIN TWENTY (20) DAYS AFTER SERVICE OF THE DECISION. YOUR PETITION FOR REHEARING MUST FULLY COMPLY WITH THE REQUIREMENTS OF CALIFORNIA CODE OF REGULATIONS, TITLE 8, SECTIONS 427, 427.1 AND 427.2.

Note: A copy of this Decision must be posted for the Applicant's employees to read, and/or a copy thereof must be provided to the employees' Authorized Representatives.

BEFORE THE
 OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
 DEPARTMENT OF INDUSTRIAL RELATIONS
 STATE OF CALIFORNIA

<p>In the Matter of Application for Permanent Variance Regarding:</p> <p>KONE Monospace 500 Elevators <i>with Retractable Platform Guard</i> (Group IV)</p>	<p>OSHSB File Nos.: Per Section A.1 Grid Below</p> <p><u>PROPOSED DECISION</u></p> <p>Hearing Date: December 18, 2020</p>
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A. Subject Matter:

- Each below listed applicant (“Applicant”) applied for a permanent variance from provisions of the Elevator Safety Orders, found at Title 8 of the California Code of Regulations, with respect to a conveyance, or conveyances, in the listed quantity, at the listed location:

Variance No.	Applicant Name	Variance Location Address	No. of Elevators
20-V-335	PPF Paramount One Market Plaza Owner, L.P.	One Market Plaza San Francisco, CA	2

- The subject Title 8, safety order requirements are set out within California Code of Regulations, Title 8, Section 3141 incorporated ASME A17.1-2004, Sections 2.18.5.1, 2.20.4, 2.4.1.5 and 2.15.9.2.

B. Procedural:

- This hearing was held on December 18, 2020, in Sacramento, California and via teleconference, by delegation of the Occupational Safety and Health Standards Board (“Board”), with Hearing Officer Christina Shupe, both presiding and hearing the matter on its merit, as a basis of proposed decision to be advanced to the Board for its consideration, in accordance with California Code of Regulations, Title 8, Section 426.
- At the hearing, Manish Sablok, with KONE, Inc., appeared on behalf of each Applicant; David Morris appeared on behalf of the Division of Occupational Safety and Health (“Division”), and Michael Nelmidia appeared on behalf of Board staff in a technical advisory capacity apart from the Board.

Proposed Variance Decision

KONE Monospace 500 Elevators with Retractable Platform Guard (Group IV)

Hearing Date: December 18, 2020

3. Documentary and oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence: permanent variance applications per Section A.1 table as Exhibit PD-1, Notice of Hearing as Exhibit PD-2, Board staff Pending Application Memorandum as PD-3, Division Review of Application as PD-4, Review Draft 1 Proposed Decision as PD-5, and official notice taken of the Board's rulemaking records and variance decisions concerning the safety order requirements from which variance is sought. Upon close of hearing on December 18, 2020, the record closed and the matter was taken under submission by the Hearing Officer.

C. Findings of Fact—Based on the record of this proceeding, the Board finds the following:

1. Each respective Applicant intends to utilize the KONE Inc. Monospace 500 type elevator, in the quantity, at the location, specified per the above Section A.1 table.
2. The installation contract for this elevator was or will be signed on or after May 1, 2008, thus making the elevator subject to the Group IV Elevator Safety Orders.
3. Each Applicant proposes to use hoisting ropes that are 8 mm in diameter which also consist of 0.51 mm diameter outer wires, in variance from the express requirements of ASME A17.1-2004, Section 2.20.4.
4. In relevant part, ASME A17.1-2004, Section 2.20.4 states:

2.20.4 Minimum Number and Diameter of Suspension Ropes

...The minimum diameter of hoisting and counterweight ropes shall be 9.5 mm (0.375 in.). Outer wires of the ropes shall be not less than 0.56 mm (0.024 in.) in diameter.

5. An intent of the afore cited requirement of ASME A17.1-2004, Section 2.20.4, is to ensure that the number, diameter, and construction of suspension ropes are adequate to provided safely robust and durable suspension means over the course of the ropes' foreseen service life.
6. KONE has represented to Division and Board staff, having established an engineering practice for purposes of Monospace 500 elevator design, of meeting or exceeding the minimum factor of safety of 12 for 8 mm suspension members, as required in ASME A17.1-2010, Section 2.20.3—under which, given that factor of safety, supplemental broken suspension member protection is not required.

Proposed Variance Decision

KONE Monospace 500 Elevators with Retractable Platform Guard (Group IV)

Hearing Date: December 18, 2020

7. Also, each Applicant proposes as a further means of maintaining safety equivalence, monitoring the rope in conformity with the criteria specified within the *Inspector's Guide to 6 mm Diameter Governor and 8 mm Diameter Suspension Ropes for KONE Elevators* (per Application attachment "B", or as thereafter revised by KONE subject to Division approval).
8. In addition, each Applicant has proposed to utilize 6 mm diameter governor ropes in variance from Title 8, Section 3141, incorporated ASME A17.1-2004, Section 2.18.5.1.
9. ASME A17.1-2004, Section 2.18.5.1, specifies, in relevant part:

2.18.5.1 Material and Factor of Safety.

... [Governor ropes] not less than 9.5 mm (0.375 in.) in diameter. The factor of safety of governor ropes shall be not less than 5...

10. The Board takes notice of Title 8, Elevator Safety Order Section 3141.7, subpart (a)(10):

A reduced diameter governor rope of equivalent construction and material to that required by ASME A17.1-2004, is permissible if the factor of safety as related to the strength necessary to activate the safety is 5 or greater;

11. Applicants propose use of 6mm governor rope having a safety factor of 5 or greater, in conformity with Section 3141.7(a)(10), the specific parameters of which, being expressly set out within Title 8, Elevator Safety Orders, take precedence over more generally referenced governor rope diameter requirements per ASME A17.1-2004, Section 2.18.5.1. Accordingly, the governor rope specifications being presently proposed, inclusive of a factor of safety of 5 or greater, would comply with current Title 8, Elevator Safety Orders requirements, and therefore not be subject to issuance of permanent variance.
12. Absent evident diminution in elevator safety, over the past decade the Board has issued numerous permanent variances for use in KONE (Ecospace) elevator systems of 8 mm diameter suspension rope materially similar to that presently proposed (e.g. OSHSB File Nos. 06-V-203, 08-V-245, and 13-V-303).
13. As noted by the Board in OSHSB File Nos. 18-V-044, and 18-V-045, Decision and Order Findings, subpart B.17 (hereby incorporated by reference), the strength of wire rope operating as an elevator's suspension means does not remain constant over its years of projected service life. With increasing usage cycles, a reduction in the cross-sectional area of the wire rope normally occurs, resulting in decreased residual strength. This characteristic is of particular relevance to the present matter because, as also noted by

Proposed Variance Decision

KONE Monospace 500 Elevators with Retractable Platform Guard (Group IV)

Hearing Date: December 18, 2020

Board staff, decreasing wire rope diameter is associated with a higher rate of residual strength loss. This foreseeable reduction in cross-sectional area primarily results from elongation under sheave rounding load, as well as from wear, and wire or strand breaks. However, these characteristics need not compromise elevator safety when properly accounted for in the engineering of elevator suspension means, and associated components.

14. The presently proposed wire rope is Wuxi Universal steel rope Co LTD. 8 mm 8x19S+8x7+PP, with a manufacturer rated breaking strength of 35.8 kN, and an outer wire diameter of less than 0.56 mm, but not less than 0.51 mm. Both Board staff and Division safety engineers have scrutinized the material and structural specifications, and performance testing data, of this particular proposed rope, and conclude it will provide for safety equivalent to ESO compliant 9.5 mm wire rope, with 0.56 mm outer wire (under conditions of use included within the below Decision and Order).
15. The applicant supplies tabulated data regarding the “Maximum Static Load on All Suspension Ropes.” To obtain the tabulated data, the applicant uses the following formula derived from ASME A17.1 2004, Section 2.20.3:

$$W = (S \times N) / f$$

where

W = maximum static load imposed on all car ropes with the car and its rated load at any position in the hoistway

N = number of runs of rope under load. For 2:1 roping, N shall be two times the number of ropes used, etc.

S = manufacturer's rated breaking strength of one rope

f = the factor of safety from Table 2.20.3

16. ASME A17.1-2010 Sections 2.20.3 and 2.20.4 utilize the same formula, but provide for use of suspension ropes having a diameter smaller than 9.5 mm, under specified conditions, key among them being that use of ropes having a diameter of between 8 mm to 9.5 mm be engineered with a factor of safety of 12 or higher. This is a higher minimum factor of safety than that proposed by Applicant, but a minimum recommended by both Board staff and Division as a condition of variance necessary to the achieving of safety equivalence to 9.5 mm rope.
17. Board staff and Division are in accord with Applicant, in proposing as a condition of safety equivalence, that periodic physical examination of the wire ropes be performed to confirm the ropes continue to meet the criteria set out in the (Application attachment) *Inspector's Guide to 6 mm Diameter Governor and 8 mm Diameter*

Proposed Variance Decision

KONE Monospace 500 Elevators with Retractable Platform Guard (Group IV)

Hearing Date: December 18, 2020

Suspension Ropes for KONE Elevators. Adherence to this condition will provide an additional assurance of safety equivalence, regarding smaller minimum diameter suspension rope outer wire performance over the course of its service life.

18. The Board incorporates by reference the following findings of fact: Subsections 5 through 9, set forth in the "Findings of Fact" Section of the Proposed Decision adopted by the Board on June 18, 2010 regarding OSHSB File No. 08-V-108M1.
19. Applicant proposes to install a two-section retractable platform guard (apron) consisting of a stationary upper section guard plate and a moveable lower section guard plate. To monitor the retractable mechanism, an electrical switching system will be provided to monitor for malfunction.
20. Section 3141 [ASME A17.1-2004, Section 2.15.9.2] states, in part:

2.15.9.2 The guard plate shall have a straight vertical face, extending below the floor surface of the platform, conforming to one of the following:

(a) where the elevator is required to conform to 2.19.2.2(b) the depth of the truck zone, where provided, plus 75 mm (3 in.), but in no case less than 1,220 mm (48 in.).

An intent of this code section is to guard a hazardous opening to the hoistway if the elevator car is intentionally or unintentionally positioned above the landing zone, by providing a guard that extends below the car platform to obstruct the opening.

21. Section 3141 [ASME A17.1-2004, Section 2.4.1.5] states, in part:

2.4.1.5 When the car is resting on its fully compressed buffers or bumpers, no part of the car, or any equipment attached thereto or equipment traveling with the car, shall strike any part of the pit or any equipment mounted therein.
22. An intent of this code section is to prevent any equipment attached to the elevator car from striking any part of the pit. This could damage the elevator equipment, which may result in unsafe operation or injury.
23. Per Division's Review of Application (Exhibit PD-4) Applicant's proposed platform guard is similar in all material respects to installations for which a permanent variance previously has been granted. (e.g. 18-V-010M1).

Proposed Variance Decision

KONE Monospace 500 Elevators with Retractable Platform Guard (Group IV)

Hearing Date: December 18, 2020

24. Both Board staff, and Division, by way of written submissions to the record (Exhibits PD-3 and PD-4 respectively), and stated positions at hearing, are of the well informed opinion that grant of permanent variance, as limited and conditioned per the below Decision and Order will provide employment, places of employment, and subject conveyances, as safe and healthful as would prevail given non-variant conformity with the Elevator Safety Order requirements from which variance has been requested.

D. Conclusive Findings:

The above stated procedural prerequisites, legal authority, and factual findings, as further supported by the documentary record and hearing testimony in this matter, provide a substantive and reasonable basis of conclusion that: (1) Each Applicant has complied with the statutory and regulatory requirements that must be met before an application for permanent variance may be conditionally granted; and (2) a preponderance of the evidence establishes that each Applicants proposal, subject to all conditions and limitations set forth in the below Decision and Order, will provide equivalent safety and health to that which would prevail upon full compliance with the requirements of California Code of Regulation, Title 8, Elevator Safety Orders from which variance is being sought.

E. Decision and Order:

Each Application being the subject of this proceeding, per the table in Jurisdictional and Procedural Matters, section 1 above, is conditionally GRANTED, to the extent that each such Applicant shall be issued permanent variance from California Code of Regulations, Title 8, section 3141 shall be GRANTED subject to the following conditions and limitations:

Elevator Safety Orders:

- Minimum Diameter of Suspension Ropes: 2.20.4 (Only to the extent necessary to permit the use of 8 mm [0.0315 in.] diameter suspension ropes, where the Elevator Safety Orders require a minimum diameter of 9.5 mm [0.375]);
- Platform Guard: 2.15.9.2 (Only to the extent necessary to permit the use of a two-section retractable platform guard (apron) where the depth of the pit is not sufficient enough to prevent the platform guard from contacting the floor when the car is resting on its fully compressed buffers or bumpers); and
- Bottom Car Clearances: 2.4.1.5 (Only to the extent necessary to permit the two-section retractable platform guard (apron) to contact the pit floor).

Conditions:

Proposed Variance Decision

KONE Monospace 500 Elevators with Retractable Platform Guard (Group IV)

Hearing Date: December 18, 2020

1. The diameter of the hoisting steel ropes shall be not less than 8 mm (0.315 in) diameter and the roping ratio shall be two to one (2:1).
2. The outer wires of the suspension ropes shall be not less than 0.51 mm (0.02 in.) in diameter.
3. The number of suspension ropes shall be not fewer than those specified per hereby incorporated Decision and Order Appendix 1 Table.
4. The ropes shall be inspected annually for wire damage (rouge, valley break etc.) in accordance with "KONE Inc. Inspector's Guide to 6 mm diameter and 8 mm diameter steel ropes for KONE Elevators" (per Application Exhibit B, or as thereafter amended by KONE subject to Division approval).
5. A rope inspection log shall be maintained and available in the elevator controller room / space at all times.
6. The elevator rated speed shall not exceed those speeds specified per the Decision and Order Appendix 1 Table.
7. The maximum suspended load shall not exceed those weights (plus 5%) specified per the Decision and Order Appendix 1 Table.
8. The opening to the hoistway shall be effectively barricaded when car top inspection, maintenance, servicing, or testing of the elevator equipment in the hoistway is required. If the service personnel must leave the area for any reason, the hoistway and control room doors shall be closed.
9. The installation shall meet the suspension wire rope factor of safety requirements of ASME A17.1-2013 Section 2.20.3.
10. The Applicant shall comply with suspension means replacement reporting condition per hereby incorporated Decision and Order Appendix 2.
11. In lieu of the straight vertical face (one-piece) platform guards (aprons) required by Section 3141 [ASME A17.1-2004, Section 2.15.9.2], a two-section retractable platform guard consisting of a stationary, upper-section guard plate and a moveable, lower-section guard plate shall be installed to conform to the following:
 - a. The stationary, upper-section guard plate shall have a straight vertical face, extending below the floor surface of the platform; the height shall be not less than 920 mm (36.2 in).

Proposed Variance Decision

KONE Monospace 500 Elevators with Retractable Platform Guard (Group IV)

Hearing Date: December 18, 2020

- b. The movable, lower-section guard plate shall:
 - i. Comply with ASME A17.1-2004, Section 2.15.9.3;
 - ii. Be provided a rubber bumper at the center of the bottom edge of the plate to absorb the impact when the toe guard strikes the concrete pit floor;
 - iii. Be provided with an electrical switch that indicates to the control system that the retractable platform guard is in its extended position (when car is away from the bottom landing), and be provided with a second electrical switch that indicates to the control system that the moveable lower section is in its retracted position (when the car is at the bottom landing), thereby overriding the first switch. Failure of either of these electrical switches or of the mechanical parts that activate these electrical switches shall cause the controller to remove power from the driving machine and brake.
 - c. The two-section retractable platform guard shall be provided with smooth metal guard plates of not less than 1.5 mm (0.059 in) thick steel, or material of equivalent strength and stiffness, adequately reinforced and braced to the car platform and conforming to ASME A17.1-2004, sections 2.15.9.1 and 2.15.9.4.
 - d. The overall height of the two-section retractable platform guard shall be not less than 1220 mm (48 in) when the moveable lower section is in the fully extended (deployed) position.
 - e. The elevator rated speed shall be equal to or less than 200 feet per minute.
 - f. The opening to the hoistway shall be effectively barricaded when car top inspection, maintenance, servicing, or testing of the elevator equipment in the hoistway is required. If the service personnel must leave the area for any reason, the hoistway and control room doors shall be closed.
12. Any Certified Qualified Conveyance Company performing inspections, maintenance, servicing or testing the elevators shall be provided a copy of this variance decision.
13. The Division shall be notified when the elevator is ready for inspection. The elevator shall be inspected by the Division and a "Permit to Operate" issued before the elevator is placed in service.
14. The Applicant shall notify its employees or their authorized representative(s), or both, of this order in the same way and to the same extent that employees and authorized representatives are to be notified of docketed permanent variance applications pursuant to California Code of Regulations, Title 8, Sections 411.2 and 411.3.

Proposed Variance Decision

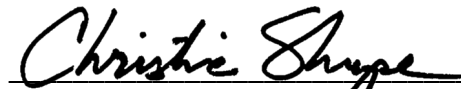
KONE Monospace 500 Elevators with Retractable Platform Guard (Group IV)

Hearing Date: December 18, 2020

15. This Decision and Order shall remain in effect unless modified or revoked upon application by the Applicant, affected employee(s), the Division of Occupational Safety and Health, or by the Board on its own motion, in accordance with procedures per Title 8, Division 1, Chapter 3.5.

Pursuant to California Code of Regulations, Title 8, Section 426(b), the above, duly completed Proposed Decision, is hereby submitted to the Occupational Safety and Health Standards Board for consideration of adoption.

Dated: January 5, 2021


Christina Shupe, Hearing Officer

Proposed Variance Decision

KONE Monospace 500 Elevators with Retractable Platform Guard (Group IV)

Hearing Date: December 18, 2020

Appendix 1

Monospace 500 Suspension Ropes Appendix 1 Table				
OSHSB File No.	Elevator ID	Minimum Quantity of Ropes (per Condition 3)	Maximum Speed in Feet per Minute (per Condition 6)	Maximum Suspended Load (per Condition 7)
20-V-335	S1-Garage	7	150	12,247
20-V-335	S2-Kitchen	6	150	10,497

Appendix 2

Suspension Means Replacement Reporting Condition

Beginning on the date the Board adopts this Proposed Decision and continuing for a period of two years, the Applicant shall report to the Division within 30 days any and all replacement activity performed on the elevator(s) pursuant to the requirements of ASME A17.1-2004, Section 8.6.3 involving the suspension means or suspension means fastenings. Further:

1. A separate report for each elevator shall be submitted, in a manner acceptable to the Division, to the following address (or to such other address as the Division might specify in the future): DOSH Elevator Unit, 2 MacArthur Place, Suite 700, Santa Ana, CA 92707, Attn: Engineering Section.
2. Each such report shall contain, but not necessarily be limited to, the following information:
 - a. The State-issued conveyance number, complete address, and OSHSB file number that identifies the permanent variance.
 - b. The business name, complete address, telephone number, and contact person of the elevator responsible party (presumably the Applicant or the subsequent holder of this variance).
 - c. The business name, complete address, telephone number, and Certified Qualified Conveyance Company (CQCC) certification number of the firm performing the replacement work.
 - d. The name (as listed on certification), Certified Competent Conveyance Mechanic (CCCM) certification number, certification expiration date, and signature of each CCCM performing the replacement work.
 - e. The date and time the elevator was removed from normal service for suspension replacement, the date and time the replacement work commenced, the date and time the replacement work was completed, and the date and time the elevator was returned to normal service.
 - f. A detailed description of, and clear color photographs depicting, (1) all the conditions that existed in the suspension components requiring their replacement and (2) any conditions that existed to cause damage or distress to the suspension components being replaced.

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KONE Monospace 500 Elevators with Retractable Platform Guard (Group IV)

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- g. A detailed list of all elevator components adjusted, repaired, or replaced in conjunction with the suspension component replacement.
 - h. All information provided on the crosshead data plate per ASME A17.1-2004, Section 2.20.2.1, unless that ASME requirement is modified by the conditions of a variance that pertains to the elevator in question, in which case, the information to be reported shall be the information required by the ASME provision as modified by the variance.
 - i. For the suspension means being replaced, all information provided on the data tag required per ASME A17.1-2004, Section 2.20.2.2, unless that ASME requirement is modified by the conditions of a variance that pertains to the elevator in question, in which case, the information to be reported shall be the information required by the ASME provision as modified by the variance.
 - j. For the replacement suspension means, all information provided on the data tag required by ASME A17.1-2004, Section 2.20.2.2, unless that ASME requirement is modified by the conditions of a variance that pertains to the elevator in question, in which case, the information to be reported shall be the information required by the ASME provision as modified by the variance.
 - k. Any other information requested by the Division regarding the replacement of the suspension means or fastenings.
3. In addition to the submission of the report to the Division, the findings of any testing, failure analysis, or other engineering evaluations performed on any portion of the replaced suspension components, or other elevator components replaced in conjunction therewith, shall be submitted to the Division referencing the information contained in above Appendix 2, Section 2, Subsection (a), above.

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
2520 Venture Oaks Way, Suite 350
Sacramento, California 95833
(916) 274-5721

In the Matter of Application for Permanent)
Variance Regarding:)
)
)
Otis Gen 2S Elevators (Group IV))
)
_____)

OSHSB FILE No.: see grid in Item A of
Proposed Decision Dated: January 5, 2021

DECISION

The Occupational Safety and Health Standards Board hereby adopts the attached PROPOSED DECISION by Christina Shupe, Hearing Officer.

DAVID THOMAS, Chairman

BARBARA BURGEL, Member

KATHLEEN CRAWFORD, Member

DAVID HARRISON, Member

NOLA KENNEDY, Member

CHRIS LASZCZ-DAVIS, Member

LAURA STOCK, Member

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD

Date of Adoption: January 21, 2021

THE FOREGOING VARIANCE DECISION WAS ADOPTED ON THE DATE INDICATED ABOVE. IF YOU ARE DISSATISFIED WITH THE DECISION, A PETITION FOR REHEARING MAY BE FILED BY ANY PARTY WITH THE STANDARDS BOARD WITHIN TWENTY (20) DAYS AFTER SERVICE OF THE DECISION. YOUR PETITION FOR REHEARING MUST FULLY COMPLY WITH THE REQUIREMENTS OF CALIFORNIA CODE OF REGULATIONS, TITLE 8, SECTIONS 427, 427.1 AND 427.2.

Note: A copy of this Decision must be posted for the Applicant's employees to read, and/or a copy thereof must be provided to the employees' Authorized Representatives.

BEFORE THE
 OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
 DEPARTMENT OF INDUSTRIAL RELATIONS
 STATE OF CALIFORNIA

In the Matter of Application for Permanent Variance Regarding: <p style="text-align: center;">Otis Gen2S Elevators (Group IV)</p>	OSHSB File Nos.: Per Section A table, below <u>PROPOSED DECISION</u> Hearing Date: December 18, 2020
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A. Subject Matter

- Each below listed applicant (“Applicant”) has applied for permanent variances from provisions of the Elevator Safety Orders, found at Title 8 of the California Code of Regulations, with respect to the listed conveyance or conveyances, in the specified quantity, at the specified location:

Variance No.	Applicant Name	Variance Location Address	No. of Elevators
20-V-379	353 Main Street Apartments, LP	353 Main Street Redwood City, CA	2
20-V-380	1201 Broadway - Owner, LLC	1201 Broadway Avenue Millbrae, CA	1
20-V-381	1201 Fifth Avenue, LLC	1201 5th Ave. San Rafael, CA	3
20-V-383	Aragon (Toluca/Colton) Properts Corp.	215 N. Toluca St. Los Angeles, CA	1
20-V-384	AvalonBay Communities, Inc.	825 S. Myrtle Avenue Monrovia, CA	2
20-V-385	Bakersfield College	Bakersfield College – Gym 1801 Panorama Drive Bakersfield, CA	1
20-V-386	CalSTRS	200 Waterfront Place (office bldg.) West Sacramento, CA	4
20-V-387	CalSTRS	200 Waterfront Place (parking) West Sacramento, CA	2

*Proposed Variance Decision
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20-V-388	CI-GS Hillcrest LLC	635 Robinson Ave. San Diego, CA	2
20-V-389	Din/Cal 4, Inc.	5075 Camino De La Siesta San Diego, CA	2
20-V-390	Din/Cal 4, Inc.	588 Camino Del Rio N (garage) San Diego, CA	1
20-V-391	Genentech	Genentech B50 CSC 680 Forbes Blvd South San Francisco, CA	2
20-V-392	Hadley Apartments, LLC	555 East Evelyn Avenue Mountain View, CA	3
20-V-393	Hadley Apartments, LLC	605 East Evelyn Avenue Mountain View, CA	3
20-V-394	Jean W. Seto Living Trust DTD 06/09/06	433 Burk Street Oakland, CA	1
20-V-395	Mission Bay 9 LP	410 China Basin Street San Francisco, CA	2
20-V-400	NP 31 LLC	4469 Ohio Street San Diego, CA	3
20-V-401	Sunnydale Block 6 Housing Partnership, LP	242 Hahn Street San Francisco, Ca	4
20-V-431	University of California At Riverside	UCR Parking Structure 1 #832 900 University Drive Riverside, CA	2
20-V-435	Firmin Court LP	424 N Firmin Street Los Angeles, CA	1
20-V-436	Charities Housing	817 Walnut Street San Carlos, CA	1
20-V-437	MM NoHo Apartments, L.L.C.	6151 N. Radford Avenue North Hollywood, CA	4
20-V-438	MM NoHo Apartments, L.L.C.	11950 W. Erwin Street North Hollywood, CA	3

*Proposed Variance Decision
 Otis Gen2S Elevators (Group IV)
 Hearing Date: December 18, 2020*

20-V-440	Stalder Plaza LP	Stalder Plaza 3777 Mission Inn Ave. Riverside, CA	3
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2. The safety orders from which variance may issue, are enumerated in the portion of the below Decision and Order preceding the variance conditions.

B. Procedural

1. This proceeding is conducted in accordance with Labor Code Section 143, and California Code of Regulations, Title 8, Section 401, et. seq.
2. This hearing was held on December 18, 2020, in Sacramento, California, and via teleconference, by Occupational Safety and Health Standards Board (“Board”), with Hearing Officer Christina Shupe, both presiding and hearing the matter on its merit, as a basis of proposed decision to be advanced to the Board for its consideration, in accordance with California Code of Regulations, Title 8, Section 426.
3. At the hearing, Dan Leacox of Leacox & Associates, and Wolter Geesink with Otis Elevator, appeared on behalf of each Applicant; David Morris appeared on behalf of the Division of Occupational Safety and Health (“Division”), and Michael Nelmidia appeared on behalf of Board staff, in a technical advisory role apart from the Board.
4. Oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence: each respective permanent variance applications per Section A table as Exhibit PD-1; Notice of Hearing as Exhibit PD-2; Board staff Pending Application Memorandum as PD-3; Division Review of Application as PD-4; Review Draft 1 Proposed Decision as PD-5; and official notice taken of the Board’s rulemaking records, and variance files and decisions, concerning the Elevator Safety Order standards at issue. At close of hearing on December 18, 2020, the record was closed, and the matter taken under submission by the Hearing Officer.

C. Findings and Basis:

Based on the record of this hearing, the Board makes the following findings of fact:

1. Each Applicant intends to utilize Otis Gen2S elevators at the locations and in the numbers stated in the above Section A table.

*Proposed Variance Decision
Otis Gen2S Elevators (Group IV)
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2. The installation contracts for these elevators were or will be signed on or after May 1, 2008, making the elevators subject to the Group IV Elevator Safety Orders.
3. The Board incorporates by reference Items (i.e. Sections) D.3 through D.9 of the Proposed Decision adopted by the Board on July 18, 2013 regarding OSHSB File No. 12-V-093 and Item D.4 of the Proposed Decision adopted by the Board on September 25, 2014 in OSHSB File No. 14-V-206.
4. Both Board staff and Division, by way of written submissions to the record (Exhibits PD-3 and PD-4 respectively), and positions stated at hearing, are of the well informed opinion that grant of requested permanent variance, as limited and conditioned per the below Decision and Order will provide employment, places of employment, and subject conveyances, as safe and healthful as would prevail given non-variant conformity with the Elevator Safety Order requirements from which variance has been requested.

D. Conclusive Findings:

The above stated procedural prerequisites, legal authority, and factual findings, as further supported by the documentary record and hearing testimony in this matter, provide a substantive and reasonable basis of conclusion that: (1) Each Applicant has complied with the statutory and regulatory requirements that must be met before an application for permanent variance may be conditionally granted; and (2) a preponderance of the evidence establishes that each Applicants proposal, subject to all conditions and limitations set forth in the below Decision and Order, will provide equivalent safety and health to that which would prevail upon full compliance with the requirements of California Code of Regulation, Title 8, Elevator Safety Orders from which variance is being sought.

E. Decision and Order:

Each permanent variance application the subject of this proceeding is conditionally GRANTED as specified below, and to the extent, as of the date the Board adopts this Proposed Decision, each Applicant listed in the above Section A table shall have permanent variances from California Code of Regulations, Title 8, Section 3141 and from the following sections of ASME A17.1-2004 that Section 3141 makes applicable to the elevators the subject of those applications:

- Car top railing: Sections 2.14.1.7.1 (only to the extent necessary to permit an inset car top railing, if, in fact, the car top railing is inset);

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- Speed governor over-speed switch: 2.18.4.2.5(a) (only insofar as is necessary to permit the use of the speed reducing system proposed by the Applicants, where the speed reducing switch resides in the controller algorithms, rather than on the governor, with the necessary speed input supplied by the main encoder signal from the motor);
- Governor rope diameter: 2.18.5.1 (only to the extent necessary to allow the use of reduced diameter governor rope);
- Pitch diameter: 2.18.7.4 (to the extent necessary to use the pitch diameter specified in Condition No. 13.c);
- Suspension means: 2.20.1, 2.20.2.1, 2.20.2.2(a), 2.20.2.2(f), 2.20.3, 2.20.4, 2.20.9.3.4 and 2.20.9.5.4—the variances from these “suspension means” provisions are only to the extent necessary to permit the use of Otis Gen2 flat coated steel suspension belts in lieu of conventional steel suspension ropes;
- Inspection transfer switch: 2.26.1.4.4(a) (only to the extent necessary to allow the inspection transfer switch to reside at a location other than a machine room, if, in fact, it does not reside in the machine room); and
- Seismic reset switch: 8.4.10.1.1(a)(2)(b) (only to the extent necessary to allow the seismic reset switch to reside at a location other than a machine room, if, in fact, it does not reside in the machine room).

These variances apply to the locations and numbers of elevators stated in the Section A table (so long as the elevators are Gen2S Group IV devices that are designed, equipped, and installed in accordance with, and are otherwise consistent with, the representations made in the Otis Master File [referred to in previous proposed decisions as the “Gen2 Master File”) maintained by the Board, as that file was constituted at the time of this hearing) and are subject to the following conditions:

1. The suspension system shall comply with the following:
 - a. The coated steel belt and connections shall have factors of safety equal to those permitted for use by Section 3141 [ASME A17.1-2004, Section 2.20.3] on wire rope suspended elevators.
 - b. Steel coated belts that have been installed and used on another installation shall not be reused.

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- c. The coated steel belt shall be fitted with a monitoring device which has been accepted by the Division and which will automatically stop the car if the residual strength of any single belt drops below 60 percent. If the residual strength of any single belt drops below 60 percent, the device shall prevent the elevator from restarting after a normal stop at a landing.
 - d. Upon initial inspection, the readings from the monitoring device shall be documented and submitted to the Division.
 - e. A successful test of the monitoring device's functionality shall be conducted at least once a year (the record of the annual test of the monitoring device shall be a maintenance record subject to ASME A17.1-2004, Section 8.6.1.4).
 - f. The coated steel belts used shall be accepted by the Division.
2. With respect to each elevator subject to this variance, the applicant shall comply with Division Circular Letter E-10-04, the substance of which is attached hereto as Addendum 1 and incorporated herein by this reference.
 3. The Applicant shall not utilize the elevator unless the manufacturer has written procedures for the installation, maintenance, inspection, and testing of the belts and monitoring device and criteria for belt replacement, and the applicant shall make those procedures and criteria available to the Division upon request.
 4. The flat coated steel belts shall be provided with a metal data tag that is securely attached to one of those belts. This data tag shall bear the following flat steel coated belt data:
 - a. The width and thickness in millimeters or inches;
 - b. The manufacturer's rated breaking strength in (kN) or (lbf);
 - c. The name of the person or organization that installed the flat coated steel belts;
 - d. The month and year the flat coated steel belts were installed;
 - e. The month and year the flat coated steel belts were first shortened;
 - f. The name or trademark of the manufacturer of the flat coated steel belts; and
 - g. Lubrication information.

5. There shall be a crosshead data plate of the sort required by Section 2.20.2.1, and that plate shall bear the following flat steel coated belt data:
 - a. The number of belts;
 - b. The belt width and thickness in millimeters or inches; and
 - c. The manufacturer's rated breaking strength per belt in (kN) or (lbf).
6. The opening to the hoistway shall be effectively barricaded when car top inspection, maintenance, servicing, or testing of elevator equipment in the hoistway is required. If service personnel must leave the area for any reason, the hoistway and control room doors shall be closed.
7. If there is an inset car top railing:
 - a. Serviceable equipment shall be positioned so that mechanics and inspectors do not have to climb on railings to perform adjustment, maintenance, repairs or inspections. The applicant shall not permit anyone to stand on or climb over the car top railing.
 - b. The distance that the car top railing may be inset shall be limited to no more than 6 inches.
 - c. All exposed areas outside the car top railing shall preclude standing or placing objects or persons which may fall and shall be beveled from the mid- or top rail to the outside of the car top.
 - d. The top of the beveled area and/or car top outside the railing, shall be clearly marked. The markings shall consist of alternating 4 inch diagonal red and white stripes.
 - e. The applicant shall provide durable signs with lettering not less than ½ inch on a contrasting background on each inset railing; each sign shall state:

**CAUTION
DO NOT STAND ON OR CLIMB OVER RAILING**

- f. The Group IV requirements for car top clearances shall be maintained (car top clearances outside the railing shall be measured from the car top and not from the required bevel).

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8. If the seismic reset switch does not reside in a machine room, that switch shall not reside in the elevator hoistway. The switch shall reside in the inspection and test control panel located in one upper floor hoistway door jamb or in the control space (outside the hoistway) used by the motion controller.
9. If the inspection transfer switch required by ASME A17.1, rule 2.26.1.4.4(a) does not reside in a machine room, that switch shall not reside in the elevator hoistway. The switch shall reside in the inspection and test control panel located in one upper floor hoistway door jamb or in the control space (outside the hoistway) used by the motion controller.
10. When the inspection and testing panel is located in the hoistway door jamb, the inspection and test control panel shall be openable only by use of a Security Group I restricted key.
11. The elevator shall be serviced, maintained, adjusted, tested, and inspected only by Certified Competent Conveyance Mechanics who have been trained to, and are competent to, perform those tasks on the Gen2S elevator system in accordance with the written procedures and criteria required by Condition No. 3 and in accordance with the terms of this permanent variance.
12. The governor speed-reducing switch function shall comply with the following:
 - a. It shall be used only with direct drive machines; i.e., no gear reduction is permitted between the drive motor and the suspension means.
 - b. The velocity encoder shall be coupled to the driving machine motor shaft. The "C" channel of the encoder shall be utilized for velocity measurements required by the speed reducing system. The signal from "C" channel of the encoder shall be verified with the "A" and "B" channels for failure. If a failure is detected then an emergency stop shall be initiated.
 - c. Control system parameters utilized in the speed-reducing system shall be held in non-volatile memory.
 - d. It shall be used in conjunction with approved car-mounted speed governors only.
 - e. It shall be used in conjunction with an effective traction monitoring system that detects a loss of traction between the driving sheave and the suspension means. If a loss of traction is detected, then an emergency stop shall be initiated.

- f. A successful test of the speed-reducing switch system's functionality shall be conducted at least once a year (the record of the annual test of the speed-reducing switch system shall be a maintenance record subject to ASME A17.1-2004, Section 8.6.1.4).
 - g. A successful test of the traction monitoring system's functionality shall be conducted at least once a year (the record of the annual test of the traction monitoring system shall be a maintenance record subject to ASME A17.1-2004, Section 8.6.1.4).
 - h. The Applicant shall not utilize the elevator unless the manufacturer has written procedures for the maintenance, inspection, and testing of the speed-reducing switch and traction monitoring systems. The Applicant shall make the procedures available to the Division upon request.
13. The speed governor rope and sheaves shall comply with the following:
- a. The governor shall be used in conjunction with a 6 mm (0.25 in.) diameter steel governor rope with 6-strand, regular lay construction.
 - b. The governor rope shall have a factor of safety of 8 or greater as related to the strength necessary to activate the safety.
 - c. The governor sheaves shall have a pitch diameter of not less than 180 mm (7.1 in.).
14. Any Certified Qualified Conveyance Company performing inspections, maintenance, servicing, or testing of the elevators shall be provided a copy of this variance decision.
15. The Division shall be notified when the elevator is ready for inspection. The elevator shall be inspected by the Division, and a Permit to Operate shall be issued before the elevator is placed in service.
16. The Applicant shall be subject to the Suspension Means – Replacement Reporting Condition stated in Addendum 2, as hereby incorporated by this reference.
17. The Applicant shall notify its employees or their authorized representative(s), or both, of this order in the same way and to the same extent that employees and authorized representatives are to be notified of docketed permanent variance applications pursuant to California Code of Regulations, Title 8, Sections 411.2 and 411.3.
18. This Decision and Order shall remain in effect unless modified or revoked upon application by the Applicant, affected employee(s), the Division of Occupational Safety

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Otis Gen2S Elevators (Group IV)
Hearing Date: December 18, 2020*

and Health, or by the Board on its own motion, in accordance with procedures per Title 8, Division 1, Chapter 3.5.

Pursuant to California Code of Regulations, Title 8, Section 426(b), the above, duly completed Proposed Decision, is hereby submitted to the Occupational Safety and Health Standards Board for consideration of adoption.

Dated: January 5, 2021


Christina Shupe, Hearing Officer

ADDENDUM 1

October 6, 2010

CIRCULAR LETTER E-10-04

TO: Installers, Manufacturers of Conveyances and Related Equipment and, Other Interested Parties

SUBJECT: Coated Steel Belt Monitoring

The Elevator Safety Orders require routine inspection of the suspension means of an elevator to assure its safe operation.

The California Labor Code Section 7318 allows the Division to promulgate special safety orders in the absence of regulation.

As it is not possible to see the steel cable suspension means of a Coated Steel Belt, a monitoring device which has been accepted by the Division is required on all Coated Steel Belts which will automatically stop the car if the residual strength of any belt drops below 60%. The Device shall prevent the elevator from restarting after a normal stop at a landing.

The monitoring device must be properly installed and functional. A functioning device may be removed only after a determination has been made that the residual strength of each belt exceeds 60%. These findings and the date of removal are to be conspicuously documented in the elevator machine room. The removed device must be replaced or returned to proper service within 30 days.

If upon routine inspection, the monitoring device is found to be in a non-functional state, the date and findings are to be conspicuously documented in the elevator machine room.

If upon inspection by the Division, the monitoring device is found to be non-functional or removed, and the required documentation is not in place, the elevator will be removed from service.

If the device is removed to facilitate belt replacement, it must be properly installed and functional before the elevator is returned to service.

A successful test of the device's functionality shall be conducted once a year.

This circular does not preempt the Division from adopting regulations in the future, which may address the monitoring of Coated Steel Belts or any other suspension means.

This circular does not create an obligation on the part of the Division to permit new conveyances utilizing Coated Steel Belts.

Debra Tudor
Principal Engineer
DOSH-Elevator Unit HQS

ADDENDUM 2

Suspension Means – Replacement Reporting Condition

Beginning on the date the Board adopts this Proposed Decision and continuing for a period of two years, the Applicant shall report to the Division within 30 days any and all replacement activity performed on the elevator(s) pursuant to the requirements of ASME A17.1-2004, Section 8.6.3 involving the suspension means or suspension means fastenings.

Further:

1. A separate report for each elevator shall be submitted, in a manner acceptable to the Division, to the following address (or to such other address as the Division might specify in the future): DOSH Elevator Unit, 2 MacArthur Place, Suite 700, Santa Ana, CA 92707, Attn: Engineering Section.
2. Each such report shall contain, but not necessarily be limited to, the following information:
 - a. The State-issued conveyance number, complete address, and OSHSB file number that identifies the permanent variance.
 - b. The business name, complete address, telephone number, and contact person of the elevator responsible party (presumably the Applicant or the subsequent holder of this variance).
 - c. The business name, complete address, telephone number, and Certified Qualified Conveyance Company (CQCC) certification number of the firm performing the replacement work.
 - d. The name (as listed on certification), Certified Competent Conveyance Mechanic (CCCM) certification number, certification expiration date, and signature of each CCCM performing the replacement work.
 - e. The date and time the elevator was removed from normal service for suspension replacement, the date and time the replacement work commenced, the date and time the replacement work was completed, and the date and time the elevator was returned to normal service.

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- f. A detailed description of, and clear color photographs depicting, (1) all the conditions that existed in the suspension components requiring their replacement and (2) any conditions that existed to cause damage or distress to the suspension components being replaced.
 - g. A detailed list of all elevator components adjusted, repaired, or replaced in conjunction with the suspension component replacement.
 - h. All information provided on the crosshead data plate per ASME A17.1-2004, Section 2.20.2.1, unless that ASME requirement is modified by the conditions of a variance that pertains to the elevator in question, in which case, the information to be reported shall be the information required by the ASME provision as modified by the variance.
 - i. For the suspension means being replaced, all information provided on the data tag required per ASME A17.1-2004, Section 2.20.2.2, unless that ASME requirement is modified by the conditions of a variance that pertains to the elevator in question, in which case, the information to be reported shall be the information required by the ASME provision as modified by the variance.
 - j. For the replacement suspension means, all information provided on the data tag required by ASME A17.1-2004, Section 2.20.2.2, unless that ASME requirement is modified by the conditions of a variance that pertains to the elevator in question, in which case, the information to be reported shall be the information required by the ASME provision as modified by the variance.
 - k. Any other information requested by the Division regarding the replacement of the suspension means or fastenings.
3. In addition to the submission of the report to the Division, the findings of any testing, failure analysis, or other engineering evaluations performed on any portion of the replaced suspension components, or other elevator components replaced in conjunction therewith, shall be submitted to the Division referencing the information contained in item 2a above.

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
2520 Venture Oaks Way, Suite 350
Sacramento, California 95833
(916) 274-5721

In the Matter of Application for Permanent)
Variance Regarding:)
)
)
KONE Monospace 500 Elevators)
)
_____)

OSHSB FILE No.: see grid in Item A of
Proposed Decision Dated: January 5, 2021

DECISION

The Occupational Safety and Health Standards Board hereby adopts the attached PROPOSED DECISION by Christina Shupe, Hearing Officer.

DAVID THOMAS, Chairman

BARBARA BURGEL, Member

KATHLEEN CRAWFORD, Member

DAVID HARRISON, Member

NOLA KENNEDY, Member

CHRIS LASZCZ-DAVIS, Member

LAURA STOCK, Member

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD

Date of Adoption: January 21, 2021

THE FOREGOING VARIANCE DECISION WAS ADOPTED ON THE DATE INDICATED ABOVE. IF YOU ARE DISSATISFIED WITH THE DECISION, A PETITION FOR REHEARING MAY BE FILED BY ANY PARTY WITH THE STANDARDS BOARD WITHIN TWENTY (20) DAYS AFTER SERVICE OF THE DECISION. YOUR PETITION FOR REHEARING MUST FULLY COMPLY WITH THE REQUIREMENTS OF CALIFORNIA CODE OF REGULATIONS, TITLE 8, SECTIONS 427, 427.1 AND 427.2.

Note: A copy of this Decision must be posted for the Applicant's employees to read, and/or a copy thereof must be provided to the employees' Authorized Representatives.

BEFORE THE
 OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
 DEPARTMENT OF INDUSTRIAL RELATIONS
 STATE OF CALIFORNIA

<p>In the Matter of Application for Permanent Variance Regarding:</p> <p style="text-align: center;">KONE Monospace 500 Elevators (Group IV)</p>	<p>OSHSB File Nos.: Per Section A.1 Grid Below</p> <p style="text-align: center;"><u>PROPOSED DECISION</u></p> <p>Hearing Date: December 18, 2020</p>
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A. Subject Matter:

- Each below listed applicant (“Applicant”) applied for a permanent variance from provisions of the Elevator Safety Orders, found at Title 8 of the California Code of Regulations, with respect to a conveyance, or conveyances, in the listed quantity, at the listed location:

Variance No.	Applicant Name	Variance Location Address	No. of Elevators
20-V-402	Google B40 LLC	1600 Amphitheater Parkway Mountain View, CA	1
20-V-403	The Regents of the University of California	Building A 76000 Verano Road Irvine, CA	2
20-V-404	The Regents of the University of California	Building B 75000 Verano Road Irvine, CA	2
20-V-405	The Regents of the University of California	Building C 74000 Verano Road Irvine, CA	2
20-V-406	The Regents of the University of California	Building D 73000 Verano Road Irvine, CA	2
20-V-407	The Regents of the University of California	Building E 71000 Verano Road Irvine, CA	2

Proposed Variance Decision
KONE Monospace 500 Elevators
Hearing Date: December 18, 2020

20-V-408	The Regents of the University o California	Parking Garage 601 California Avenue Irvine, CA	2
20-V-409	12444 Venice Investments, LP	12444 Venice Blvd Los Angeles, CA	2
20-V-418	BSD Beverly Hills Propco, LLC	9200 Wilshire Blvd. Beverly Hills, CA	2
20-V-419	Garden Brook Pacific Associates LP	10080 Garden Grove Blvd. Garden Grove, CA	3
20-V-420	Hollywood Park Retail/Commeial Investors, LLC	1213 S. District Drive Inglewood, CA	3

2. The subject Title 8, safety order requirements are set out within California Code of Regulations, Title 8, Section 3141 incorporated ASME A17.1-2004, Sections 2.18.5.1 and 2.20.4.

B. Procedural:

1. This hearing was held on December 18, 2020, in Sacramento, California and via teleconference, by delegation of the Occupational Safety and Health Standards Board (“Board”), with Hearing Officer Christina Shupe, both presiding and hearing the matter on its merit, as a basis of proposed decision to be advanced to the Board for its consideration, in accordance with California Code of Regulations, Title 8, Section 426.
2. At the hearing, Manish Sablok, with KONE, Inc., appeared on behalf of each Applicant; David Morris appeared on behalf of the Division of Occupational Safety and Health (“Division”), and Michael Nelmidia appeared on behalf of Board staff in a technical advisory capacity apart from the Board.
3. Documentary and oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence: permanent variance applications per Section A.1 table as Exhibit PD-1, Notice of Hearing as Exhibit PD-2, Board staff Pending Application Memorandum as PD-3, Division Review of Application as PD-4, Review Draft 1 Proposed Decision as PD-5, and official notice taken of the Board’s rulemaking records and variance decisions concerning the safety order requirements from which variance is sought. Upon close of hearing on December 18, 2020, the record closed and the matter was taken under submission by the Hearing Officer.

Proposed Variance Decision

KONE Monospace 500 Elevators

Hearing Date: December 18, 2020

C. Findings of Fact—Based on the record of this proceeding, the Board finds the following:

1. Each respective Applicant intends to utilize the KONE Inc. Monospace 500 type elevator, in the quantity, at the location, specified per the above Section A.1 table.
2. The installation contract for this elevator was or will be signed on or after May 1, 2008, thus making the elevator subject to the Group IV Elevator Safety Orders.
3. Each Applicant proposes to use hoisting ropes that are 8 mm in diameter which also consist of 0.51 mm diameter outer wires, in variance from the express requirements of ASME A17.1-2004, Section 2.20.4.
4. In relevant part, ASME A17.1-2004, Section 2.20.4 states:

2.20.4 Minimum Number and Diameter of Suspension Ropes

...The minimum diameter of hoisting and counterweight ropes shall be 9.5 mm (0.375 in.). Outer wires of the ropes shall be not less than 0.56 mm (0.024 in.) in diameter.

5. An intent of the afore cited requirement of ASME A17.1-2004, Section 2.20.4, is to ensure that the number, diameter, and construction of suspension ropes are adequate to provided safely robust and durable suspension means over the course of the ropes' foreseen service life.
6. KONE has represented to Division and Board staff, having established an engineering practice for purposes of Monospace 500 elevator design, of meeting or exceeding the minimum factor of safety of 12 for 8 mm suspension members, as required in ASME A17.1-2010, Section 2.20.3—under which, given that factor of safety, supplemental broken suspension member protection is not required.
7. Also, each Applicant proposes as a further means of maintaining safety equivalence, monitoring the rope in conformity with the criteria specified within the *Inspector's Guide to 6 mm Diameter Governor and 8 mm Diameter Suspension Ropes for KONE Elevators* (per Application attachment "B", or as thereafter revised by KONE subject to Division approval).
8. In addition, each Applicant has proposed to utilize 6 mm diameter governor ropes in variance from Title 8, Section 3141, incorporated ASME A17.1-2004, Section 2.18.5.1.
9. ASME A17.1-2004, Section 2.18.5.1, specifies, in relevant part:

2.18.5.1 Material and Factor of Safety.

... [Governor ropes] not less than 9.5 mm (0.375 in.) in diameter. The factor of safety of governor ropes shall be not less than 5...

10. The Board takes notice of Title 8, Elevator Safety Order Section 3141.7, subpart (a)(10):

A reduced diameter governor rope of equivalent construction and material to that required by ASME A17.1-2004, is permissible if the factor of safety as related to the strength necessary to activate the safety is 5 or greater;

11. Applicants propose use of 6mm governor rope having a safety factor of 5 or greater, in conformity with Section 3141.7(a)(10), the specific parameters of which, being expressly set out within Title 8, Elevator Safety Orders, take precedence over more generally referenced governor rope diameter requirements per ASME A17.1-2004, Section 2.18.5.1. Accordingly, the governor rope specifications being presently proposed, inclusive of a factor of safety of 5 or greater, would comply with current Title 8, Elevator Safety Orders requirements, and therefore not be subject to issuance of permanent variance.

12. Absent evident diminution in elevator safety, over the past decade the Board has issued numerous permanent variances for use in KONE (Ecospace) elevator systems of 8 mm diameter suspension rope materially similar to that presently proposed (e.g. OSHSB File Nos. 06-V-203, 08-V-245, and 13-V-303).

13. As noted by the Board in OSHSB File Nos. 18-V-044, and 18-V-045, Decision and Order Findings, subpart B.17 (hereby incorporated by reference), the strength of wire rope operating as an elevator's suspension means does not remain constant over its years of projected service life. With increasing usage cycles, a reduction in the cross-sectional area of the wire rope normally occurs, resulting in decreased residual strength. This characteristic is of particular relevance to the present matter because, as also noted by Board staff, decreasing wire rope diameter is associated with a higher rate of residual strength loss. This foreseeable reduction in cross-sectional area primarily results from elongation under sheave rounding load, as well as from wear, and wire or strand breaks. However, these characteristics need not compromise elevator safety when properly accounted for in the engineering of elevator suspension means, and associated components.

14. The presently proposed wire rope is Wuxi Universal steel rope Co LTD. 8 mm 8x19S+8x7+PP, with a manufacturer rated breaking strength of 35.8 kN, and an outer wire diameter of less than 0.56 mm, but not less than 0.51 mm. Both Board staff and Division safety engineers have scrutinized the material and structural specifications, and

performance testing data, of this particular proposed rope, and conclude it will provide for safety equivalent to ESO compliant 9.5 mm wire rope, with 0.56 mm outer wire (under conditions of use included within the below Decision and Order).

15. The applicant supplies tabulated data regarding the “Maximum Static Load on All Suspension Ropes.” To obtain the tabulated data, the applicant uses the following formula derived from ASME A17.1 2004, Section 2.20.3:

$$W = (S \times N) / f$$

where

W = maximum static load imposed on all car ropes with the car and its rated load at any position in the hoistway

N = number of runs of rope under load. For 2:1 roping, N shall be two times the number of ropes used, etc.

S = manufacturer's rated breaking strength of one rope

f = the factor of safety from Table 2.20.3

16. ASME A17.1-2010 Sections 2.20.3 and 2.20.4 utilize the same formula, but provide for use of suspension ropes having a diameter smaller than 9.5 mm, under specified conditions, key among them being that use of ropes having a diameter of between 8 mm to 9.5 mm be engineered with a factor of safety of 12 or higher. This is a higher minimum factor of safety than that proposed by Applicant, but a minimum recommended by both Board staff and Division as a condition of variance necessary to the achieving of safety equivalence to 9.5 mm rope.
17. Board staff and Division are in accord with Applicant, in proposing as a condition of safety equivalence, that periodic physical examination of the wire ropes be performed to confirm the ropes continue to meet the criteria set out in the (Application attachment) *Inspector's Guide to 6 mm Diameter Governor and 8 mm Diameter Suspension Ropes for KONE Elevators*. Adherence to this condition will provide an additional assurance of safety equivalence, regarding smaller minimum diameter suspension rope outer wire performance over the course of its service life.
18. Both Board staff, and Division, by way of written submissions to the record (Exhibits PD-3 and PD-4 respectively), and stated positions at hearing, are of the well informed opinion that grant of permanent variance, as limited and conditioned per the below Decision and Order will provide employment, places of employment, and subject conveyances, as safe and healthful as would prevail given non-variant conformity with the Elevator Safety Order requirements from which variance has been requested.

D. Conclusive Findings:

The above stated procedural prerequisites, legal authority, and factual findings, as further supported by the documentary record and hearing testimony in this matter, provide a substantive and reasonable basis of conclusion that: (1) Each Applicant has complied with the statutory and regulatory requirements that must be met before an application for permanent variance may be conditionally granted; and (2) a preponderance of the evidence establishes that each Applicants proposal, subject to all conditions and limitations set forth in the below Decision and Order, will provide equivalent safety and health to that which would prevail upon full compliance with the requirements of California Code of Regulation, Title 8, Elevator Safety Orders from which variance is being sought.

E. Decision and Order:

Each Application being the subject of this proceeding, per above Section A.1 table, is conditionally GRANTED, to the extent that each such Applicant shall be issued permanent variance from California Code of Regulations, Title 8, Section 3141 incorporated ASME A17.1-2004, Section 2.20.4, in as much as it precludes use of suspension rope of between 8 mm and 9.5 mm, or outer wire of between 0.51 mm and 0.56 mm in diameter, at such locations and numbers of Group IV KONE Monospace 500 elevators identified in each respective Application, subject to the following conditions:

1. The diameter of the hoisting steel ropes shall be not less than 8 mm (0.315 in) diameter and the roping ratio shall be two to one (2:1).
2. The outer wires of the suspension ropes shall be not less than 0.51 mm (0.02 in.) in diameter.
3. The number of suspension ropes shall be not fewer than those specified per hereby incorporated Decision and Order Appendix 1 Table.
4. The ropes shall be inspected annually for wire damage (rouge, valley break etc.) in accordance with "KONE Inc. Inspector's Guide to 6 mm diameter and 8 mm diameter steel ropes for KONE Elevators" (per Application Exhibit B, or as thereafter amended by KONE subject to Division approval).
5. A rope inspection log shall be maintained and available in the elevator controller room / space at all times.
6. The elevator rated speed shall not exceed those speeds specified per the Decision and Order Appendix 1 Table.
7. The maximum suspended load shall not exceed those weights (plus 5%) specified per the Decision and Order Appendix 1 Table.

Proposed Variance Decision

KONE Monospace 500 Elevators

Hearing Date: December 18, 2020

8. The opening to the hoistway shall be effectively barricaded when car top inspection, maintenance, servicing, or testing of the elevator equipment in the hoistway is required. If the service personnel must leave the area for any reason, the hoistway and control room doors shall be closed.
9. The installation shall meet the suspension wire rope factor of safety requirements of ASME A17.1-2013 Section 2.20.3.
10. Any Certified Qualified Conveyance Company performing inspections, maintenance, servicing or testing the elevators shall be provided a copy of this variance decision.
11. The Division shall be notified when the elevator is ready for inspection. The elevator shall be inspected by the Division and a "Permit to Operate" issued before the elevator is placed in service.
12. The Applicant shall comply with suspension means replacement reporting condition per hereby incorporated Decision and Order Appendix 2.
13. The Applicant shall notify its employees or their authorized representative(s), or both, of this order in the same way and to the same extent that employees and authorized representatives are to be notified of docketed permanent variance applications pursuant to California Code of Regulations, Title 8, Sections 411.2 and 411.3.
14. This Decision and Order shall remain in effect unless modified or revoked upon application by the Applicant, affected employee(s), the Division of Occupational Safety and Health, or by the Board on its own motion, in accordance with procedures per Title 8, Division 1, Chapter 3.5.

Pursuant to California Code of Regulations, Title 8, Section 426(b), the above, duly completed Proposed Decision, is hereby submitted to the Occupational Safety and Health Standards Board for consideration of adoption.

Dated: January 5, 2021


Christina Shupe, Hearing Officer

Appendix 1

Monospace 500 Suspension Ropes Appendix 1 Table				
OSHSB File No.	Elevator ID	Minimum Quantity of Ropes (per Condition 3)	Maximum Speed in Feet per Minute (per Condition 6)	Maximum Suspended Load (per Condition 7)
20-V-402	1	7	150	12,247
20-V-403	A1	7	200	11,556
20-V-403	A2	7	200	11,556
20-V-404	B1	7	200	11,556
20-V-404	B2	7	200	11,556
20-V-405	C1	7	200	11,556
20-V-405	C2	7	200	11,556
20-V-406	D1	7	200	11,556
20-V-406	D2	7	200	11,556
20-V-407	E1	7	200	11,556
20-V-407	E2	7	200	11,556
20-V-408	P1	7	200	11,556
20-V-408	P2	7	200	11,556
20-V-409	1	8	200	13,207
20-V-409	2	8	200	13,207
20-V-418	1	6	200	9,905

Proposed Variance Decision
KONE Monospace 500 Elevators
Hearing Date: December 18, 2020

20-V-418	2	6	200	9,905
20-V-419	1	8	350	11,706
20-V-419	2	8	350	11,706
20-V-419	3	8	350	11,706
20-V-420	1	7	150	12,247
20-V-420	2	7	150	12,247
20-V-420	3	7	150	12,247

Appendix 2

Suspension Means Replacement Reporting Condition

Beginning on the date the Board adopts this Proposed Decision and continuing for a period of two years, the Applicant shall report to the Division within 30 days any and all replacement activity performed on the elevator(s) pursuant to the requirements of ASME A17.1-2004, Section 8.6.3 involving the suspension means or suspension means fastenings. Further:

1. A separate report for each elevator shall be submitted, in a manner acceptable to the Division, to the following address (or to such other address as the Division might specify in the future): DOSH Elevator Unit, 2 MacArthur Place, Suite 700, Santa Ana, CA 92707, Attn: Engineering Section.
2. Each such report shall contain, but not necessarily be limited to, the following information:
 - a. The State-issued conveyance number, complete address, and OSHSB file number that identifies the permanent variance.
 - b. The business name, complete address, telephone number, and contact person of the elevator responsible party (presumably the Applicant or the subsequent holder of this variance).
 - c. The business name, complete address, telephone number, and Certified Qualified Conveyance Company (CQCC) certification number of the firm performing the replacement work.
 - d. The name (as listed on certification), Certified Competent Conveyance Mechanic (CCCM) certification number, certification expiration date, and signature of each CCCM performing the replacement work.
 - e. The date and time the elevator was removed from normal service for suspension replacement, the date and time the replacement work commenced, the date and time the replacement work was completed, and the date and time the elevator was returned to normal service.
 - f. A detailed description of, and clear color photographs depicting, (1) all the conditions that existed in the suspension components requiring their replacement and (2) any conditions that existed to cause damage or distress to the suspension components being replaced.

Proposed Variance Decision

KONE Monospace 500 Elevators

Hearing Date: December 18, 2020

- g. A detailed list of all elevator components adjusted, repaired, or replaced in conjunction with the suspension component replacement.
 - h. All information provided on the crosshead data plate per ASME A17.1-2004, Section 2.20.2.1, unless that ASME requirement is modified by the conditions of a variance that pertains to the elevator in question, in which case, the information to be reported shall be the information required by the ASME provision as modified by the variance.
 - i. For the suspension means being replaced, all information provided on the data tag required per ASME A17.1-2004, Section 2.20.2.2, unless that ASME requirement is modified by the conditions of a variance that pertains to the elevator in question, in which case, the information to be reported shall be the information required by the ASME provision as modified by the variance.
 - j. For the replacement suspension means, all information provided on the data tag required by ASME A17.1-2004, Section 2.20.2.2, unless that ASME requirement is modified by the conditions of a variance that pertains to the elevator in question, in which case, the information to be reported shall be the information required by the ASME provision as modified by the variance.
 - k. Any other information requested by the Division regarding the replacement of the suspension means or fastenings.
3. In addition to the submission of the report to the Division, the findings of any testing, failure analysis, or other engineering evaluations performed on any portion of the replaced suspension components, or other elevator components replaced in conjunction therewith, shall be submitted to the Division referencing the information contained in above Appendix 2, Section 2, Subsection (a), above.

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
2520 Venture Oaks Way, Suite 350
Sacramento, California 95833
(916) 274-5721

In the Matter of Application for Permanent)
Variance Regarding:)
)
)
Schindler Model 3300 Elevators (Group IV))
)
_____)

OSHSB FILE No.: see grid in Item A of
Proposed Decision Dated: January 5, 2021

DECISION

The Occupational Safety and Health Standards Board hereby adopts the attached PROPOSED DECISION by Christina Shupe, Hearing Officer.

DAVID THOMAS, Chairman

BARBARA BURGEL, Member

KATHLEEN CRAWFORD, Member

DAVID HARRISON, Member

NOLA KENNEDY, Member

CHRIS LASZCZ-DAVIS, Member

LAURA STOCK, Member

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD

Date of Adoption: January 21, 2021

THE FOREGOING VARIANCE DECISION WAS ADOPTED ON THE DATE INDICATED ABOVE. IF YOU ARE DISSATISFIED WITH THE DECISION, A PETITION FOR REHEARING MAY BE FILED BY ANY PARTY WITH THE STANDARDS BOARD WITHIN TWENTY (20) DAYS AFTER SERVICE OF THE DECISION. YOUR PETITION FOR REHEARING MUST FULLY COMPLY WITH THE REQUIREMENTS OF CALIFORNIA CODE OF REGULATIONS, TITLE 8, SECTIONS 427, 427.1 AND 427.2.

Note: A copy of this Decision must be posted for the Applicant's employees to read, and/or a copy thereof must be provided to the employees' Authorized Representatives.

BEFORE THE
 OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
 DEPARTMENT OF INDUSTRIAL RELATIONS
 STATE OF CALIFORNIA

<p>In the Matter of Application for Permanent Variance Regarding:</p> <p style="text-align: center;">Schindler Model 3300 Elevators (Group IV)</p>	<p>OSHSB File Nos.: Per Section A table, below</p> <p style="text-align: center;"><u>PROPOSED DECISION</u></p> <p>Hearing Date: December 18, 2020</p>
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A. Subject Matter and Jurisdiction:

1. Each below listed applicant (“Applicant”) has applied for permanent variance from certain provisions of the Elevator Safety Orders, found at Title 8, of the California Code of Regulations, with respect to a conveyance, or conveyances, in the listed quantity, at the listed location:

Variance N.	Applicant Name	Variance Location Address	No. of Elevators
20-V-422	17 Central Investors, LLC	1026 17th Street Sacramento, CA	2
20-V-423	2719 K Street, LLC	2719 K Street Sacramento, CA	2

2. This proceeding is conducted in accordance with Labor Code Section 143, and California Code of Regulations, Title 8, Section 401, et. seq.
3. The safety orders at issue are set out in below Section C.1—C.4.

B. Process and Procedure:

1. This hearing was held on December 18, 2020, in Sacramento, California, via teleconference, by Occupational Safety and Health Standards Board (“Board”), with Hearing Officer Christina Shupe, both presiding and hearing the matter on its merit, as a basis of proposed decision to be advanced to the Board for its consideration, in accordance with California Code of Regulations, Title 8, Section 426.
2. At the hearing, Jennifer Linares, with the Schindler Elevator Company, appeared on behalf of each Applicant; David Morris appeared on behalf of the Division of Occupational Safety and Health (“Division”), and Michael Nelmda appeared on behalf of Board staff, in a technical advisory role apart from the Board.

3. Oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence: each respective permanent variance applications per Section A table as Exhibit PD-1, Notice of Hearing as Exhibit PD-2, Board staff Pending Application Memorandum as PD-3, Division Review of Application as PD-4, Review Draft 1 Proposed Decision as PD-5, and official notice taken of the Board’s rulemaking records, and variance decisions concerning the safety order requirements from which variance is requested. At close of hearing on December 18, 2020, the record was closed, and the matter taken under submission by the Hearing Officer.

C. Findings of Fact—Based upon the record of this proceeding, the Board finds the following:

Requested Suspension Means Related Variance:

1. As each pertains to the non-circular elastomeric coated suspension means characteristic of the Schindler Model 3300 elevator, each Applicant presently seeks permanent variance from the following Title 8, Elevator Safety Order incorporated ASME Safety Code for Elevators and Escalators (ASME Code) A17.1-2004, sections and subsections:

- Section 2.20.1—Wire rope suspension means
- Section 2.20.2.1—Crosshead data plate
- Subsection 2.20.2.2(a)—Wire rope data tag
- Subsection 2.20.2.2(f)—ID of steel wire rope as preformed or nonpreformed
- Section 2.20.3—Wire rope safety factor
- Section 2.20.4—Number and diameter of wire ropes
- Section 2.20.9.3.4—Wire rope end connections
- Section 2.20.9.5.4—Wire rope sockets

Requested Car Top Railing Inset Variance:

2. As it pertains to top of car railing placement requiring space occupied by upper hoistway mounted elevator machinery characteristic of the Schindler Model 3300 elevator, each Applicant presently seeks permanent variance from the following Title 8, Elevator Safety Order incorporated ASME Code A17.1-2004, section:

Section 2.14.1.7.1—Top of Car Perimeter Railing Placement

Requested Seismic Reset Switch Placement Variance:

3. As it pertains to installation of the requisite seismic reset switch within a “machine room” location incompatible with machine-room-less design of the Schindler Model

Proposed Variance Decision
Schindler Model 3300 Elevators (Group IV)
Hearing Date: December 18, 2020

3300 elevator, each Applicant presently seeks permanent variance from the following Title 8, Elevator Safety Order incorporated ASME Code subsection:

Subsection 8.4.10.1.1(a)(2)(b)--Seismic Reset Switch Placement in Machine Room

Requested Transfer Switch Placement Variance:

4. As it pertains to installation of the requisite transfer switch within a “machine room” location incompatible with machine-room-less design of the Schindler Model 3300 elevator, each Applicant presently seeks permanent variance from the following Title 8, Elevator Safety Order incorporated ASME Code A17.1-2004, subsection:

Subsection 2.26.1.4.4(a)--Transfer Switch Placement in Machine Room

Official Notice and Incorporation by Reference—OSHSB File No. 15-V-349:

5. Per hereby entered stipulation offered at hearing by Applicant, Division, and Board staff, concerning preexisting Board records, including decisions in matters of permanent variance from Elevator Safety Order requirements, the Board takes Official Notice and expressly incorporates herein by reference, OSHSB File No. 15-V-349, Decision and Order adopted November 17, 2016, Section D.1—D.75 findings, and therein entered record upon which it was based.

Positions of Division, and Board Staff:

6. Having fully reviewed each Applicant’s request for variance from the above identified Elevator Safety Order requirements, it is the concurrent opinion of Division and Board staff, that conditionally limited grant to each Applicant of permanent variance as specified per the below Decision and Order, will provide for elevator safety, and occupational safety and health, equivalent or superior to that of the Elevator Safety Order requirements from which variance is being sought. The present opinion of Division and Board staff, to any extent it may vary from those previously held with respect to the previously heard matter in OSHSB File No. 15-V-349, reflects further scrutiny of the subject matter, consultation between the Division, Board staff, Applicant representatives, and refinement of recommended conditions and limitations.

D. Conclusive Findings:

The above stated procedural prerequisites, legal authority, and factual findings, as further supported by the documentary record and hearing testimony in this matter, provide a

*Proposed Variance Decision
Schindler Model 3300 Elevators (Group IV)
Hearing Date: December 18, 2020*

substantive and reasonable basis of conclusion that: (1) Each Applicant has complied with the statutory and regulatory requirements that must be met before an application for permanent variance may be conditionally granted, and (2) a preponderance of the evidence establishes that each Applicant's proposal, subject to all conditions and limitations set forth in the below Decision and Order, will provide equivalent safety and health to that which would prevail upon full compliance with the requirements of California Code of Regulation, Title 8, Elevator Safety Orders from which variance is being sought.

E. Decision and Order:

Each Section A table identified Applicant is hereby conditionally GRANTED Permanent Variance as specified below, and to the limited extent, as of the date the Board adopts this Proposed Decision, with respect to the Section A specified number of Schindler Model 3300 elevator(s), at the specified location, each shall conditionally hold permanent variance from the following subparts of ASME A17.1-2004, currently incorporated by reference into California Code of Regulations, Title 8, Section 3141.

Suspension Members: Each Applicant shall conditionally hold permanent variance from the following Title 8, Section 3141, incorporated sections and subsections of ASME A17.12004, to the limited extent variance is necessary to provide for use of noncircular elastomeric-coated steel suspension members and concomitant components, and configurations—Section 2.20.1; Section 2.20.2.1; Subsection 2.20.2.2(a); Subsection 2.20.2.2(f); Section 2.20.3; Section 2.20.4: Section 2.20.9.3.4; and Section 2.20.9.5.4.

Inspection Transfer Switch: Each Applicant shall conditionally hold permanent variance from certain requirements of the following Title 8, Section 3141 incorporated section of ASME A17.1-2004, to the extent variance is necessary to having the requisite inspection transfer switch located elsewhere than a machine room, within a Security Group I enclosure built into an upper floor landing door jam, or within other readily accessible and secure space shared with the motion controller outside the hoistway: Section 2.26.1.4.4.

Seismic Safety Switch Placement: Each Applicant shall conditionally hold permanent variance from certain requirements of the following Title 8, Section 3141, incorporated section of ASME A17.1-2004, to the limited extent variance is necessary to having the requisite seismic reset switch located elsewhere than a machine room, within a Security Group I enclosure built into an upper floor landing door jam, or within other readily accessible and secure space shared with the motion controller outside the hoistway: Section 8.4.10.1.1.

Car Top Railing: Each Applicant shall conditionally hold permanent variance from certain requirements of the following Title 8, Section 3141, incorporated section of ASME A17.1-2004, to the limited extent variance is necessary to provide for the below specified inseting of the subject elevator's top of car railing: Section 2.14.1.7.1.

Further Conditions and Limitations:

1. The elevator suspension system shall comply to the following:
 - 1.1. The suspension traction media (STM) members and their associated fastenings shall conform to the applicable requirements of ASME A17.1-2013, sections:
 - 2.20.4.3 – Minimum Number of Suspension Members
 - 2.20.3 – Factor of Safety
 - 2.20.9 – Suspension Member Fastening
 - 1.1.1 Additionally, STMs shall meet or exceed all requirements of ASME 17.6-2010, Standard for Elevator Suspension, Compensation, and Governor Systems, Part 3 Noncircular Elastomeric Coated Steel Suspension Members for Elevators.
 - 1.2. The Applicant shall not utilize the elevator unless the manufacturer has written procedures for the installation, maintenance, inspection and testing of the STM members and fastenings and related monitoring and detection systems and criteria for STM replacement, and the Applicant shall make those procedures and criteria available to the Certified Competent Conveyance Mechanic (CCCM) at the location of the elevator, and to the Division of Occupational Safety and Health (Division) upon request.
 - 1.3. STM member mandatory replacement criteria shall include:
 - 1.3.1 Any exposed wire, strand or cord;
 - 1.3.2 Any wire, strand or cord breaks through the elastomeric coating;
 - 1.3.3 Any evidence of rouging (steel tension element corrosion) on any part of the elastomeric coated steel suspension member;
 - 1.3.4 Any deformation in the elastomeric suspension member such as, but not limited to, kinks or bends.
 - 1.4. Traction drive sheaves must have a minimum diameter of 72 mm. The maximum speed of STM members running on 72 mm, 87 mm and 125 mm drive sheaves shall be no greater than 2.5 m/s, 6.0 m/s and 8.0 m/s respectively.

Proposed Variance Decision

Schindler Model 3300 Elevators (Group IV)

Hearing Date: December 18, 2020

- 1.5. If any one STM member needs replacement, the complete set of suspension members on the elevator shall be replaced. Exception: If a new suspension member is damaged during installation, and prior to any contemporaneously installed STM having been placed into service, it is permissible to replace the individual damaged suspension member. STM members that have been installed on another installation shall not be re-used.
- 1.6. A traction loss detection means shall be provided that conforms to the requirements of ASME A17.1-2013, Section 2.20.8.1. The means shall be tested for correct function annually in accordance with ASME A17.1-2013, section 8.6.4.19.12.
- 1.7. A broken suspension member detection means shall be provided that conforms to the requirements of ASME A17.1-2013, Section 2.20.8.2. The means shall be tested for correct function annually in accordance with ASME A17.1-2013, section 8.6.4.19.13(a).
- 1.8. An elevator controller integrated bend cycle monitoring system shall monitor actual STM bend cycles, by means of continuously counting, and storing in nonvolatile memory, the number of trips that the STM makes traveling, and thereby being bent, over the elevator sheaves. The bend cycle limit monitoring means shall automatically stop the car normally at the next available landing before the bend cycle correlated residual strength of any single STM member drops below 80 percent of full rated strength. The monitoring means shall prevent the car from restarting. Notwithstanding any less frequent periodic testing requirement per Addendum 1 (Division Circular Letter), the bend cycle monitoring system shall be tested semi-annually in accordance with the procedures required per above Conditions 1.2, and 1.3.
- 1.9. Each elevator shall be provided with a device that electronically detects a reduction in residual strength of each STM member. The device shall be in compliance with Division Circular Letter E-10-04, a copy of which is attached hereto as Addendum 1, and incorporated herein by reference.
- 1.10. The elevator crosshead data plate shall comply with the requirements of ASME A17.1-2013, Section 2.20.2.1.
- 1.11. A suspension means data tag shall be provided that complies with the requirements of ASME A17.1-2013, Section 2.20.2.2.

Proposed Variance Decision

Schindler Model 3300 Elevators (Group IV)

Hearing Date: December 18, 2020

- 1.12. Comprehensive visual inspections of the entire length of each and all installed suspension members, in conformity with above Conditions 1.2 and 1.3 specified criteria, shall be conducted and documented every six months by a CCCM.
 - 1.13. The Applicant shall be subject to the requirements per hereto attached, and inhere incorporated, Addendum 2, "Suspension Means Replacement Reporting Condition."
 - 1.14. Records of all tests and inspections shall be maintenance records subject to ASME A17.1-2004, Sections 8.6.1.2, and 8.6.1.4, respectively.
2. Inspection Transfer switch and Seismic Reset switch placement and enclosure shall comply with the following:
- 2.1. If the inspection transfer switch required by ASME A17.1-2004, Rule 2.26.1.4.4, does not reside in a machine room, that switch shall not reside in the elevator hoistway. The switch shall reside in the control/machinery room/space containing the elevator's control equipment in an enclosure secured by a lock openable by a Group 1 security key. The enclosure is to remain locked at all times when not in use.
 - 2.2. If the seismic reset switch does not reside in the machine room, that switch shall not reside in the elevator hoistway. The switch shall reside in the control/machinery room/space containing the elevator's control equipment in an enclosure secured by a lock openable by a Group 1 security key. The enclosure is to remain locked at all times when not in use.
3. Any and all inset car top railing shall comply with the following:
- 3.1. Serviceable equipment shall be positioned so that mechanics and inspectors do not have to stand on or climb over the railings to perform adjustments, maintenance, repairs or inspections. The Applicant shall not permit anyone to stand or climb over the car top railing.
 - 3.2. The distance that the railing can be inset shall be limited to not more than 6 inches.
 - 3.3. All exposed areas of the car top outside the car top railing where the distance from the railing to the edge of the car top exceeds 2 inches, shall be beveled with metal, at an angle of not less than 75 degrees with the horizontal, from the mid or top rail to the outside of the car top, such that no person or object can stand, sit, kneel, rest, or be placed in the exposed areas.

Proposed Variance Decision

Schindler Model 3300 Elevators (Group IV)

Hearing Date: December 18, 2020

- 3.4. The top surface of the beveled area and/or car top outside the railing, shall be clearly marked. The markings shall consist of alternating 4 inch diagonal red and white stripes.
- 3.5. The applicant shall provide durable signs with lettering not less than 1/2 inch on a contrasting background on each inset railing; each sign shall state:

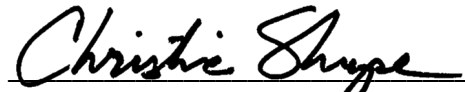
CAUTION
STAY INSIDE RAILING
NO LEANING BEYOND RAILING
NO STEPPING ON, OR BEYOND, RAILING

- 3.6. The Group IV requirements for car top clearances shall be maintained (car top clearances outside the railing will be measured from the car top and not from the required bevel).
4. The elevator shall be serviced, maintained, adjusted, tested, and inspected only by CCCM having been trained, and competent, to perform those tasks on the Schindler Model 3300 elevator system in accordance with written procedures and criteria, including as required per above Conditions 1.2, and 1.3.
5. The Division shall be notified when the elevator is ready for inspection. The elevator shall be inspected by the Division, and all applicable requirements met, including conditions of this permanent variance, prior to a Permit to Operate the elevator being issued. The elevator shall not be placed in service prior to the Permit to Operate being issued by Division.
6. The Applicant shall notify its employees or their authorized representative(s), or both, of this order in the same way and to the same extent that employees and authorized representatives are to be notified of docketed permanent variance applications pursuant to California Code of Regulations, Title 8, Sections 411.2, and 411.3.
7. This Decision and Order shall remain in effect unless modified or revoked upon application by the Applicant, affected employee(s), the Division, or by the Board on its own motion, in the manner prescribed for its issuance.

*Proposed Variance Decision
Schindler Model 3300 Elevators (Group IV)
Hearing Date: December 18, 2020*

Pursuant to California Code of Regulations, Title 8, Section 426(b), the above, duly completed Proposed Decision, is hereby submitted to the Occupational Safety and Health Standards Board for consideration of adoption.

Dated: January 5, 2021


Christina Shupe, Hearing Officer

ADDENDUM 1

October 6, 2010

CIRCULAR LETTER E-10-04

TO: Installers, Manufacturers of Conveyances and Related Equipment and, Other Interested Parties

SUBJECT: Coated Steel Belt Monitoring

The Elevator Safety Orders require routine inspection of the suspension means of an elevator to assure its safe operation.

The California Labor Code Section 7318 allows the Division to promulgate special safety orders in the absence of regulation.

As it is not possible to see the steel cable suspension means of a Coated Steel Belt, a monitoring device which has been accepted by the Division is required on all Coated Steel Belts which will automatically stop the car if the residual strength of any belt drops below 60%. The Device shall prevent the elevator from restarting after a normal stop at a landing.

The monitoring device must be properly installed and functional. A functioning device may be removed only after a determination has been made that the residual strength of each belt exceeds 60%. These findings and the date of removal are to be conspicuously documented in the elevator machine room. The removed device must be replaced or returned to proper service within 30 days.

If upon routine inspection, the monitoring device is found to be in a non-functional state, the date and findings are to be conspicuously documented in the elevator machine room.

If upon inspection by the Division, the monitoring device is found to be non-functional or removed, and the required documentation is not in place, the elevator will be removed from service.

If the device is removed to facilitate belt replacement, it must be properly installed and functional before the elevator is returned to service.

A successful test of the device's functionality shall be conducted once a year.

This circular does not preempt the Division from adopting regulations in the future, which may address the monitoring of Coated Steel Belts or any other suspension means.

This circular does not create an obligation on the part of the Division to permit new conveyances utilizing Coated Steel Belts.

Debra Tudor
Principal Engineer
DOSH-Elevator Unit HQS

ADDENDUM 2

Suspension Means – Replacement Reporting Condition

Beginning on the date the Board adopts this Proposed Decision and continuing for a period of two years, the Applicant shall report to the Division within 30 days any and all replacement activity performed on the elevator(s) pursuant to the requirements of ASME A17.1-2004, Section 8.6.3 involving the suspension means or suspension means fastenings.

Further:

1. A separate report for each elevator shall be submitted, in a manner acceptable to the Division, to the following address (or to such other address as the Division might specify in the future): DOSH Elevator Unit, 2 MacArthur Place, Suite 700, Santa Ana, CA 92707, Attn: Engineering Section.
2. Each such report shall contain, but not necessarily be limited to, the following information:
 - a. The State-issued conveyance number, complete address, and OSHSB file number that identifies the permanent variance.
 - b. The business name, complete address, telephone number, and contact person of the elevator responsible party (presumably the Applicant or the subsequent holder of this variance).
 - c. The business name, complete address, telephone number, and Certified Qualified Conveyance Company (CQCC) certification number of the firm performing the replacement work.
 - d. The name (as listed on certification), Certified Competent Conveyance Mechanic (CCCM) certification number, certification expiration date, and signature of each CCCM performing the replacement work.
 - e. The date and time the elevator was removed from normal service for suspension replacement, the date and time the replacement work commenced, the date and time the replacement work was completed, and the date and time the elevator was returned to normal service.
 - f. A detailed description of, and clear color photographs depicting, (1) all the conditions that existed in the suspension components requiring their replacement

Proposed Variance Decision
Schindler Model 3300 Elevators (Group IV)
Hearing Date: December 18, 2020

- and (2) any conditions that existed to cause damage or distress to the suspension components being replaced.
- g. A detailed list of all elevator components adjusted, repaired, or replaced in conjunction with the suspension component replacement.
 - h. All information provided on the crosshead data plate per ASME A17.1-2004, Section 2.20.2.1, unless that ASME requirement is modified by the conditions of a variance that pertains to the elevator in question, in which case, the information to be reported shall be the information required by the ASME provision as modified by the variance.
 - i. For the suspension means being replaced, all information provided on the data tag required per ASME A17.1-2004, Section 2.20.2.2, unless that ASME requirement is modified by the conditions of a variance that pertains to the elevator in question, in which case, the information to be reported shall be the information required by the ASME provision as modified by the variance.
 - j. For the replacement suspension means, all information provided on the data tag required by ASME A17.1-2004, Section 2.20.2.2, unless that ASME requirement is modified by the conditions of a variance that pertains to the elevator in question, in which case, the information to be reported shall be the information required by the ASME provision as modified by the variance.
 - k. Any other information requested by the Division regarding the replacement of the suspension means or fastenings.
3. In addition to the submission of the report to the Division, the findings of any testing, failure analysis, or other engineering evaluations performed on any portion of the replaced suspension components, or other elevator components replaced in conjunction therewith, shall be submitted to the Division referencing the information contained in item 2a above.

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
2520 Venture Oaks Way, Suite 350
Sacramento, California 95833
(916) 274-5721

In the Matter of Application for)
Permanent Variance by:)
)
CVS Garfield Beach LLC)
)
)
)
)
_____) DECISION

The Occupational Safety and Health Standards Board hereby adopts the attached PROPOSED DECISION by Christina Shupe, Hearing Officer.

DAVID THOMAS, Chairman

BARBARA BURGEL, Member

KATHLEEN CRAWFORD, Member

DAVID HARRISON, Member

NOLA KENNEDY, Member

CHRIS LASZCZ-DAVIS, Member

LAURA STOCK, Member

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD

Date of Adoption: January 21, 2021

THE FOREGOING VARIANCE DECISION WAS ADOPTED ON THE DATE INDICATED ABOVE. IF YOU ARE DISSATISFIED WITH THE DECISION, A PETITION FOR REHEARING MAY BE FILED BY ANY PARTY WITH THE STANDARDS BOARD WITHIN TWENTY (20) DAYS AFTER SERVICE OF THE DECISION. YOUR PETITION FOR REHEARING MUST FULLY COMPLY WITH THE REQUIREMENTS OF CALIFORNIA CODE OF REGULATIONS, TITLE 8, SECTIONS 427, 427.1 AND 427.2.

Note: A copy of this Decision must be posted for the Applicant's employees to read, and/or a copy thereof must be provided to the employees' Authorized Representatives.

BEFORE THE
OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
DEPARTMENT OF INDUSTRIAL RELATIONS
STATE OF CALIFORNIA

In the Matter of Application for Permanent Variance by: CVS Garfield Beach LLC	OSHSB File No.: 20-V-427 Proposed Decision Hearing Date: December 18, 2020
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A. Procedural Matters

1. CVS Garfield Beach LLC (“Applicant”) has applied for a permanent variance from provisions of Title 8 of the California Code of Regulations regarding vertical platform (wheelchair) lifts, with respect to one vertical platform (wheelchair) lift proposed to be located at:

101 Park Plaza, Suite 155
San Diego, CA

2. The safety orders at issue are stated in the prefatory part of the Decision and Order. This proceeding is conducted in accordance with Labor Code Section 143, and California Code of Regulations, Title 8, Section 401, et. seq.
3. This hearing was held on December 18, 2020, in Sacramento, California via teleconference, by delegation of the Occupational Safety and Health Standards Board (“Board”), with Hearing Officer Christina Shupe, both presiding and hearing the matter on its merit, as a basis of proposed decision to be advanced to the Board for its consideration, in accordance with California Code of Regulations, Title 8, Section 426.
4. At the hearing, Barry Singer, S&H Enterprises Inc. dba Nationwide Lifts appeared on behalf of Applicant, David Morris appeared on behalf of the Division of Occupational Safety and Health (“Division”); and Michael Nelmidia appeared on behalf of Board staff acting in a technical advisory role apart from the Board.
5. At the hearing, oral evidence was received and by stipulation of all parties, documents were accepted into evidence: subject Application for Permanent Variance as Exhibit PD-1, Notice of Hearing in this matter as PD-2, Board staff Pending Application Memorandum as PD-3, Division Review of Application as PD-4, Review-Draft-1 Proposed Decision as PD-5; and official notice taken of the Board’s rulemaking records and variance decisions concerning the safety order requirements from which variance has been requested. On December 18, 2020, at close of hearing, the record closed and the matter was taken under submission by the Hearing Officer.

B. Findings of Fact

Based on the record of this proceeding, and officially noticed Board records per (above Section A.5) stipulation of Applicant and Division—inclusive of permanent variance file records of sworn testimony, findings and decisions in OSHSB File No. 15-V-297, the Board finds the following:

1. The Applicant proposes to install one (1) vertical platform (wheelchair) lift at a location having the address of:

101 Park Plaza, Suite 155
San Diego, CA
2. Applicant requests variance solely from Title 8, Section 3142(a) and Section 3142.1.
3. The subject vertical lift is proposed to be a Savaria Model V-1504, with a vertical travel range of approximately 168 inches. That range of travel exceeds the 12 foot maximum vertical rise allowed by ASME A18.1-2003, Section 2.7.1—the State of California standard in force at the time of this Decision.
4. The Division’s evaluation in this Matter, states that the more recent consensus code ASME A18.1-2005 allows for vertical platform lifts to have a travel not exceeding 14 feet (168 in.).
5. Permanent variances regarding the extended travel of vertical platform lifts, of similar configuration to that of the subject proposed model, have been previously granted. (e.g. OSHSB File Nos. 13-V-260, 15-V-097, 15-V-297, 17-V-198)
6. It is the well informed professional opinion of Board staff and Division (per Exhibits PD-3, and PD-4, respectively) that equivalent safety will be achieved upon grant of presently requested permanent variance, subject to conditions materially equivalent to those imposed by Board adopted Decision and Order, In Matters of Application for Permanent Variance Nos. 15-V-297, and 18-V-069. Board Staff concurs with Division (per Exhibit PD-3) in recommending such conditional grant.
7. With respect to the equivalence or superior of safety, conditions and limitations of the below Decision and Order are in material conformity with those of previously issued Permanent Variance Nos. 15-V-297, and 18-V-069.

C. Conclusive Findings

On the basis of the above procedural matters, legal authority, and findings of fact, the

Board finds that Applicant has complied with the statutory and regulatory requirements that must be met before an application for a permanent variance may be granted and that a preponderance of the evidence establishes that the Applicant's proposal, subject to all limiting conditions set forth in the below Decision and Order, will provide both conveyance safety, and employment and a place of employment that are as safe and healthful as those that would prevail if the Applicant complied with the safety orders at issue.

D. Decision and Order

The Application for Permanent Variance of CVS Garfield Beach LLC, OSHSB File No. 20-V-427, is conditionally GRANTED to the limited extent, upon the Board's adoption of this Proposed Decision, CVS Garfield Beach LLC, shall have permanent variance from California Code of Regulations, Title 8, Sections 3142(a) and 3142.1 incorporated ASME A18.1-2003, Section 2.7.1, inasmuch as each restricts the vertical rise of a wheelchair lift to a maximum of 12 feet, with respect to one (1) Savaria Model V-1504 Vertical Platform Lift, to be located at:

101 Park Plaza, Suite 155
San Diego, CA

The above referenced vertical platform lift shall be subject to the following further conditions and limitations:

1. This lift may travel up to 168 inches, unless the manufacturer's instructions provide for a lesser vertical travel limit, or lesser total elevation change, in which case, travel shall be limited to the lesser limit or elevation change.
2. The wheelchair lift shall be installed and operated in accordance with the manufacturer's instructions, unless the provisions of this variance or applicable provisions of the law provide or require otherwise.
3. Durable signs with lettering not less than 5/16 inch on a contrasting background shall be permanently and conspicuously posted inside the car and at all landings indicating that the lift is for the exclusive use of persons with physical impairments and that the lift is not to be used to transport material or equipment. The use of the lift shall be limited in accordance with these signs.
4. A maintenance contract shall be executed between the owner/operator and a Certified Qualified Conveyance Company (CQCC). The contract shall stipulate that

the routine preventive maintenance required by Section 3094.5(a)(1) shall be performed at least quarterly and shall include but not be limited to:

- (a) Platform driving means examination;
 - (b) Platform examination;
 - (c) Suspension means examination;
 - (d) Platform alignment;
 - (e) Vibration examination;
 - (f) Door/gate electrical; and
 - (g) Mechanical lock examination.
5. The lift shall be tested annually for proper operation under rated load conditions. The Division's Elevator Unit District Office shall be provided written notification in advance of the test, and the test shall include a check of car or platform safety device.
 6. The lift shall be shut down immediately if the lift experiences unusual noise and vibration, and the Applicant shall notify the CQCC immediately. The lift shall only be restarted by the CQCC.
 7. The Applicant shall notify the CQCC if the lift shuts down for any reason. The lift shall only be restarted by the CQCC.
 8. Service logs including, but not limited to, the device shutdown(s) shall be kept in the maintenance office and shall be available to the Division. The shutdown information shall contain the date of the shutdown, cause of the shutdown, and the action taken to correct the shutdown.
 9. The Applicant shall provide training on the safe operation of the lift in accordance with Section 3203. Such training shall be conducted annually for all employees using or who will be assisting others in using the lift. The Applicant shall notify the Division in writing that training has been conducted. A copy of the training manual (used for the subject training), and documentation identifying the trainer and attendees shall be maintained for at least 1 year and provided to the Division upon request.

10. Any CQCC performing inspections, maintenance, servicing or testing of the elevators shall be provided a copy of this variance decision.
11. The Division shall be notified when the lift is ready for inspection, and the lift shall be inspected by the Division and a Permit to Operate shall be issued before the lift is put into service.
12. The Applicant shall notify its employees or their authorized representative(s), or both, of this order in the same way and to the same extent that employees and authorized representatives are to be notified of docketed permanent variance applications pursuant to California Code of Regulations, Title 8, Sections 411.2 and 411.3.
13. This Decision and Order shall remain in effect unless modified or revoked upon application by the Applicant, affected employee(s), the Division, or by the Board on its own motion, in the procedural manner prescribed per Title 8, Division 1, Chapter 3.5.

Pursuant to California Code of Regulations, Title 8, Section 426(b), the above, duly completed Proposed Decision, is hereby submitted to the Occupational Safety and Health Standards Board for consideration of adoption.

Dated: January 5, 2021


Christina Shupe, Hearing Officer

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
2520 Venture Oaks Way, Suite 350
Sacramento, California 95833
(916) 274-5721

In the Matter of Application for Permanent Variance Regarding:)
)
)
KONE Ecospace Elevators)
(Group IV – Suspension Rope Diameter))
)
_____)

OSHSB FILE No.: see grid in Item A of Proposed Decision Dated: January 5, 2021

DECISION

The Occupational Safety and Health Standards Board hereby adopts the attached PROPOSED DECISION by Christina Shupe, Hearing Officer.

DAVID THOMAS, Chairman

BARBARA BURGEL, Member

KATHLEEN CRAWFORD, Member

DAVID HARRISON, Member

NOLA KENNEDY, Member

CHRIS LASZCZ-DAVIS, Member

LAURA STOCK, Member

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Date of Adoption: January 21, 2021

THE FOREGOING VARIANCE DECISION WAS ADOPTED ON THE DATE INDICATED ABOVE. IF YOU ARE DISSATISFIED WITH THE DECISION, A PETITION FOR REHEARING MAY BE FILED BY ANY PARTY WITH THE STANDARDS BOARD WITHIN TWENTY (20) DAYS AFTER SERVICE OF THE DECISION. YOUR PETITION FOR REHEARING MUST FULLY COMPLY WITH THE REQUIREMENTS OF CALIFORNIA CODE OF REGULATIONS, TITLE 8, SECTIONS 427, 427.1 AND 427.2.

Note: A copy of this Decision must be posted for the Applicant's employees to read, and/or a copy thereof must be provided to the employees' Authorized Representatives.

BEFORE THE
 OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
 DEPARTMENT OF INDUSTRIAL RELATIONS
 STATE OF CALIFORNIA

<p>In the Matter of Application for Permanent Variance Regarding:</p> <p style="text-align: center;">KONE Ecospace Elevators (Group IV —Suspension Rope Diameter)</p>	<p>OSHSB File Nos.: Per Section A.1 table, below</p> <p style="text-align: center;"><u>PROPOSED DECISION</u></p> <p>Hearing Date: December 18, 2020</p>
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A. Procedural Matters:

- Each below listed applicant (“Applicant”) has applied for a permanent variance from provisions of the Elevator Safety Orders, found at Title 8 of the California Code of Regulations, with respect to a conveyance, or conveyances, in the listed quantity, at the listed location:

Variance No.	Applicant Name	Variance Location Address	No. of Elevators
20-V-428	SI 55 LLC	2260 Lawson Lane Santa Clara, CA	2

- The safety orders at issue are set forth in the prefatory portion of the Decision and Order.
- This proceeding is conducted in accordance with Labor Code Section 143.
- This hearing was held on December 18, 2020, in Sacramento, California via teleconference, by delegation of the Occupational Safety and Health Standards Board (“Board”), with Hearing Officer Christina Shupe, both presiding and hearing the matter on its merit, as a basis of proposed decision to be advanced to the Board for its consideration, in accordance with California Code of Regulations, Title 8, Section 426.
- At the hearing, Manish Sablok, with KONE, Inc., appeared on behalf of each Applicant; David Morris appeared on behalf of the Division of Occupational Safety and Health (“Division”), Michael Nelmidia appeared on behalf of Board staff in a technical advisory capacity apart from the Board.
- Documentary and oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence: permanent variance applications per Section A.1 table as Exhibit PD-1, Notice of Hearing as Exhibit PD-2, Board staff Review of Application Memorandum as PD-3, Division Review of Application Memorandum as

Proposed Variance Decision

KONE Ecospace Elevators (Group IV—Suspension Rope Diameter)

Hearing Date: December 18, 2020

PD-4, Review Draft 1 Proposed Decision as PD-5, and official notice taken of the Board's files, records, recordings and decisions regarding Kone conveyances. Upon close of hearing on December 18, 2020, the record was closed and the matter was taken under submission by the Hearing Officer.

B. Findings and Basis:

1. Each Applicant intends to utilize KONE Inc. EcoSpace elevators at the location and in the numbers set forth in above Section A.1, table. The installation contracts for these elevators were signed or will be signed on or after May 1, 2008, thus making the elevator subject to the Group IV Elevator Safety Orders.
2. Conditions No. 2 and No. 6 state requirements for the number of suspension ropes and total suspended load for each elevator that is subject to this variance. Those requirements were determined in accordance with the rated capacities of the elevators. The Board incorporates by reference the findings of fact stated in Subsections 3 through 6, set forth in the "Findings of Fact" Section of the Proposed Decision adopted by the Board on February 19, 2009, regarding OSHSB File No. 08-V-181 and Section D, Subsection 4, of the Proposed Decision adopted by the Board on September 25, 2014 in OSHSB File No. 14-V-171.
3. Both Board staff and Division, by way of written submissions to the record (Exhibits PD-3 and PD-4 respectively), and positions stated at hearing, are of the well informed opinion that grant of requested permanent variance, as limited and conditioned per the below Decision and Order will provide employment, places of employment, and subject conveyances, as safe and healthful as would prevail given non-variant conformity with the Elevator Safety Order requirements from which variance has been requested.

C. Conclusive Findings:

The above stated procedural prerequisites, legal authority, and factual findings, as further supported by the documentary record and hearing testimony in this matter, provide a substantive and reasonable basis of conclusion that: (1) Each Applicant has complied with the statutory and regulatory requirements that must be met before an application for permanent variance may be conditionally granted, and (2) a preponderance of the evidence establishes that each Applicants proposal, subject to all conditions and limitations set forth in the below Decision and Order, will provide equivalent safety and health to that which would prevail upon full compliance with the requirements of California Code of Regulation, Title 8, Elevator Safety Orders from which variance is being sought.

Proposed Variance Decision

KONE Ecospace Elevators (Group IV—Suspension Rope Diameter)

Hearing Date: December 18, 2020

D. Decision and Order:

Each application for a permanent variance that is the subject of this proceeding is conditionally GRANTED to the extent, as of the date the Board adopts this Proposed Decision, each Applicant listed in the table set forth in above Section A.1 of this Proposed Decision shall have permanent variances from California Code of Regulations, Title 8, Section 3141 [ASME A17.1-2004, Section 2.20.4 (insofar as it requires that the “minimum diameter of hoisting and counter-weight ropes shall be 9.5 mm (0.375 in.)” and that the outer wires of the ropes “shall be not less than 0.56mm (0.024 in.) in diameter”)], regarding ropes and outer wires, for the location and numbers of elevator (so long as they are the Group IV KONE EcoSpace elevators that are the subject of these applications) set forth in the above Section A grid, subject to the following conditions:

1. The diameter of the hoisting steel ropes shall be not less than 8 mm (0.315 in), and the roping ratio shall be not less than four to one (4:1).
2. The number of suspension ropes for each elevator that is subject to this variance shall be not less than the number of suspension ropes stated for that elevator in Appendix 1 attached to this Proposed Decision; that appendix is incorporated herein by this reference.
3. The ropes shall be inspected not less than annually for wire damage (rouge, valley break, etc.) in accordance with “Kone, Inc. Inspector’s Guide to 6 mm diameter and 8 mm diameter steel ropes for Kone Elevators.”
4. A rope inspection log shall be maintained and available in the elevator controller room at all times.
5. The elevator rated speed shall not exceed 150 feet per minute.
6. The total suspended load for each elevator that is subject to this variance shall not exceed the total suspended load stated for that elevator specified in Appendix 1 to this Decision and Order (plus 5%).
7. The outer wires of the suspension ropes shall be not less than 0.51 mm in diameter.
8. The opening to the hoistway shall be effectively barricaded when car top inspection, maintenance, servicing, or testing of elevator equipment in the hoistway is required. If service personnel must leave the area for any reason, the hoistway and control room doors shall be closed.
9. Any Certified Qualified Conveyance Company performing inspections, maintenance, servicing or testing of the elevators shall be provided a copy of this variance decision.

Proposed Variance Decision

KONE Ecospace Elevators (Group IV—Suspension Rope Diameter)

Hearing Date: December 18, 2020

10. The Division shall be notified when the elevator is ready for inspection. The elevator shall be inspected by the Division and a “Permit to Operate” issued before the elevator is placed in service.
11. The Applicant shall be subject to the Suspension Means Replacement Reporting Condition stated in Appendix 2; that condition is incorporated herein by this reference.
12. The Applicant shall notify its employees or their authorized representative(s), or both, of this order in the same way that the Applicant was required to notify them of the docketed application for permanent variance per California Code of Regulations, Title 8, Sections 411.2 and 411.3.
13. This Decision and Order shall remain in effect unless modified or revoked upon application by the Applicant, affected employee(s), the Division of Occupational Safety and Health, or by the Board on its own motion, in the manner prescribed for its issuance.

Pursuant to California Code of Regulations, Title 8, Section 426(b), the above, duly completed Proposed Decision, is hereby submitted to the Occupational Safety and Health Standards Board for consideration of adoption.

Dated: January 5, 2021


Christina Shupe, Hearing Officer

Proposed Variance Decision

KONE Ecospace Elevators (Group IV—Suspension Rope Diameter)

Hearing Date: December 18, 2020

Appendix 1

File Number	Car ID	Minimum Suspension Ropes Per Elevator (Per Condition 2)	Maximum Suspended Weight Per Elevator (Per Condition 6)
20-V-428	1	5	8,505
20-V-428	2	5	8,505

Appendix 2

Suspension Means Replacement Reporting Condition

Beginning on the date the Board adopts this Proposed Decision and continuing for a period of two years, the Applicant shall report to the Division within 30 days any and all replacement activity performed on the elevator(s) pursuant to the requirements of ASME A17.1-2004, Section 8.6.3 involving the suspension means or suspension means fastenings. Further:

1. A separate report for each elevator shall be submitted, in a manner acceptable to the Division, to the following address (or to such other address as the Division might specify in the future): DOSH Elevator Unit, 2 MacArthur Place , Suite 700, Santa Ana, CA 92707, Attn: Engineering Section.
2. Each such report shall contain, but not necessarily be limited to, the following information:
 - a. The State-issued conveyance number, complete address, and OSHSB file number that identifies the permanent variance.
 - b. The business name, complete address, telephone number, and contact person of the elevator responsible party (presumably the Applicant or the subsequent holder of this variance).
 - c. The business name, complete address, telephone number, and Certified Qualified Conveyance Company (CQCC) certification number of the firm performing the replacement work.
 - d. The name (as listed on certification), Certified Competent Conveyance Mechanic (CCCM) certification number, certification expiration date, and signature of each CCCM performing the replacement work.
 - e. The date and time the elevator was removed from normal service for suspension replacement, the date and time the replacement work commenced, the date and time the replacement work was completed, and the date and time the elevator was returned to normal service.
 - f. A detailed description of, and clear color photographs depicting, (1) all the conditions that existed in the suspension components requiring their replacement and (2) any conditions that existed to cause damage or distress to the suspension components being replaced.
 - g. A detailed list of all elevator components adjusted, repaired, or replaced in conjunction with the suspension component replacement.
 - h. All information provided on the crosshead data plate per ASME A17.1-2004, Section 2.20.2.1, unless that ASME requirement is modified by the conditions of a variance that

Proposed Variance Decision

KONE Ecospace Elevators (Group IV—Suspension Rope Diameter)

Hearing Date: December 18, 2020

- pertains to the elevator in question, in which case, the information to be reported shall be the information required by the ASME provision as modified by the variance.
- i. For the suspension means being replaced, all information provided on the data tag required per ASME A17.1-2004, Section 2.20.2.2, unless that ASME requirement is modified by the conditions of a variance that pertains to the elevator in question, in which case, the information to be reported shall be the information required by the ASME provision as modified by the variance.
 - j. For the replacement suspension means, all information provided on the data tag required by ASME A17.1-2004, Section 2.20.2.2, unless that ASME requirement is modified by the conditions of a variance that pertains to the elevator in question, in which case, the information to be reported shall be the information required by the ASME provision as modified by the variance.
 - k. Any other information requested by the Division regarding the replacement of the suspension means or fastenings.
3. In addition to the submission of the report to the Division, the findings of any testing, failure analysis, or other engineering evaluations performed on any portion of the replaced suspension components, or other elevator components replaced in conjunction therewith, shall be submitted to the Division referencing the information contained in above Appendix 2, Section 2, Subsection (a), above.

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
2520 Venture Oaks Way, Suite 350
Sacramento, California 95833
(916) 274-5721

In the Matter of Application for Permanent Variance Regarding:)
)
)
Otis Elevator (Group IV) Gen2(O) and/or Gen2L [with Variant Gov. Rope/Sheave])
)
)
_____)

OSHSB FILE No.: see grid in Item A of Proposed Decision Dated: January 5, 2021

DECISION

The Occupational Safety and Health Standards Board hereby adopts the attached PROPOSED DECISION by Christina Shupe, Hearing Officer.

DAVID THOMAS, Chairman

BARBARA BURGEL, Member

KATHLEEN CRAWFORD, Member

DAVID HARRISON, Member

NOLA KENNEDY, Member

CHRIS LASZCZ-DAVIS, Member

LAURA STOCK, Member

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Date of Adoption: January 21, 2021

THE FOREGOING VARIANCE DECISION WAS ADOPTED ON THE DATE INDICATED ABOVE. IF YOU ARE DISSATISFIED WITH THE DECISION, A PETITION FOR REHEARING MAY BE FILED BY ANY PARTY WITH THE STANDARDS BOARD WITHIN TWENTY (20) DAYS AFTER SERVICE OF THE DECISION. YOUR PETITION FOR REHEARING MUST FULLY COMPLY WITH THE REQUIREMENTS OF CALIFORNIA CODE OF REGULATIONS, TITLE 8, SECTIONS 427, 427.1 AND 427.2.

Note: A copy of this Decision must be posted for the Applicant's employees to read, and/or a copy thereof must be provided to the employees' Authorized Representatives.

BEFORE THE
 OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
 DEPARTMENT OF INDUSTRIAL RELATIONS
 STATE OF CALIFORNIA

<p>In the Matter of Application for Permanent Variance Regarding:</p> <p style="text-align: center;">Otis Elevator (Group IV) Gen2(O) and/or Gen2L Elevators [w/variant Governor Rope/Sheave]</p>	<p>OSHSB File Nos.: Per Section A.1 table</p> <p style="text-align: center;">PROPOSED DECISION</p> <p>Hearing Date: December 18, 2020</p>
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A. Subject Matter:

- Each applicant (“Applicant”) listed in the table below has applied for permanent variances from provisions of the Elevator Safety Orders, found at Title 8 of the California Code of Regulations, with respect to a conveyance, or conveyances, in the listed quantity, at the listed location:

Variance N.	Applicant Name	Variance Location Address	No. of Elevators
20-V-430	McCarthy Cook & Company, LLC	Lumen West L.A. 11355 West Olympic Blvd. Los Angeles, CA	16

- The safety orders at issue are stated in the portion of Section F that precedes the variance conditions.

B. Jurisdiction:

This proceeding is conducted in accordance with Labor Code Section 143, and California Code of Regulations, Title 8, Section 401, et. seq.

C. Procedural:

- This hearing was held on December 18, 2020, in Sacramento, California, and via teleconference, by Occupational Safety and Health Standards Board (“Board”) with Hearing Officer Christina Shupe, both presiding and hearing the matter on its merit, as a basis of proposed decision to be advanced to the Board for its consideration, in accordance with California Code of Regulations, Title 8, Section 426.
- At the hearing, Dan Leacox of Leacox & Associates, and Wolter Geesink with Otis Elevator Company, appeared on behalf of each Applicant; David Morris appeared on behalf of the

Proposed Variance Decision

Otis Gen2(O) and/or Gen2L Elevators, w/ Variant Governor

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Division of Occupational Safety and Health (“Division”); and Michael Nelmidia appeared on behalf of Board staff in a technical advisory role apart from the Board.

3. Oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence: each respective permanent variance applications per Section A.1 table as Exhibit PD-1, Notice of Hearing as Exhibit PD-2, Board staff Pending Application Memorandum as PD-3, Division Review of Application as PD-4, Review Draft 1 Proposed Decision as PD-5, and official notice taken of the Board’s rulemaking recordings and variance decisions concerning the safety order requirements at issue. At close of hearing on December 18, 2020, the record was closed, and the matter taken under submission by the Hearing Officer.

D. Findings:

1. Each Applicant intends to utilize Otis Gen2(O) and/or Otis Gen2L elevators, with further variance as to governor sheave and rope diameter, at the location and in the numbers stated in the Section A.1 table (as used in this Proposed Decision, the term “Gen2(O)” refers to the original type of Gen2 elevator, as distinguished from other types with such designations as “Gen2L” or “Gen2S” or “Gen2 at 150”).
2. The installation contract for these elevators was, or will be, signed on or after May 1, 2008, making the elevators subject to the Group IV Elevator Safety Orders.
3. The Board incorporates by reference the findings stated in: (a) Items 3 through 5.c, 5.e, and 5.f of the “Findings of Fact” Section of the Proposed Decision adopted by the Board on February 19, 2009, in OSHSB File No. 08-V-247; (b) Item D.3 of the Proposed Decision adopted by the Board on July 16, 2009, in OSHSB File No. 09-V-042; (c) Item D.4 of the Proposed Decision adopted by the Board on September 16, 2010, in OSHSB File No. 10-V-029; (d) Items D.4, D.5, and D.7 of the Proposed Decision adopted by the Board on July 18, 2013, in OSHSB File No. 12-V-146; and (e) Items D.4 and D.5 of the Proposed Decision adopted by the Board on September 25, 2014, in OSHSB File No. 14-V-170.
4. Regarding requested variance in governor sheave diameter, and governor rope diameter, in variance from Title 8, Section 3141, incorporated ASME A17.1-2004, Section 2.18.7.4, and Section 2.18.5.1, respectively, the Board incorporates by reference the following previous findings of record: Items 8 through 12 of the Proposed Decision adopted by the Board on December 13, 2018, in OSHSB File No. 18-V-425, and further substantiating bases per therein cited Permanent Variance Decisions of the Board.
5. Both Board staff and Division safety engineers, and Division, by way of written submissions to the record (Exhibits PD-3 and PD-4 respectively), and positions stated at

Proposed Variance Decision

Otis Gen2(O) and/or Gen2L Elevators, w/ Variant Governor

Hearing Date: December 18, 2020

hearing, are of the well informed opinion that grant of requested permanent variance, as limited and conditioned per the below Decision and Order will provide employment, places of employment, and subject conveyances, as safe and healthful as would prevail given non-variant conformity with the Elevator Safety Order requirements from which variance has been requested.

E. Conclusive Findings:

The above stated procedural prerequisites, legal authority, and factual findings, as further supported by the documentary record and hearing testimony in this matter, provide a substantive and reasonable basis of conclusion that: (1) Each Applicant has complied with the statutory and regulatory requirements that must be met before an application for permanent variance may be conditionally granted; and (2) a preponderance of the evidence establishes that each Applicants proposal, subject to all conditions and limitations set forth in the below Decision and Order, will provide equivalent safety and health to that which would prevail upon full compliance with the requirements of California Code of Regulation, Title 8, Elevator Safety Orders from which variance is being sought.

F. Decision and Order:

Each permanent variance application that is the subject of this proceeding is conditionally GRANTED, as below specified, and to the extent that, as of the date the Board adopts this Proposed Decision, each Applicant listed in the Section A.1 table of this Proposed Decision shall have a permanent variance from California Code of Regulations, Title 8, Section 3141 [ASME A17.1-2004, Sections 2.14.1.7.1 (only to the extent necessary to permit an inset car top railing, if, in fact, the car top railing is inset), 2.20.1, 2.20.2.1(b), 2.20.2.2(a), 2.20.2.2(f), 2.20.3, 2.20.4, 2.20.9.3.4, 2.20.9.5.4, (only to the extent necessary to permit the use of Otis Gen2 flat coated steel suspension belts [the belts proposed for use on these Gen2(O) and/or Gen2L elevators] in lieu of conventional steel suspension ropes); 2.26.1.4.4(a) (only to the extent necessary to allow the inspection transfer switch to reside at a location other than a machine room, if, in fact, it does not reside in the machine room); 8.4.10.1.1(a)(2)(b) (only to the extent necessary to allow the seismic reset switch to reside at a location other than a machine room, if, in fact, it does not reside in the machine room)], regarding car top railings, switches, and suspension ropes and connections; Section 2.18.7.4, with respect to conditioned variance in governor sheave diameter; and Section 2.18.5.1, with respect to below conditioned variance in governor rope diameter—for the location and number of elevators listed in the Section A.1 table (so long as the elevators are Gen2(O) or Gen2L Group IV devices that are designed, equipped, and installed in accordance with, and are otherwise consistent with, the representations made in the Otis Master Files [referred to in previous Proposed Decisions as the “Gen2 Master File” or “Gen2S Master File”] maintained by the

Proposed Variance Decision

Otis Gen2(O) and/or Gen2L Elevators, w/ Variant Governor

Hearing Date: December 18, 2020

Board, as that file was constituted at the time of this hearing), subject to the following conditions:

The variance shall be subject to the following additional conditions:

1. Each elevator subject to this variance shall comply with all applicable Group IV Elevator Safety Orders and with all ASME provisions made applicable by those Group IV Elevator Safety Orders, except those from which variances are granted, as set forth in the prefatory portion of this Decision and Order.
2. The suspension system shall comply with the following:
 - a. The coated steel belt shall have a factor of safety at least equal to the factor of safety that ASME A17.1-2004, Section 2.20.3, would require for wire ropes if the elevator were suspended by wire ropes rather than the coated steel belt.
 - b. Steel-coated belts that have been installed and used on another installation shall not be reused.
 - c. The coated steel belt shall be fitted with a monitoring device which has been accepted by the Division and which will automatically stop the car if the residual strength of any single belt drops below 60 percent. If the residual strength of any single belt drops below 60 percent, the device shall prevent the elevator from restarting after a normal stop at a landing.
 - d. Upon initial inspection, the readings from the monitoring device shall be documented and submitted to the Division.
 - e. A successful test of the monitoring device's functionality shall be conducted at least once a year (the record of the annual test of the monitoring device shall be a maintenance record subject to ASME A17.1-2004, Section 8.6.1.4).
 - f. The coated steel belts used shall be accepted by the Division.
 - g. The installation of belts and connections shall be in conformance with the manufacturer's specifications, which shall be provided to the Division.
3. With respect to each elevator subject to this variance, the applicant shall comply with Division Circular Letter E-10-04, a copy of which is attached hereto as Addendum 1 and incorporated herein by this reference.

Proposed Variance Decision

Otis Gen2(O) and/or Gen2L Elevators, w/ Variant Governor

Hearing Date: December 18, 2020

4. The Applicant shall not utilize the elevator unless the manufacturer has written procedures for the installation, maintenance, inspection, and testing of the belts and monitoring device, and criteria for belt replacement, and shall make those procedures and criteria available to the Division upon request.
5. The flat coated steel belts shall be provided with a metal data tag that is securely attached to one of those belts. This data tag shall bear the following flat steel coated belt data:
 - a. The width and thickness in millimeters or inches;
 - b. The manufacturer's rated breaking strength in (kN) or (lbf);
 - c. The name of the person who, or organization that, installed the flat coated steel belts;
 - d. The month and year the flat coated steel belts were installed;
 - e. The month and year the flat coated steel belts were first shortened;
 - f. The name or trademark of the manufacturer of the flat coated steel belts;
 - g. Lubrication information.
6. There shall be a crosshead data plate of the sort required by Section 2.20.2.1, and that plate shall bear the following flat steel coated belt data:
 - a. The number of belts,
 - b. The belt width and thickness in millimeters or inches, and
 - c. The manufacturer's rated breaking strength per belt in (kN) or (lbf).
7. If the seismic reset switch does not reside in a machine room, that switch shall not reside in the elevator hoistway. The switch shall reside in the inspection and test control panel located in one upper floor hoistway door jamb or in the control space (outside the hoistway) used by the motion controller.
8. If the inspection transfer switch required by ASME A17.1, rule 2.26.1.4.4(a), does not reside in a machine room, that switch shall not reside in the elevator hoistway. The switch shall reside in the inspection and test control panel located in one upper floor hoistway door jamb or in the control space (outside the hoistway) used by the motion controller.

Proposed Variance Decision

Otis Gen2(O) and/or Gen2L Elevators, w/ Variant Governor

Hearing Date: December 18, 2020

9. When the inspection and test control panel is located in the hoistway door jamb, the inspection and test control panel shall be openable only by use of a Security Group I restricted key.
10. The opening to the hoistway shall be effectively barricaded when car top inspection, maintenance, servicing, or testing of elevator equipment in the hoistway is required. If service personnel must leave the area for any reason, the hoistway and control room doors shall be closed.
11. If there is an inset car top railing:
 - a. Serviceable equipment shall be positioned so that mechanics and inspectors do not have to climb on railings to perform adjustment, maintenance, repairs, or inspections. The applicant shall not permit anyone to stand on or climb over the car top railing.
 - b. The distance that the car top railing may be inset from the car top perimeter shall be limited to no more than 6 inches.
 - c. All exposed areas of the car top outside the car top railing shall preclude standing or placing objects or persons which may fall and shall be beveled from the mid- or top rail to the outside of the car top.
 - d. The top of the beveled area and/or the car top outside the railing, shall be clearly marked. The markings shall consist of alternating four-inch diagonal red and white stripes.
 - e. The Applicant shall provide, on each inset railing, durable signs with lettering not less than ½ inch on a contrasting background. Each sign shall state:

CAUTION

DO NOT STAND ON OR CLIMB OVER RAILING

- f. The Group IV requirements for car top clearances shall be maintained (car top clearances outside the railing shall be measured from the car top, and not from the required bevel).
12. The speed governor rope and sheaves shall comply with the following:
 - a. The governor shall be used in conjunction with a 8 mm (0.315 in.) diameter steel governor rope with 8-strand, regular lay construction.

Proposed Variance Decision

Otis Gen2(O) and/or Gen2L Elevators, w/ Variant Governor

Hearing Date: December 18, 2020

- b. The governor rope shall have a factor of safety of 8 or greater as related to the strength necessary to activate the safety.
 - c. The governor sheaves shall have a pitch diameter of not less than 240 mm (9.45 in.).
13. The elevator shall be serviced, maintained, adjusted, tested, and inspected only by Certified Competent Conveyance Mechanics who have been trained to, and are competent to, perform those tasks on the Gen2(O) and/or Gen2L elevator system the Applicant proposes to use, in accordance with the written procedures and criteria required by Condition No. 4 and the terms of this permanent variance.
 14. Any Certified Qualified Conveyance Company performing inspections, maintenance, servicing, or testing of the elevators shall be provided a copy of this variance decision.
 15. The Division shall be notified when the elevator is ready for inspection. The elevator shall be inspected by the Division, and a Permit to Operate shall be issued before the elevator is placed in service.
 16. The Applicant shall be subject to the suspension means replacement reporting condition stated in Addendum 2; that condition is incorporated herein by this reference.
 17. The applicant shall notify its employees or their authorized representative(s), or both, of this order in the same way that the Applicant was required to notify them of the application for permanent variance, per California Code of Regulations, Title 8, Sections 411.2 and 411.3.
 18. This Decision and Order shall remain in effect unless modified or revoked upon application by the Applicant, affected employee(s), the Division of Occupational Safety and Health, or by the Board on its own motion, in accordance with procedures per Title 8, Division 1, Chapter 3.5.

Pursuant to California Code of Regulations, Title 8, Section 426(b), the above, duly completed Proposed Decision, is hereby submitted to the Occupational Safety and Health Standards Board for consideration of adoption.

Dated: January 5, 2021


Christina Shupe, Hearing Officer

ADDENDUM 1

October 6, 2010

CIRCULAR LETTER E-10-04

TO: Installers, Manufacturers of Conveyances and Related Equipment and, Other Interested Parties

SUBJECT: Coated Steel Belt Monitoring

The Elevator Safety Orders require routine inspection of the suspension means of an elevator to assure its safe operation.

The California Labor Code Section 7318 allows the Division to promulgate special safety orders in the absence of regulation.

As it is not possible to see the steel cable suspension means of a Coated Steel Belt, a monitoring device which has been accepted by the Division is required on all Coated Steel Belts which will automatically stop the car if the residual strength of any belt drops below 60%. The Device shall prevent the elevator from restarting after a normal stop at a landing.

The monitoring device must be properly installed and functional. A functioning device may be removed only after a determination has been made that the residual strength of each belt exceeds 60%. These findings and the date of removal are to be conspicuously documented in the elevator machine room. The removed device must be replaced or returned to proper service within 30 days.

If upon routine inspection, the monitoring device is found to be in a non-functional state, the date and findings are to be conspicuously documented in the elevator machine room.

If upon inspection by the Division, the monitoring device is found to be non-functional or removed, and the required documentation is not in place, the elevator will be removed from service.

If the device is removed to facilitate belt replacement, it must be properly installed and functional before the elevator is returned to service.

A successful test of the device's functionality shall be conducted once a year.

This circular does not preempt the Division from adopting regulations in the future, which may address the monitoring of Coated Steel Belts or any other suspension means.

This circular does not create an obligation on the part of the Division to permit new conveyances utilizing Coated Steel Belts.

Debra Tudor
Principal Engineer
DOSH-Elevator Unit HQS

ADDENDUM 2

Suspension Means – Replacement Reporting Condition

Beginning on the date the Board adopts this Proposed Decision and continuing for a period of two years, the Applicant shall report to the Division within 30 days any and all replacement activity performed on the elevator(s) pursuant to the requirements of ASME A17.1-2004, Section 8.6.3 involving the suspension means or suspension means fastenings.

Further:

1. A separate report for each elevator shall be submitted, in a manner acceptable to the Division, to the following address (or to such other address as the Division might specify in the future): DOSH Elevator Unit, 2 MacArthur Place, Suite 700, Santa Ana, CA 92707, Attn: Engineering Section.
2. Each such report shall contain, but not necessarily be limited to, the following information:
 - a. The State-issued conveyance number, complete address, and OSHSB file number that identifies the permanent variance.
 - b. The business name, complete address, telephone number, and contact person of the elevator responsible party (presumably the Applicant or the subsequent holder of this variance).
 - c. The business name, complete address, telephone number, and Certified Qualified Conveyance Company (CQCC) certification number of the firm performing the replacement work.
 - d. The name (as listed on certification), Certified Competent Conveyance Mechanic (CCCM) certification number, certification expiration date, and signature of each CCCM performing the replacement work.
 - e. The date and time the elevator was removed from normal service for suspension replacement, the date and time the replacement work commenced, the date and time the replacement work was completed, and the date and time the elevator was returned to normal service.
 - f. A detailed description of, and clear color photographs depicting, (1) all the conditions that existed in the suspension components requiring their replacement and (2) any

Proposed Variance Decision

Otis Gen2(O) and/or Gen2L Elevators, w/ Variant Governor

Hearing Date: December 18, 2020

conditions that existed to cause damage or distress to the suspension components being replaced.

- g. A detailed list of all elevator components adjusted, repaired, or replaced in conjunction with the suspension component replacement.
 - h. All information provided on the crosshead data plate per ASME A17.1-2004, Section 2.20.2.1, unless that ASME requirement is modified by the conditions of a variance that pertains to the elevator in question, in which case, the information to be reported shall be the information required by the ASME provision as modified by the variance.
 - i. For the suspension means being replaced, all information provided on the data tag required per ASME A17.1-2004, Section 2.20.2.2, unless that ASME requirement is modified by the conditions of a variance that pertains to the elevator in question, in which case, the information to be reported shall be the information required by the ASME provision as modified by the variance.
 - j. For the replacement suspension means, all information provided on the data tag required by ASME A17.1-2004, Section 2.20.2.2, unless that ASME requirement is modified by the conditions of a variance that pertains to the elevator in question, in which case, the information to be reported shall be the information required by the ASME provision as modified by the variance.
 - k. Any other information requested by the Division regarding the replacement of the suspension means or fastenings.
3. In addition to the submission of the report to the Division, the findings of any testing, failure analysis, or other engineering evaluations performed on any portion of the replaced suspension components, or other elevator components replaced in conjunction therewith, shall be submitted to the Division referencing the information contained in item 2a above.

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
2520 Venture Oaks Way, Suite 350
Sacramento, California 95833
(916) 274-5721

In the Matter of Application for Permanent)
Variance Regarding:)
)
)
Schindler Model 5500 Elevators (Group IV))
)
_____)

OSHSB FILE No.: see grid in Item A of
Proposed Decision Dated: January 5, 2021

DECISION

The Occupational Safety and Health Standards Board hereby adopts the attached PROPOSED DECISION by Christina Shupe, Hearing Officer.

DAVID THOMAS, Chairman

BARBARA BURGEL, Member

KATHLEEN CRAWFORD, Member

DAVID HARRISON, Member

NOLA KENNEDY, Member

CHRIS LASZCZ-DAVIS, Member

LAURA STOCK, Member

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD

Date of Adoption: January 21, 2021

THE FOREGOING VARIANCE DECISION WAS ADOPTED ON THE DATE INDICATED ABOVE. IF YOU ARE DISSATISFIED WITH THE DECISION, A PETITION FOR REHEARING MAY BE FILED BY ANY PARTY WITH THE STANDARDS BOARD WITHIN TWENTY (20) DAYS AFTER SERVICE OF THE DECISION. YOUR PETITION FOR REHEARING MUST FULLY COMPLY WITH THE REQUIREMENTS OF CALIFORNIA CODE OF REGULATIONS, TITLE 8, SECTIONS 427, 427.1 AND 427.2.

Note: A copy of this Decision must be posted for the Applicant's employees to read, and/or a copy thereof must be provided to the employees' Authorized Representatives.

BEFORE THE
 OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
 DEPARTMENT OF INDUSTRIAL RELATIONS
 STATE OF CALIFORNIA

<p>In the Matter of Application for Permanent Variance regarding:</p> <p style="text-align: center;">Schindler Model 5500 Elevators (Group IV)</p>	<p>OSHSB File Nos. (See Section A.1 Table Below)</p> <p style="text-align: center;"><u>PROPOSED DECISION</u></p> <p>Hearing Date: December 18, 2020</p>
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A. Subject Matter:

- Each below listed applicant (“Applicant”) has applied for permanent variance from certain provisions of the Elevator Safety Orders, found at Title 8, of the California Code of Regulations, with respect to a conveyance, or conveyances, in the listed quantity, at the listed location:

Variance No.	Applicant Name	Variance Location Address	No. of Elevators
20-V-434	Grant Street LLC	1776 Grant St. Concord, CA	3

- The safety orders at issue are set out in below Section C.1.

B. Process and Procedure:

- This proceeding is conducted in accordance with Labor Code Section 143, and California Code of Regulations, Title 8, Section 401, et. seq.
- The installation contract for the subject elevators was signed after May 1, 2008. Therefore, the subject elevators fall within the scope of the Elevator Safety Orders (ESO) Group IV Section 3141, and as incorporated by reference therein, ASME A17.1-2004.
- This hearing was held on December 18, 2020, in Sacramento, California, via teleconference, by Occupational Safety and Health Standards Board (“Board”) assigned Hearing Officer Christina Shupe, both presiding and hearing the matter on its merit, as a basis of proposed decision to be advanced to the Board for its consideration, in accordance with California Code of Regulations, Title 8, Section 426.

Proposed Variance Decision

Schindler Model 5500 Elevators (Group IV)

Hearing Date: December 18, 2020

4. At the hearing, Jennifer Linares, with Schindler Elevator Corporation, appeared on behalf of each Applicant; David Morris appeared on behalf of the Division of Occupational Safety and Health (“Division”), and Michael Nelmda appeared on behalf of Board staff, in a technical advisory role apart from the Board.
5. Oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence: each respective permanent variance applications per Section A table as Exhibit PD-1, Notice of Hearing as Exhibit PD-2, Board staff Pending Application Memorandum as PD-3, Division Review of Application as PD-4, Review Draft 1 Proposed Decision as PD-5, and official notice taken of the Board’s rulemaking records, and variance decisions concerning the safety order requirements from which variance is requested. At close of hearing on December 18, 2020, the record was closed, and the matter taken under submission by the Hearing Officer.

C. Findings of Fact—Based upon the record of this proceeding, the Board finds the following:

Requested Suspension Means Related Variance:

1. As each pertains to the non-circular elastomeric coated suspension means characteristic of the Schindler Model 5500 elevator, Applicant presently seeks permanent variance from the following Title 8, Elevator Safety Order incorporated ASME Safety Code for Elevators and Escalators (ASME Code) A17.1-2004 sections and subsections:

Section 2.20.1—Wire rope suspension means

Section 2.20.2.1—Crosshead data plate

Subsection 2.20.2.2(a)—Wire rope data tag

Subsection 2.20.2.2(f)—ID of steel wire rope as preformed or nonpreformed

Section 2.20.3—Wire rope safety factor

Section 2.20.4—Number and diameter of wire ropes

Section 2.20.9.3.4—Wire rope end connections

Section 2.20.9.5.4—Wire rope sockets

Requested Car Top Railing Inset Variance:

2. As it pertains to top of car railing placement requiring space occupied by upper hoistway mounted elevator machinery characteristic of the Schindler Model 5500 elevator, Applicant presently seeks permanent variance from the following Title 8, Elevator Safety Order incorporated ASME Code A17.1-2004 section:

Section 2.14.1.7.1—Top of Car Perimeter Railing Placement

Requested Seismic Reset Switch Placement Variance:

3. As it pertains to installation of the requisite seismic reset switch within a “machine room” location incompatible with machine-room-less design of the Schindler Model 5500 elevator, Applicant presently seeks permanent variance from the following Title 8, Elevator Safety Order incorporated ASME Code subsection:

Subsection 8.4.10.1.1(a)(2)(b)--Seismic Reset Switch Placement in Machine Room

Requested Transfer Switch Placement Variance:

4. As it pertains to installation of the requisite transfer switch within a “machine room” location incompatible with machine-room-less design of the Schindler Model 5500 elevator, Applicant presently seeks permanent variance from the following Title 8, Elevator Safety Order incorporated ASME Code A17.1-2004 subsection:

Subsection 2.26.1.4.4(a)--Transfer Switch Placement in Machine Room

Official Notice and Incorporation by Reference—OSHSB File No. 15-V-349:

5. Per hereby entered stipulation offered at hearing by Applicant, Division, and Board staff, concerning preexisting Board records, including decisions in matters of permanent variance from Elevator Safety Order requirements, the Board takes Official Notice and expressly incorporates herein by reference, OSHSB File No. 15-V-349, Decision and Order adopted November 17, 2016, Section D.1—D.75 findings, and therein entered record upon which it was based.

Positions of Division, and Board Staff:

6. Having fully reviewed Applicant’s request for variance from the above identified Elevator Safety Order requirements, it is the concurrent opinion of Division and Board staff, that conditionally limited grant to Applicant of permanent variance as specified per the below Decision and Order, will provide for elevator safety, and occupational safety and health, equivalent or superior to that of the Elevator Safety Order requirements from which variance is being sought. The present opinion of Division and Board staff, to any extent it may vary from those previously held with respect to the previously heard matter in OSHSB File No. 15-V-349, reflects further scrutiny of the subject matter, consultation between Division, Board staff, Applicant representatives, and refinement of recommended conditions and limitations.

D. Basis of Decision:

The afore stated procedural, statutory, regulatory, and factual matters establish a substantive reasonable basis of conclusion that: (1) Applicant has complied with the statutory and regulatory requirements that must be met before an application for permanent variance may be conditionally granted, and (2) a preponderance of the evidence establishes that Applicant's proposal, subject to all conditions and limitations set forth in the below Decision and Order, will provide equivalent safety and health to that which would prevail upon full compliance with the requirements of California Code of Regulation, Title 8, Elevator Safety Orders from which variance is being sought.

E. Decision and Order:

Each above Section A.1 table specified Applicant, with respect to the also specified number of conveyance, and variance location, is hereby conditionally GRANTED Permanent Variance as stated below, to the limited extent that each enumerated conveyance at the given location shall be subject to conditionally limited permanent variance from the below specified ASME A17.1-2004, requirements incorporated by reference into California Code of Regulations, Title 8, Elevator Safety Orders, Section 3141.

Suspension Members: Applicant shall conditionally hold permanent variance from the following Title 8, Section 3141 incorporated sections and subsections of ASME A17.1-2004, to the limited extent variance is necessary to provide for use of noncircular elastomeric-coated steel suspension members and concomitant components, and configurations—Section 2.20.1; Section 2.20.2.1; Subsection 2.20.2.2(a); Subsection 2.20.2.2(f); Section 2.20.3; Section 2.20.4; Section 2.20.9.3.4; and Section 2.20.9.5.4.

Inspection Transfer Switch: Applicant shall conditionally hold permanent variance from certain requirements of the following Title 8, Section 3141 incorporated section of ASME A17.1-2004, to the extent variance is necessary to having the requisite inspection transfer switch located elsewhere than a machine room, within a Security Group I enclosure built into an upper floor landing door jam, or within other readily accessible and secure space shared with the motion controller outside the hoistway: Section 2.26.1.4.4(a).

Seismic Safety Switch Placement: Applicant shall conditionally hold permanent variance from certain requirements of the following Title 8, Section 3141 incorporated section of ASME A17.1-2004, to the limited extent variance is necessary to having the requisite seismic reset switch located elsewhere than a machine room, within a Security Group I

enclosure built into an upper floor landing door jam, or within other readily accessible and secure space shared with the motion controller outside the hoistway: Section 8.4.10.1.1(a)(2)(b).

Car Top Railing: Applicant shall conditionally hold permanent variance from certain requirements of the following Title 8, Section 3141 incorporated section of ASME A17.1-2004, to the limited extent variance is necessary to provide for the below specified inseting of the subject elevator's top of car railing: Section 2.14.1.7.1.

Further Conditions and Limitations:

1. The elevator suspension system shall comply with the following:
 - 1.1. The suspension traction media (STM) members and their associated fastenings shall conform to the applicable requirements of ASME A17.1-2013, sections:
 - 2.20.4.3 – Minimum Number of Suspension Members
 - 2.20.3 – Factor of Safety
 - 2.20.9 – Suspension Member Fastening
 - 1.2. Additionally, STMs shall meet or exceed all requirements of ASME 17.6-2010 Standard for Elevator Suspension, Compensation, and Governor Systems, Part 3 Noncircular Elastomeric Coated Steel Suspension Members for Elevators.
 - 1.3. The Applicant shall not utilize the elevator unless the manufacturer has written procedures for the installation, maintenance, inspection and testing of the STM members and fastenings and related monitoring and detection systems and criteria for STM replacement, and the Applicant shall make those procedures and criteria available to the Certified Competent Conveyance Mechanic (CCCM) at the location of the elevator, and to the Division of Occupational Safety and Health (Division) upon request.
 - 1.4. STM member mandatory replacement criteria shall include:
 - 1.4.1 Any exposed wire, strand or cord;
 - 1.4.2 Any wire, strand or cord breaks through the elastomeric coating;
 - 1.4.3 Any evidence of rouging (steel tension element corrosion) on any part of the elastomeric coated steel suspension member;

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Hearing Date: December 18, 2020

- 1.4.4 Any deformation in the elastomeric suspension member such as, but not limited to, kinks or bends.
- 1.5. Traction drive sheaves must have a minimum diameter of 72 mm. The maximum speed of STM members running on 72 mm, 87 mm and 125 mm drive sheaves shall be no greater than 2.5 m/s, 6.0 m/s and 8.0 m/s respectively.
- 1.6. If any one STM member needs replacement, the complete set of suspension members on the elevator shall be replaced. Exception: If a new suspension member is damaged during installation, and prior to any contemporaneously installed STM having been placed into service, it is permissible to replace the individual damaged suspension member. STM members that have been installed on another installation shall not be re-used.
- 1.7. A traction loss detection means shall be provided that conforms to the requirements of ASME A17.1-2013, section 2.20.8.1. The means shall be tested for correct function annually in accordance with ASME A17.1-2013, section 8.6.4.19.12.
- 1.8. A broken suspension member detection means shall be provided that conforms to the requirements of ASME A17.1-2013, section 2.20.8.2. The means shall be tested for correct function annually in accordance with ASME A17.1-2013, section 8.6.4.19.13(a).
- 1.9. An elevator controller integrated bend cycle monitoring system shall monitor actual STM bend cycles, by means of continuously counting, and storing in nonvolatile memory, the number of trips that the STM makes traveling, and thereby being bent, over the elevator sheaves. The bend cycle limit monitoring means shall automatically stop the car normally at the next available landing before the bend cycle correlated residual strength of any single STM member drops below 80 percent of full rated strength. The monitoring means shall prevent the car from restarting. Notwithstanding any less frequent periodic testing requirement per Addendum 1 (Division Circular Letter), the bend cycle monitoring system shall be tested semi-annually in accordance with the procedures required per above Conditions 1.2, and 1.3.
- 1.10. Each elevator shall be provided with a device that electronically detects a reduction in residual strength of each STM member. The device shall be in compliance with Division Circular Letter E-10-04, a copy of which is attached hereto as Addendum 1, and incorporated herein by reference.

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Hearing Date: December 18, 2020

- 1.11. The elevator crosshead data plate shall comply with the requirements of ASME A17.1-2013, Section 2.20.2.1.
 - 1.12. A suspension means data tag shall be provided that complies with the requirements of ASME A17.1-2013, Section 2.20.2.2.
 - 1.13. Comprehensive visual inspections of the entire length of each and all installed suspension members, in conformity with above Conditions 1.2 and 1.3 specified criteria, shall be conducted and documented every six months by a CCCM.
 - 1.14. The Applicant shall be subject to the requirements per hereto attached, and inhere incorporated, Addendum 2, "Suspension Means Replacement Reporting Condition."
 - 1.15. Records of all tests and inspections shall be maintenance records subject to ASME A17.1-2004, Sections 8.6.1.2 and 8.6.1.4, respectively.
2. Inspection Transfer switch and Seismic Reset switch placement and enclosure shall comply with the following:
 - 2.1. If the inspection transfer switch required by ASME A17.1-2004, Rule 2.26.1.4.4 does not reside in a machine room, that switch shall not reside in the elevator hoistway. The switch shall reside in the control/machinery room/space containing the elevator's control equipment in an enclosure secured by a lock openable by a Group 1 security key. The enclosure is to remain locked at all times when not in use.
 - 2.2. If the seismic reset switch does not reside in the machine room, that switch shall not reside in the elevator hoistway. The switch shall reside in the control/machinery room/space containing the elevator's control equipment in an enclosure secured by a lock openable by a Group 1 security key. The enclosure is to remain locked at all times when not in use.
3. Any and all inset car top railing shall comply with the following:
 - 3.1. Serviceable equipment shall be positioned so that mechanics and inspectors do not have to stand on or climb over the railings to perform adjustments, maintenance, repairs or inspections. The Applicant shall not permit anyone to stand or climb over the car top railing.

Proposed Variance Decision

Schindler Model 5500 Elevators (Group IV)

Hearing Date: December 18, 2020

- 3.2. The distance that the railing can be inset shall be limited to not more than 12 inches.
- 3.3. All exposed areas of the car top outside the car top railing where the distance from the railing to the edge of the car top exceeds 2 inches, shall be beveled with metal, at an angle of not less than 75 degrees with the horizontal, from the mid or top rail to the outside of the car top, such that no person or object can stand, sit, kneel, rest, or be placed in the exposed areas.
- 3.4. The top surface of the beveled area and/or car top outside the railing, shall be clearly marked. The markings shall consist of alternating 4 inch diagonal red and white stripes.
- 3.5. The applicant shall provide durable signs with lettering not less than 1/2 inch on a contrasting background on each inset railing; each sign shall state:

**CAUTION
STAY INSIDE RAILING
NO LEANING BEYOND RAILING
NO STEPPING ON, OR BEYOND, RAILING**

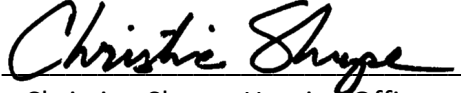
- 3.6. The Group IV requirements for car top clearances shall be maintained (car top clearances outside the railing will be measured from the car top and not from the required bevel).
4. The elevator shall be serviced, maintained, adjusted, tested, and inspected only by CCCM having been trained, and competent, to perform those tasks on the Schindler Model 5500 elevator system in accordance with written procedures and criteria, including as required per above Conditions 1.2, and 1.3.
5. The Division shall be notified when the elevator is ready for inspection. The elevator shall be inspected by the Division, and all applicable requirements met, including conditions of this permanent variance, prior to a Permit to Operate the elevator being issued. The elevator shall not be placed in service prior to the Permit to Operate being issued by Division.
6. The Applicant shall notify its employees or their authorized representative(s), or both, of this order in the same way and to the same extent that employees and authorized representatives are to be notified of docketed permanent variance applications pursuant to California Code of Regulations, Title 8, Sections 411.2 and 411.3.

*Proposed Variance Decision
Schindler Model 5500 Elevators (Group IV)
Hearing Date: December 18, 2020*

7. This Decision and Order shall remain in effect unless modified or revoked upon application by Applicant, affected employee(s), the Division, or by the Board on its own motion, in accordance with Title 8, Division 1, Chapter 3.5, procedural rules.

Pursuant to California Code of Regulations, Title 8, Section 426(b), the above, duly completed Proposed Decision, is hereby submitted to the Occupational Safety and Health Standards Board for consideration of adoption.

Dated: January 5, 2021


Christina Shupe, Hearing Officer

ADDENDUM 1

October 6, 2010

CIRCULAR LETTER E-10-04

TO: Installers, Manufacturers of Conveyances and Related Equipment and, Other Interested Parties

SUBJECT: Coated Steel Belt Monitoring

The Elevator Safety Orders require routine inspection of the suspension means of an elevator to assure its safe operation.

The California Labor Code Section 7318 allows the Division to promulgate special safety orders in the absence of regulation.

As it is not possible to see the steel cable suspension means of a Coated Steel Belt, a monitoring device which has been accepted by the Division is required on all Coated Steel Belts which will automatically stop the car if the residual strength of any belt drops below 60%. The Device shall prevent the elevator from restarting after a normal stop at a landing.

The monitoring device must be properly installed and functional. A functioning device may be removed only after a determination has been made that the residual strength of each belt exceeds 60%. These findings and the date of removal are to be conspicuously documented in the elevator machine room. The removed device must be replaced or returned to proper service within 30 days.

If upon routine inspection, the monitoring device is found to be in a non-functional state, the date and findings are to be conspicuously documented in the elevator machine room.

If upon inspection by the Division, the monitoring device is found to be non-functional or removed, and the required documentation is not in place, the elevator will be removed from service.

If the device is removed to facilitate belt replacement, it must be properly installed and functional before the elevator is returned to service.

A successful test of the device's functionality shall be conducted once a year.

This circular does not preempt the Division from adopting regulations in the future, which may address the monitoring of Coated Steel Belts or any other suspension means.

This circular does not create an obligation on the part of the Division to permit new conveyances utilizing Coated Steel Belts.

Debra Tudor
Principal Engineer
DOSH-Elevator Unit HQS

ADDENDUM 2

Suspension Means – Replacement Reporting Condition

Beginning on the date the Board adopts this Proposed Decision and continuing for a period of two years, the Applicant shall report to the Division within 30 days any and all replacement activity performed on the elevator(s) pursuant to the requirements of ASME A17.1-2004, Section 8.6.3 involving the suspension means or suspension means fastenings.

Further:

1. A separate report for each elevator shall be submitted, in a manner acceptable to the Division, to the following address (or to such other address as the Division might specify in the future): DOSH Elevator Unit, 2 MacArthur Place, Suite 700, Santa Ana, CA 92707, Attn: Engineering Section.
2. Each such report shall contain, but not necessarily be limited to, the following information:
 - a. The State-issued conveyance number, complete address, and OSHSB file number that identifies the permanent variance.
 - b. The business name, complete address, telephone number, and contact person of the elevator responsible party (presumably the Applicant or the subsequent holder of this variance).
 - c. The business name, complete address, telephone number, and Certified Qualified Conveyance Company (CQCC) certification number of the firm performing the replacement work.
 - d. The name (as listed on certification), Certified Competent Conveyance Mechanic (CCCM) certification number, certification expiration date, and signature of each CCCM performing the replacement work.
 - e. The date and time the elevator was removed from normal service for suspension replacement, the date and time the replacement work commenced, the date and time the replacement work was completed, and the date and time the elevator was returned to normal service.

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Schindler Model 5500 Elevators (Group IV)

Hearing Date: December 18, 2020

- f. A detailed description of, and clear color photographs depicting, (1) all the conditions that existed in the suspension components requiring their replacement and (2) any conditions that existed to cause damage or distress to the suspension components being replaced.
 - g. A detailed list of all elevator components adjusted, repaired, or replaced in conjunction with the suspension component replacement.
 - h. All information provided on the crosshead data plate per ASME A17.1-2004, Section 2.20.2.1, unless that ASME requirement is modified by the conditions of a variance that pertains to the elevator in question, in which case, the information to be reported shall be the information required by the ASME provision as modified by the variance.
 - i. For the suspension means being replaced, all information provided on the data tag required per ASME A17.1-2004, Section 2.20.2.2, unless that ASME requirement is modified by the conditions of a variance that pertains to the elevator in question, in which case, the information to be reported shall be the information required by the ASME provision as modified by the variance.
 - j. For the replacement suspension means, all information provided on the data tag required by ASME A17.1-2004, Section 2.20.2.2, unless that ASME requirement is modified by the conditions of a variance that pertains to the elevator in question, in which case, the information to be reported shall be the information required by the ASME provision as modified by the variance.
 - k. Any other information requested by the Division regarding the replacement of the suspension means or fastenings.
3. In addition to the submission of the report to the Division, the findings of any testing, failure analysis, or other engineering evaluations performed on any portion of the replaced suspension components, or other elevator components replaced in conjunction therewith, shall be submitted to the Division referencing the information contained in item 2a above.

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
2520 Venture Oaks Way, Suite 350
Sacramento, California 95833
(916) 274-5721

In the Matter of Application for Permanent)
Variance Regarding:)
)
Otis Elevator (Group IV) Gen2(O))
and/or Gen2L Alterations)
)
_____)

OSHSB FILE No.: see grid in Item A of
Proposed Decision Dated: January 5, 2021

DECISION

The Occupational Safety and Health Standards Board hereby adopts the attached PROPOSED DECISION by Christina Shupe, Hearing Officer.

DAVID THOMAS, Chairman

BARBARA BURGEL, Member

KATHLEEN CRAWFORD, Member

DAVID HARRISON, Member

NOLA KENNEDY, Member

CHRIS LASZCZ-DAVIS, Member

LAURA STOCK, Member

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD

Date of Adoption: January 21, 2021

THE FOREGOING VARIANCE DECISION WAS ADOPTED ON THE DATE INDICATED ABOVE. IF YOU ARE DISSATISFIED WITH THE DECISION, A PETITION FOR REHEARING MAY BE FILED BY ANY PARTY WITH THE STANDARDS BOARD WITHIN TWENTY (20) DAYS AFTER SERVICE OF THE DECISION. YOUR PETITION FOR REHEARING MUST FULLY COMPLY WITH THE REQUIREMENTS OF CALIFORNIA CODE OF REGULATIONS, TITLE 8, SECTIONS 427, 427.1 AND 427.2.

Note: A copy of this Decision must be posted for the Applicant's employees to read, and/or a copy thereof must be provided to the employees' Authorized Representatives.

BEFORE THE
 OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
 DEPARTMENT OF INDUSTRIAL RELATIONS
 STATE OF CALIFORNIA

<p>In the Matter of Application for Permanent Variance Regarding:</p> <p style="text-align: center;">Otis Elevator (Group IV) Gen2(O) and/or Gen2L Alterations</p>	<p>OSHSB File Nos.: Per Section A.1 table</p> <p style="text-align: center;"><u>PROPOSED DECISION</u></p> <p>Hearing Date: December 18, 2020</p>
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A. Subject Matter:

- Each below listed applicant (“Applicant”) has applied for permanent variances from provisions of the Elevator Safety Orders, found at Title 8 of the California Code of Regulations, or applied to modify such variances, with respect to a conveyance, or conveyances, in the listed quantity, at the listed location:

Variance No.	Applicant Name	Variance Location Address	No. of Elevators
20-V-439	Hyundai Rio Vista Inc.	Rio Vista Tower 8880 Rio San Diego Drive San Diego, CA	4

- The subject regulatory requirements are as enumerated per the below Decision and Order.

B. Jurisdiction:

This proceeding is conducted in accordance with Labor Code Section 143, and California Code of Regulations, Title 8, Section 401, et. seq.

C. Procedural:

- This hearing was held on December 18, 2020, in Sacramento, California, and via teleconference, by Occupational Safety and Health Standards Board (“Board”), with Hearing Officer Christina Shupe, both presiding and hearing the matter on its merit, as a basis of proposed decision to be advanced to the Board for its consideration, in accordance with California Code of Regulations, Title 8, Section 426.
- At the hearing, Wolter Geesink, with Otis Elevator, and Dan Leacox of Leacox & Associates, appeared on behalf of each Applicant; David Morris appeared on behalf of the Division of Occupational Safety and Health (“Division”); and Michael Nelmidia appeared on behalf of Board staff in a technical advisory role apart from the Board.

Proposed Variance Decision

Otis Elevator, Group IV, Gen2(O) and/or Gen2L Alterations

Hearing date: December 18, 2020

3. Oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence: each permanent variance application per Section A.1 table as Exhibit PD-1; Notice of Hearing as Exhibit PD-2; each respective Board staff Pending Application Memorandum as PD-3; Division evaluation as PD-4; Review Draft 1 Proposed Decision as PD-5; and official notice taken of the Board's rulemaking records and variance decisions concerning the safety order requirements from which variance is requested. At close of hearing on December 18, 2020, the record closed, and the matter was taken under submission by the Hearing Officer.

D. Findings and Basis:

1. Each Applicant intends to alter elevators at the locations, and in the numbers, stated in the Section A.1 table such that each elevator becomes (or incorporates features of) an Otis Gen2(O) and/or Otis Gen2L elevator.
2. The belts and connections that each Applicant intends to install are the same as are used on new Otis Gen2(O)/Gen2L installations.
3. The alterations will be performed after May 1, 2008, and the contracts for the alterations were or will be signed on or after May 1, 2008, making those alterations subject to the Group IV Elevator Safety Orders.
4. The Board incorporates by reference the findings stated in: (a) Items 3 through 5.c, 5.e, and 5.f of the "Findings of Fact" section of the Proposed Decision adopted by the Board on February 19, 2009, regarding OSHSB File No. 08-V-247; (b) Item D.3 of the Proposed Decision adopted by the Board on July 16, 2009, regarding OSHSB File No. 09-V-042; (c) Item D.4 of the Proposed Decision adopted by the Board on September 16, 2010, regarding OSHSB File No. 10-V-029; and (d) Items D.4, D.5, and D.7 of the proposed decision adopted by the Board on July 18, 2013, regarding OSHSB File No. 12-V-146.

E. Conclusive Findings:

The above stated procedural prerequisites, legal authority, and factual findings, as further supported by the documentary record and hearing testimony in this matter, provide a substantive and reasonable basis of conclusion that: (1) Each Applicant has complied with the statutory and regulatory requirements that must be met before an application for permanent variance may be conditionally granted, and (2) a preponderance of the evidence establishes that each Applicants proposal, subject to all conditions and limitations set forth in the below Decision and Order, will provide equivalent safety and health to that which would prevail upon full compliance with the requirements of California Code of Regulation, Title 8, Elevator Safety Orders from which variance is being sought.

Proposed Variance Decision

Otis Elevator, Group IV, Gen2(O) and/or Gen2L Alterations

Hearing date: December 18, 2020

F. Decision and Order:

Each permanent variance application that is the subject of this proceeding is conditionally GRANTED, as specified below, to the extent that, as of the date the Board adopts this Proposed Decision, each Section A.1 table listed Applicant, at the specified variance location, and as to specified number of conveyances, shall have a permanent variance regarding switches, suspension rope and connection retrofits, (so long as the elevators are Gen2 (O) or Gen2L Group IV devices that are designed, equipped, and installed in accordance with, and are otherwise consistent with, the representations made in the Otis Master File [referred to in previous Proposed Decisions as the “Gen2 Master File”] maintained by the Board, as that file was constituted at the time of this hearing). The variance shall be from California Code of Regulations, Title 8, Sections 3141 and 3141.2(a), and shall only be to the extent necessary to allow variances from the following provisions of ASME A17.1-2004 made applicable by those Title 8 provisions:

- Sections 8.7.1.1(b), 8.7.2.21.1, and 8.7.2.25.1(c) (to the extent necessary to permit variance from the ASME A17.1-2004 provisions listed in the next bullet point);
- Sections 2.14.1.7.1 (only to the extent necessary to permit an inset car top railing, if, in fact, the car top railing is inset), 2.20.1 (only to the extent necessary to permit the use of Otis Gen2 flat coated steel suspension belts [the belts proposed for use on these Gen2(O) and/or Gen2L elevators] in lieu of conventional steel suspension ropes), 2.20.2.1, 2.20.2.2(a), 2.20.2.2(f), 2.20.3, 2.20.4, 2.20.9.3.4, 2.20.9.5.4, 2.26.1.4.4(a) (only to the extent necessary to allow the inspection transfer switch to reside at a location other than a machine room, if, in fact, it does not reside in the machine room) and 8.4.10.1.1(a)(2)(b) (only to the extent necessary to allow the seismic reset switch to reside at a location other than a machine room, if, in fact, it does not reside in the machine room)].

The variance shall be subject to, and limited by, the following additional conditions:

1. Each elevator subject to this variance shall comply with all applicable Group IV Elevator Safety Orders and with all ASME provisions made applicable by those Group IV Elevator Safety Orders, except those from which variances are granted, as set forth in the prefatory portion of this Decision and Order.
2. The elevator suspension system shall comply with the following:
 - a. The coated steel belt shall have a factor of safety at least equal to the factor of safety that ASME A17.1-2004, Section 2.20.3 would require for wire ropes if the elevator were suspended by wire ropes rather than the coated steel belt.

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- b. Steel coated belts that have been installed and used on another installation shall not be reused.
 - c. The coated steel belt shall be fitted with a monitoring device which has been accepted by the Division and which will automatically stop the car if the residual strength of any single belt drops below 60 percent. If the residual strength of any single belt drops below 60 percent, the device shall prevent the elevator from restarting after a normal stop at a landing.
 - d. Upon initial inspection, the readings from the monitoring device shall be documented and submitted to the Division.
 - e. A successful test of the monitoring device's functionality shall be conducted at least once a year (the record of the annual test of the monitoring device shall be a maintenance record subject to ASME A17.1-2004, Section 8.6.1.4).
 - f. The coated steel belts used shall be accepted by the Division.
 - g. The installation of belts and connections shall be in conformance with the manufacturer's specifications, which shall be provided to the Division.
3. With respect to each elevator subject to this variance, the applicant shall comply with Division Circular Letter E-10-04, a copy of which is attached hereto as Addendum 1 and incorporated herein by this reference.
 4. The Applicant shall not utilize the elevator unless the manufacturer has written procedures for the installation, maintenance, inspection, and testing of the belts and monitoring device, and criteria for belt replacement, and the Applicant shall make those procedures and criteria available to the Division upon request.
 5. The flat coated steel belts shall be provided with a metal data tag that is securely attached to one of those belts. This data tag shall bear the following flat steel coated belt data:
 - a. The width and thickness in millimeters or inches;
 - b. The manufacturer's rated breaking strength in (kN) or (lbf);
 - c. The name of the person who or organization that installed the flat coated steel belts;
 - d. The month and year the flat coated steel belts were installed;
 - e. The month and year the flat coated steel belts were first shortened;
 - f. The name or trademark of the manufacturer of the flat coated steel belts; and

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- g. Lubrication information.
6. There shall be a crosshead data plate of the sort required by Section 2.20.2.1, and that plate shall bear the following flat steel coated belt data:
 - a. The number of belts;
 - b. The belt width and thickness in millimeters or inches; and
 - c. The manufacturer's rated breaking strength per belt in (kN) or (lbf).
7. If the seismic reset switch does not reside in a machine room, that switch shall not reside in the elevator hoistway. The switch shall reside in the inspection and test control panel located in one upper floor hoistway door jamb or in the control space (outside the hoistway) used by the motion controller.
8. If the inspection transfer switch required by ASME A17.1, rule 2.26.1.4.4(a) does not reside in a machine room, that switch shall not reside in the elevator hoistway. The switch shall reside in the inspection and test control panel located in one upper floor hoistway door jamb or in the control space (outside the hoistway) used by the motion controller.
9. When the inspection and test control panel is located in the hoistway door jamb, the inspection and test control panels shall be openable only by use of a Security Group I restricted key.
10. The opening to the hoistway shall be effectively barricaded when car top inspection, maintenance, servicing, or testing of elevator equipment in the hoistway is required. If service personnel must leave the area for any reason, the hoistway and control room doors shall be closed.
11. If there is an inset car top railing:
 - a. Serviceable equipment shall be positioned so that mechanics and inspectors do not have to climb on railings to perform adjustment, maintenance, repairs, or inspections. The applicant shall not permit anyone to stand on or climb over the car top railing.
 - b. The distance that the car top railing may be inset from the car top perimeter shall be limited to no more than 6 inches.

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- c. All exposed areas of the car top outside the car top railing shall preclude standing or placing objects or persons which may fall and shall be beveled from the mid- or top rail to the outside of the car top.
- d. The top of the beveled area and/or the car top outside the railing shall be clearly marked. The markings shall consist of alternating 4 inch diagonal red and white stripes.
- e. The Applicant shall provide durable signs with lettering not less than ½ inch on a contrasting background on each inset railing; each sign shall state:

CAUTION

DO NOT STAND ON OR CLIMB OVER RAILING

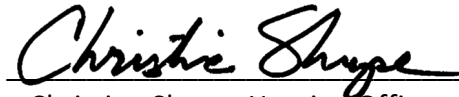
- f. The Group IV requirements for car top clearances shall be maintained (car top clearances outside the railing shall be measured from the car top and not from the required bevel).
12. Each elevator shall be serviced, maintained, adjusted, tested, and inspected by Certified Competent Conveyance Mechanics who have been trained, and are competent, to perform those tasks on the Gen2(O) and/or Gen2L elevator system the Applicant proposes to use, in accordance with the written procedures and criteria required by Condition No. 4 and all other terms and conditions of this permanent variance.
 13. Any Certified Qualified Conveyance Company performing inspections, maintenance, servicing, or testing of the elevators shall be provided a copy of this variance decision.
 14. The Division shall be notified when the elevator is ready for inspection. No elevator shall be placed in service prior to it being inspected and issued a Permit to Operate by the Division
 15. Each Applicant shall be subject to the suspension means replacement reporting condition stated in Addendum 2; that condition is incorporated herein by this reference.
 16. Each Applicant shall notify its employees or their authorized representative(s), or both, of this order in the same way that the Applicant was required to notify them of the application for permanent variance per California Code of Regulations, Title 8, Sections 411.2 and 411.3.
 17. This Decision and Order shall remain in effect unless modified or revoked upon application by the Applicant, affected employee(s), the Division of Occupational Safety

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and Health, or by the Board on its own motion, in accordance with procedures per Title 8, Division 1, Chapter 3.5.

Pursuant to California Code of Regulations, Title 8, Section 426(b), the above, duly completed Proposed Decision, is hereby submitted to the Occupational Safety and Health Standards Board for consideration of adoption.

Dated: January 5, 2021


Christina Shupe, Hearing Officer

ADDENDUM 1

October 6, 2010

CIRCULAR LETTER E-10-04

TO: Installers, Manufacturers of Conveyances and Related Equipment and, Other Interested Parties

SUBJECT: Coated Steel Belt Monitoring

The Elevator Safety Orders require routine inspection of the suspension means of an elevator to assure its safe operation.

The California Labor Code Section 7318 allows the Division to promulgate special safety orders in the absence of regulation.

As it is not possible to see the steel cable suspension means of a Coated Steel Belt, a monitoring device which has been accepted by the Division is required on all Coated Steel Belts which will automatically stop the car if the residual strength of any belt drops below 60%. The Device shall prevent the elevator from restarting after a normal stop at a landing.

The monitoring device must be properly installed and functional. A functioning device may be removed only after a determination has been made that the residual strength of each belt exceeds 60%. These findings and the date of removal are to be conspicuously documented in the elevator machine room. The removed device must be replaced or returned to proper service within 30 days.

If upon routine inspection, the monitoring device is found to be in a non-functional state, the date and findings are to be conspicuously documented in the elevator machine room.

If upon inspection by the Division, the monitoring device is found to be non-functional or removed, and the required documentation is not in place, the elevator will be removed from service.

If the device is removed to facilitate belt replacement, it must be properly installed and functional before the elevator is returned to service.

A successful test of the device's functionality shall be conducted once a year.

This circular does not preempt the Division from adopting regulations in the future, which may address the monitoring of Coated Steel Belts or any other suspension means.

This circular does not create an obligation on the part of the Division to permit new conveyances utilizing Coated Steel Belts.

Debra Tudor
Principal Engineer
DOSH-Elevator Unit HQS

ADDENDUM 2

Suspension Means – Replacement Reporting Condition

Beginning on the date the Board adopts this Proposed Decision and continuing for a period of two years, the Applicant shall report to the Division within 30 days any and all replacement activity performed on the elevator(s) pursuant to the requirements of ASME A17.1-2004, Section 8.6.3 involving the suspension means or suspension means fastenings.

Further:

1. A separate report for each elevator shall be submitted, in a manner acceptable to the Division, to the following address (or to such other address as the Division might specify in the future): DOSH Elevator Unit, 2 MacArthur Place, Suite 700, Santa Ana, CA 92707, Attn: Engineering Section.
2. Each such report shall contain, but not necessarily be limited to, the following information:
 - a. The State-issued conveyance number, complete address, and OSHSB file number that identifies the permanent variance.
 - b. The business name, complete address, telephone number, and contact person of the elevator responsible party (presumably the Applicant or the subsequent holder of this variance).
 - c. The business name, complete address, telephone number, and Certified Qualified Conveyance Company (CQCC) certification number of the firm performing the replacement work.
 - d. The name (as listed on certification), Certified Competent Conveyance Mechanic (CCCM) certification number, certification expiration date, and signature of each CCCM performing the replacement work.
 - e. The date and time the elevator was removed from normal service for suspension replacement, the date and time the replacement work commenced, the date and time the replacement work was completed, and the date and time the elevator was returned to normal service.

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- f. A detailed description of, and clear color photographs depicting, (1) all the conditions that existed in the suspension components requiring their replacement and (2) any conditions that existed to cause damage or distress to the suspension components being replaced.
 - g. A detailed list of all elevator components adjusted, repaired, or replaced in conjunction with the suspension component replacement.
 - h. All information provided on the crosshead data plate per ASME A17.1-2004, Section 2.20.2.1, unless that ASME requirement is modified by the conditions of a variance that pertains to the elevator in question, in which case, the information to be reported shall be the information required by the ASME provision as modified by the variance.
 - i. For the suspension means being replaced, all information provided on the data tag required per ASME A17.1-2004, Section 2.20.2.2, unless that ASME requirement is modified by the conditions of a variance that pertains to the elevator in question, in which case, the information to be reported shall be the information required by the ASME provision as modified by the variance.
 - j. For the replacement suspension means, all information provided on the data tag required by ASME A17.1-2004, Section 2.20.2.2, unless that ASME requirement is modified by the conditions of a variance that pertains to the elevator in question, in which case, the information to be reported shall be the information required by the ASME provision as modified by the variance.
 - k. Any other information requested by the Division regarding the replacement of the suspension means or fastenings.
3. In addition to the submission of the report to the Division, the findings of any testing, failure analysis, or other engineering evaluations performed on any portion of the replaced suspension components, or other elevator components replaced in conjunction therewith, shall be submitted to the Division referencing the information contained in item 2a above.

Occupational Safety and Health Standards Board

Business Meeting
Legislative Update

Briefing: The Legislature briefly convened on December 7th to swear in newly elected legislators, during which time 158 bills were introduced. The Legislature then recessed and reconvened on January 11th, 2021.

As of January 11th, of the 158 bills introduced, staff have identified four with potential impacts to the Board or its work.

- **AB-7 Emergency ambulance employees: subsidized protective gear.(2021-2022)**
- **AB-62 Income taxes: credits: costs to comply with COVID-19 regulations.(2021-2022)**
- **AB-73 Employment safety: agricultural workers: wildfire smoke.(2021-2022)**
- **SB-46 Employment: contact tracing and safety policies: COVID-19.(2021-2022)**

Legislative Update
Prepared January 11th, 2020, for the January 21, 2021
Meeting of the Occupational Safety and Health Standards Board

AB-7 Emergency ambulance employees: subsidized protective gear. (2021-2022)
 (Rodriguez)

Date	Action
12/08/20	From printer. May be heard in committee January 7.
12/07/20	Read first time. To print.

Summary:

AB 7

Existing law establishes a statewide system for emergency medical services and establishes the Emergency Medical Services Authority, which is responsible for establishing training, scope of practice, and continuing education for emergency medical technicians and other prehospital personnel. Existing law, the California Occupational Safety and Health Act of 1973, imposes safety responsibilities on employers and employees, including requirements that every employer furnish and use safety devices and safeguards, and adopt and use practices that are reasonably adequate to render the employment and place of employment safe and healthful. Existing law makes a violation of those requirements a crime.

This bill would require an emergency ambulance provider to establish a voluntary personal protective equipment (PPE) program that allows for the purchase of subsidized multithreat body protective gear that is bullet, strike, slash, and stab resistant by an emergency ambulance employee pursuant to an employer-funded stipend, and authorize an employee to voluntarily participate in a PPE program and to wear the PPE while on duty. The bill would require a provider to inform an employee of the opportunity to purchase subsidized multithreat body protective gear through a PPE program. By creating new duties for emergency ambulance providers, a violation of which would be a crime, the bill would impose a state-mandated local program. The bill would not apply to the state or a political subdivision of the state.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(AB 7, cont.)

Board staff are monitoring this legislation to determine if regulatory action by the Board is called for. *The Board may recall that Assembly Member Rodriguez previously sponsored AB 2092, which would have required an emergency ambulance provider to inform each emergency ambulance employee, upon initial employment and subsequently on an annual basis, of the employee's right to request safety devices and safeguards, as defined, at the ginning of the employee's shift. That bill was vetoed by the Governor on September 9, 2020.*

AB-62 Income taxes: credits: costs to comply with COVID-19 regulations.(2021-2022)
(Gray)

Date	Action
12/08/20	From printer. May be heard in committee January 7.
12/07/20	Read first time. To print.

Summary:

AB 62, as introduced, Gray. Income taxes: credits: costs to comply with COVID-19 regulations.

The Personal Income Tax Law and the Corporation Tax Law allow various credits against the taxes imposed by those laws. Existing law requires any bill authorizing a new tax credit to contain, among other things, specific goals, purposes, and objectives that the tax credit will achieve, detailed performance indicators, and data collection requirements.

This bill would allow a credit against those taxes for each taxable year beginning on or after January 1, 2021, to a qualified taxpayer, as defined, in an amount equal to the total amount paid or incurred during the taxable year by the qualified taxpayer to comply with the regulations adopted by the Occupational Safety and Health Standards Board on November 19, 2020, relating to COVID-19 prevention and approved by the Office of Administrative Law. The bill also would state the intent of the Legislature to comply with the additional information requirement for any bill authorizing a new income tax credit.

This bill would take effect immediately as a tax levy.

Board staff are monitoring this legislation for any potential impacts to its COVID-19 Emergency Temporary Standards.

AB 62

AB-73 Employment safety: agricultural workers: wildfire smoke.(2021-2022)

(Rivas, Garcia, Gonzalez, and Kalra)

Date	Action
12/08/20	From printer. May be heard in committee January 7
12/07/20	Read first time. To print.

Summary:

AB 73, as introduced, Robert Rivas. Employment safety: agricultural workers: wildfire smoke.

Existing law establishes the Division of Occupational Safety and Health within the Department of Industrial Relations and requires the division to, among other things, monitor, analyze, and propose health and safety standards for workers. Existing law authorizes the Division of Occupational Safety and Health to adopt regulations to implement health and safety standards. Under existing law, certain violations of a standard, order, or special order pursuant to these provisions are crimes.

AB 73

Existing regulations require, under certain circumstances, an employer to provide respirators to employees for voluntary use when the air quality index for small particulate matter exceeds certain thresholds, and to encourage employees to use the respirators.

This bill would, among other things, require the division to designate a wildfire smoke strike team within each regional office for purposes of enforcing regulations regarding air quality safety for agricultural workers, as defined. The bill would require the department, by January 1, 2023, in coordination with other state agencies to establish a stockpile of N95 filtering facepiece respirators, as defined, of sufficient size to adequately equip all agricultural workers during wildfire smoke emergencies. The bill would require the department to establish guidelines for procurement, management, and distribution of the N95 respirators.

The bill would require agricultural employers to furnish regional offices of the division with employee totals, by month, to ensure that adequate amounts of N95 respirators are stockpiled. The bill would grant these agricultural employers access to the regional stockpiles during wildfire smoke emergencies, unless the agricultural employer failed to register their employee totals.

The bill would require the division, by January 1, 2023, to develop and distribute related training and information, and would require employers to periodically conduct the training. The bill would, in addition, commencing January 1, 2023, require refresher training during wildfire smoke emergencies and prior to distribution of the respirators.

Because a violation of certain safety and health standards or orders constitute a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Board staff are monitoring this legislation to determine if regulatory action by the Board is called for.

SB-46 Employment: contact tracing and safety policies: COVID-19.(2021-2022)
(Stern)

Date	Action
12/08/20	From printer. May be heard in committee January 7
12/07/20	Read first time. To print.

SB 46 Summary:

Existing law requires an employer to furnish employment and a place of employment that is safe and healthful for its employees.

This bill would state the intent of the Legislature to enact legislation that would require an employer to develop and implement contact tracing and safety policies for its employees, including requiring notice to the employer when an employee receives a positive COVID-19 test.

Board staff are monitoring this legislation to determine if regulatory action by the Board is called for.

Occupational Safety and Health Standards Board

Business Meeting Executive Officer's Report