

Occupational Safety and Health Standards Board

Public Meeting and
Business Meeting

July 20, 2023

Cal/EPA Building
Byron Sher Auditorium
1001 I Street
Sacramento, California

AND

Via teleconference / videoconference

Occupational Safety and Health Standards Board

Meeting Agenda

DEPARTMENT OF INDUSTRIAL RELATIONS
Occupational Safety and Health Standards Board
2520 Venture Oaks Way, Suite 350
Sacramento, CA 95833
Tel: (916) 274-5721
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.

AGENDA

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

July 20, 2023 at 10:00 a.m.

Attend the meeting in person:

Cal/EPA Building
Byron Sher Auditorium
1001 I Street
Sacramento, CA 95814

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:

Those attending the meeting in person will be added to the public comment queue on the day of the meeting.

Those attending the meeting remotely who wish to comment on agenda items may submit a request to be added to the public comment queue either in advance of or during the meeting through one of the following methods:

ONLINE: Provide your information through the online comment queue portal at <https://videobookcase.org/oshsb/public-comment-queue-form/>

PHONE: Call **510-868-2730** to access the automated comment queue voicemail and provide*: 1) your name as you would like it listed; 2) your affiliation or organization; and 3) the topic you would like to comment on.

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

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 (GC) section 11125.7).

Any individual or group wishing to make a presentation during the Public Meeting is requested to contact Sarah Money, Executive Assistant, 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 PETITION DECISION FOR ADOPTION

1. Western Occupational and Environmental Medical Association
R. Terrazas, MD MPH
[Petition File No. 597](#)

Petitioner requests to amend title 8, General Industry Safety Orders (GISO), section 5204, Occupational Exposures to Respirable Crystalline Silica via an

Emergency Temporary Standard (ETS) to address the growing number of reported cases of advanced silicosis among workers exposed to respirable crystalline silica in engineered stone fabrication shops. The Petitioner asks the ETS address the use of engineered stone with a high silica content, the lack of regulated areas, dry fabrication work practices, inadequate respiratory protection, and lack of reporting the use of silica to the Division of Occupational Safety and Health (Cal/OSHA) Occupational Carcinogen Control Unit (pursuant to title 8, section 5203). Additionally, the Petitioner recommends the Division strengthen the penalty structure for violations, update guidance for medical providers and require physicians or other licensed health care professionals (PLHCP) report of silicosis cases to the Division.

The Petitioner notes that the current GISO standard for silica (title 8, section 5204) is insufficiently protective and believes that this emerging epidemic of advanced silicosis cases is a public health problem of great urgency, because irreversible end-stage lung disease has now been shown to develop in fabrication workers after only a few years of poorly controlled occupational exposure.

B. PROPOSED VARIANCE DECISIONS FOR ADOPTION

1. [Consent Calendar](#)

C. REPORTS

1. Division Update
 - a. Lead Standard
2. Legislative Update
3. Executive Officer's Report

D. 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. (GC sections 11125 & 11125.7(a).)

E. CLOSED SESSION

Matters Pending Litigation

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

Personnel

F. RETURN TO OPEN SESSION

1. Report from Closed Session

G. ADJOURNMENT OF THE BUSINESS MEETING

Next Meeting: August 17, 2023
County Administration Center
Room 310
1600 Pacific Highway
San Diego, CA 92101
10:00 a.m.

CLOSED SESSION

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

PUBLIC COMMENT

Efforts will be made to accommodate each individual who has signed up to speak. However, given time constraints, there is no guarantee that all who have signed up will be able to address the State body.

Each speaker is invited to speak for up to two minutes. The Board Chair may extend the speaking time allotted where practicable.

The total time for public comment is 120 minutes, unless extended by the Board Chair.

The public can speak/participate at the meetings before items that involve decisions.

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 GC 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. (GC section 11125.7, subd. (b).)

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.

Occupational Safety and Health Standards Board

Meeting Notice

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



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:

PUBLIC MEETING: On **July 20, 2023**, at 10:00 a.m.
in the Byron Sher Auditorium of the Cal/EPA Building
1001 I Street, Sacramento, California

as well as 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 **July 20, 2023**, at 10:00 a.m.
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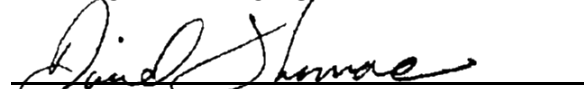
At the Business Meeting, the Board will conduct its monthly business.

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).

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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



DAVE THOMAS, Chairman

Occupational Safety and Health Standards Board

Business Meeting

Occupational Safety and Health Standards Board

**Business Meeting
Petition 597**

PETITION NO. 597

Petitioner requests to amend title 8, General Industry Safety Orders (GISO), section 5204, Occupational Exposures to Respirable Crystalline Silica via an Emergency Temporary Standard (ETS) to address the growing number of reported cases of advanced silicosis among workers exposed to respirable crystalline silica in engineered stone fabrication shops. The Petitioner asks the ETS address the use of engineered stone with a high silica content, the lack of regulated areas, dry fabrication work practices, inadequate respiratory protection, and lack of reporting the use of silica to the Division of Occupational Safety and Health (Cal/OSHA) Occupational Carcinogen Control Unit (pursuant to title 8, section 5203). Additionally, the Petitioner recommends the Division strengthen the penalty structure for violations, update guidance for medical providers and require physicians or other licensed health care professionals (PLHCP) report of silicosis cases to the Division.

The Petitioner notes that the current GISO standard for silica (title 8, section 5204) is insufficiently protective and believes that this emerging epidemic of advanced silicosis cases is a public health problem of great urgency, because irreversible end-stage lung disease has now been shown to develop in fabrication workers after only a few years of poorly controlled occupational exposure.

HYPERLINKS TO PETITION NO. 597 DOCUMENTS:

[PROPOSED PETITION DECISION](#)

[BOARD STAFF EVALUATION](#)

[CAL/OSHA EVALUATION](#)

[ORIGINAL PETITION \(RECEIVED 03/13/2023\)](#)

Occupational Safety and Health Standards Board

Business Meeting

Proposed Variance Decisions

**CONSENT CALENDAR—PROPOSED VARIANCE DECISIONS
JULY 20, 2023, MONTHLY BUSINESS MEETING
OF THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD**

PROPOSED DECISIONS FOR BOARD CONSIDERATION, HEARD ON June 21, 2023

Docket Number	Applicant Name	Safety Order(s) at Issue	Proposed Decision Recommendation
1. 22-V-038M1	The Scripps Research Institute	Elevator	GRANT
2. 22-V-084M1	La Maestra Family Clinic, Inc.	Elevator	GRANT
3. 22-V-107M1	Templeton Place II LP	Elevator	GRANT
4. 22-V-146M1	Riverside Supportive Housing, L.P.	Elevator	GRANT
5. 22-V-226M1	Lennar Homes	Elevator	GRANT
6. 22-V-307M1	9G San Diego, LLC	Elevator	GRANT
7. 22-V-350M1	Drawbridge CDCII, LLC	Elevator	GRANT
8. 23-V-150	ARE - San Francisco No. 15 Owner, LLC	Elevator	GRANT
9. 23-V-151	CMV Scripps 4, LLC	Elevator	GRANT
10. 23-V-152	A.Y.A.C.	Elevator	GRANT
11. 23-V-153	Pinnacle 350 Hoover, LLC	Elevator	GRANT
12. 23-V-155	The Cannery at Railroad Square, LP	Elevator	GRANT
13. 23-V-156	LH Shoreline Apartments LP, A Delaware limited partnership	Elevator	GRANT
14. 23-V-157	San Ysidro Health National City Dev. Corp	Elevator	GRANT
15. 23-V-158	Oak Apartments, L.P.	Elevator	GRANT
16. 23-V-159	Genentech, Inc.	Elevator	GRANT
17. 23-V-160	Bellarmino Place LP	Elevator	GRANT
18. 23-V-161	2225 Sunset Owner, LLC A Delaware limited liability company, Its sole member	Elevator	GRANT
19. 23-V-162	1510 Webster Street LLC	Elevator	GRANT

Docket Number	Applicant Name	Safety Order(s) at Issue	Proposed Decision Recommendation
20. 23-V-163	Central Fire Protection District	Elevator	GRANT
21. 23-V-164	Leya Holdings, LLC	Elevator	GRANT
22. 23-V-165	Cassadyne F Street, LLC and E20	Elevator	GRANT
23. 23-V-166	R CAP Avenue 34, LLC	Elevator	GRANT
24. 23-V-167	R CAP Avenue 34, LLC	Elevator	GRANT
25. 23-V-168	R CAP Avenue 34, LLC	Elevator	GRANT
26. 23-V-169	Pacific 825 Coronado LLC	Elevator	GRANT
27. 23-V-170	University of Southern California	Elevator	GRANT
28. 23-V-171	Dominican University of California	Elevator	GRANT
29. 23-V-172	350 Rhode Island South Owner, LLC a Delaware Limited Liability Company	Elevator	GRANT
30. 23-V-173	Harrison Street SF LLC	Elevator	GRANT
31. 23-V-174	Sutter Capital Group, LP	Elevator	GRANT
32. 23-V-175	Elk Grove Unified School District	Elevator	GRANT
33. 23-V-176	Red Studios Hollywood, LLC	Elevator	GRANT
34. 23-V-177	Shemoil's Investment & Development	Elevator	GRANT
35. 23-V-178	The Board of Trustees of the Leland Stanford Junior University	Elevator	GRANT
36. 23-V-179	Sakata Seed America, Inc.	Elevator	GRANT
37. 23-V-181	ARE/CAL-SD Region No. 62, LLC	Elevator	GRANT
38. 23-V-182	Clearwater at Newport Beach Owner, LLC	Elevator	GRANT
39. 23-V-184	City and County of San Francisco Public Utilities Commission, Wastewater Enterprise	Elevator	GRANT
40. 23-V-186	A&F Properties, LLC	Elevator	GRANT
41. 23-V-187	Ventura Veterans, L.P.	Elevator	GRANT

Docket Number	Applicant Name	Safety Order(s) at Issue	Proposed Decision Recommendation
42. 23-V-188	CA 8070 Beverly, LLC	Elevator	GRANT
43. 23-V-189	350 China Basin Partners, LLC	Elevator	GRANT
44. 23-V-197	415 E Campbell LLC	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 to Modify
Permanent Variance By:

The Scripps Research Institute

OSHSB File No.: 22-V-038M1
Proposed Decision Dated: June 26, 2023

DECISION

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

DAVID THOMAS, Chairman

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: July 20, 2023

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 Modification of Permanent Variance by: The Scripps Research Institute	OSHSB File No.: 22-V-038M1 <u>PROPOSED DECISION</u> Hearing Date: June 21, 2023
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A. Subject Matter

1. The Scripps Research Institute (“Applicant”) has applied for a modification of permanent variance from provisions of title 8 of the California Code of Regulations.*

Preexisting OSHSB File No.	Applicant Name	Preexisting Variance Address of Record	Preexisting OSHSB File No.
22-V-038	The Scripps Research Institute	10590 John J. Hopkins Dr. San Diego, CA	1

2. This proceeding is conducted in accordance with Labor Code section 143, and section 401, et. seq. of the Board’s procedural regulations.

B. Procedural Matters

1. This hearing was held on June 21, 2023, in Sacramento, California, via videoconference, by the Occupational Safety and Health Standards Board (“Board”), with Hearing Officer Autumn Gonzalez 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 section 426.
2. At the hearing, Fuei Saetern, of KONE, Inc., appeared on behalf of Applicant; Jose Ceja and Mark Wickens appeared on behalf of the Division of Occupational Safety and Health (“Division”).
3. Documentary and oral evidence was received at the hearing, and the stipulation of all all parties, documents were admitted into evidence:

* Unless otherwise noted, all references are to California Code of Regulations, title 8.

Exhibit Number	Description of Exhibit
PD-1	Application(s) for Permanent Variance per section A.1 table
PD-2	OSHSB Notice of Hearing
PD-3	Division Review of Variance Application
PD-4	Review Draft-1 Proposed Decision

4. Official notice is taken of the Board’s files, records, recordings and decisions concerning the Elevator Safety Order requirements from which variance shall issue. On June 21, 2023, the hearing and record closed, and the matter was taken under submission by the Hearing Officer.

C. Relevant Safety Orders

1. Section 3141 [ASME A17.1-2004, section 2.18.5.1] states: “Governor ropes shall be of iron, steel, monel metal, phosphor bronze, or stainless steel. They shall be of a regular-lay construction and not less than 9.5 mm (0.375 in.) in diameter. The factor of safety of governor ropes shall be not less than 5. Tiller-rope construction shall not be used.”
2. Section 3141.7(a)(10) states: “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.”

D. Findings of Fact

1. The designated postal address for the conveyance has been changed, although the conveyance itself has not physically moved locations. Applicant requests that the address be updated to:

10332 John J. Hopkins Dr., San Diego

2. Applicant also requests that the elevator type be modified to reflect that the conveyance is a KONE Monospace 300, rather than KONE Monospace 500, type.
3. The Applicant’s proposed steel governor rope with a 6mm (0.25 in.) diameter, and a factor of safety of 5 or greater, is in compliance with the Elevator Safety Orders; no variance from the code sections found in Section D of this Decision is required.
4. The Board has previously granted permanent variances to Kone Monospace 300 product installations utilizing a similar suspension rope configuration (see Permanent Variance No. 22-V-637).

E. Decision and Order

Permanent Variance No. 22-V-038 is hereby modified as Permanent Variance No. 22-V-038M1, and is conditionally GRANTED. The address associated with 22-V-038M1 is amended to the following:

10332 John J. Hopkins Dr., San Diego

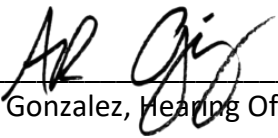
Further, the following conditions are adopted:

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 less than as indicated in Table 1 below.
4. The ropes shall be inspected at least 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."
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 that as indicated in Table 1 below.
7. The total suspended load shall not exceed the maximum suspended load as shown in Table 1 below, plus 5%.
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. Any Certified Qualified Conveyance Company (CQCC-elevator contractor) performing inspections, maintenance, servicing or testing the elevator shall be provided a copy of this variance decision.
10. The Division shall be notified when the elevator is ready for inspection and the Division shall inspect the elevator before a Permit to Operate is issued.
11. The Applicant shall be subject to the suspension means replacement reporting condition stated in Exhibit 1; that condition is incorporated herein by this reference.
12. 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 full service prior to the Permit to Operate being issued by Division.

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 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, or by the Board on its own motion, in the manner prescribed for its issuance.

Pursuant to section 426(b), the above, duly completed Proposed Decision, is hereby submitted to the Board for consideration of adoption.

DATED: June 26, 2023



Autumn Gonzalez, Hearing Officer

TABLE 1

Elevator ID	Rated Capacity (lbs.)	Minimum Number of Suspension Ropes	Maximum Rated Elevator Speed	Maximum Suspended Load (lbs.) [plus 5%]
1	3500	7	150	12,247

ATTACHMENT 1: 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 Pl., 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 variance 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 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.

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
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In the Matter of Application to Modify
Permanent Variance By:

La Maestra Family Clinic, Inc.

OSHSB File No.: 22-V-084M1
Proposed Decision Dated: June 26, 2023

DECISION

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

DAVID THOMAS, Chairman

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: July 20, 2023

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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 Modification of Permanent Variance by: La Maestra Family Clinic, Inc.	OSHSB File No.: 22-V-084M1 <u>PROPOSED DECISION</u> Hearing Date: June 21, 2023
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A. Subject Matter

1. La Maestra Family Clinic, Inc. (“Applicant”) has applied for a modification of permanent variance from provisions of title 8 of the California Code of Regulations.*

Preexisting OSHSB File No.	Applicant Name	Preexisting Variance Address of Record	Preexisting OSHSB File No.
22-V-084	La Maestra Family Clinic, Inc.	181 Rea Ave. El Cajon, CA	1

2. This proceeding is conducted in accordance with Labor Code section 143, and section 401, et. seq. of the Board’s procedural regulations.

B. Procedural Matters

1. This hearing was held on June 21, 2023, in Sacramento, California, via video conference, by the Occupational Safety and Health Standards Board (“Board”), with Hearing Officer Autumn Gonzalez 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 section 426.
2. At the hearing, Fuei Saetern, of KONE, Inc., appeared on behalf of Applicant; Jose Ceja and Mark Wickens appeared on behalf of the Division of Occupational Safety and Health (“Division”).
3. Documentary and oral evidence was received at the hearing, and by stipulation of all Parties, documents were admitted into evidence:

* Unless otherwise noted, all references are to California Code of Regulations, title 8.

Exhibit Number	Description of Exhibit
PD-1	Application(s) for Permanent Variance per section A.1 table
PD-2	OSHSB Notice of Hearing
PD-3	Division Review of Variance Application
PD-4	Review Draft-1 Proposed Decision

4. Official notice is taken of the Board’s files, records, recordings and decisions concerning the Elevator Safety Order requirements from which variance shall issue. On June 21, 2023, the hearing and record closed, and the matter was taken under submission by the Hearing Officer.

C. Relevant Safety Orders

1. Section 3141 [ASME A17.1-2004, section 2.20.4] states, in part: “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.”
2. Section 3141 [ASME A17.1-2004, section 2.18.5.1] states: “Governor ropes shall be of iron, steel, monel metal, phosphor bronze, or stainless steel. They shall be of a regular-lay construction and not less than 9.5 mm (0.375 in.) in diameter. The factor of safety of governor ropes shall be not less than 5. Tiller-rope construction shall not be used.”
3. Section 3141.7(a)(10) states: “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.”

D. Findings of Fact

1. Applicant requests that the elevator type be modified to reflect that the conveyance is a KONE Monospace 300, rather than KONE Monospace 500, type.
2. The Applicant’s proposed steel governor rope with a 6mm (0.25 in.) diameter, and a factor of safety of 5 or greater, is in compliance with the Elevator Safety Orders. No variance from the above code sections is required.
3. Applicant’s proposed configuration of reduced diameter suspension ropes and governor ropes is similar to Kone Monospace 500 MRL installations for which permanent variances have been previously granted. (Permanent Variance No. 19-V-488)

E. Decision and Order

Permanent Variance No. 22-V-084 is hereby modified as Permanent Variance No. 22-V-084M1, and is conditionally GRANTED with conditions as follows:

1. 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]).
2. 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).
3. The outer wires of the suspension ropes shall be not less than 0.51 mm (0.02 in.) in diameter.
4. The number of suspension ropes shall be not less than as indicated in Table 1 below.
5. The ropes shall be inspected at least 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."
6. A rope inspection log shall be maintained and available in the elevator controller room / space at all times.
7. The elevator rated speed shall not exceed that as indicated in Table 1 below.
8. The total suspended load shall not exceed the maximum suspended load as shown in Table 1 below, plus 5%.
9. 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.
10. Any Certified Qualified Conveyance Company (CQCC-elevator contractor) performing inspections, maintenance, servicing or testing the elevator shall be provided a copy of this variance decision.
11. The Division shall be notified when the elevator is ready for inspection and the Division shall inspect the elevator before a Permit to Operate is issued.
12. The Applicant shall be subject to the suspension means replacement reporting condition stated in Exhibit 1; that condition is incorporated herein by this reference.
13. 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 full service prior to the Permit to Operate being issued by Division.
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 sections 411.2 and 411.3.

15. 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 section 426(b), the above, duly completed Proposed Decision, is hereby submitted to the Board for consideration of adoption.

DATED: June 26, 2023



Autumn Gonzalez, Hearing Officer

TABLE 1

Elevator ID	Rated Capacity (lbs.)	Minimum Number of Suspension Ropes	Maximum Rated Elevator Speed	Maximum Suspended Load (lbs.) [plus 5%]
1	3500	7	150	12,247

ATTACHMENT 1: 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 Pl., 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 variance 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 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.

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:

Templeton Place II LP

OSHSB File No.: 22-V-107M1
Proposed Decision Dated: June 26, 2023

DECISION

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

DAVID THOMAS, Chairman

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: July 20, 2023

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 (“OSHSB”)
 DEPARTMENT OF INDUSTRIAL RELATIONS
 STATE OF CALIFORNIA

In the Matter of Application to Modify Permanent Variance by: Templeton Place II LP	OSHSB File No.: 22-V-107M1 <u>PROPOSED DECISION</u> Hearing Date: June 21, 2023
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A. Subject Matter

1. The following person or entity (“Applicant”) has applied for a modification of permanent variance from provisions of title 8 of the California Code of Regulations.*

Preexisting Permanent Variance No.	Applicant Name	Preexisting Variance Address of Record
22-V-107	Templeton Place II LP	1035 Petersen Ranch Rd. Templeton, CA

2. This proceeding is conducted in accordance with Labor Code section 143, and California Code of Regulations, title 8, section 401, et. seq. of the Board’s procedural regulations.

B. Procedural Matters

1. This hearing was held on June 21, 2023, in Sacramento, California, via videoconference, by Occupational Safety and Health Standards Board (“Board”), with Hearing Officer Autumn Gonzalez, 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 section 426.
2. At the hearing, Justin Zoetewey with TK Elevator, appeared on behalf of the Applicant; and Jose Ceja and Mark Wickens appeared on behalf of the Division of Occupational Safety and Health (“Division”).
3. Documentary and oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence:

* Unless otherwise noted, all references are to California Code of Regulations, title 8.

Exhibit Number	Description of Exhibit
PD-1	Application for modification of Permanent Variance
PD-2	OSHSB Notice of Hearing
PD-3	Division Review of Variance Application
PD-4	Review Draft-1 Proposed Decision

4. Official notice is taken of the Board’s files, records, recordings and decisions concerning the Elevator Safety Order requirements from which variance shall issue. On June 21, 2023, the hearing and record closed, and the matter was taken under submission by the Hearing Officer.

C. 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 22-V-107.
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 22-V-107 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. 22-V-107.
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 22-V-107 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. 22-V-107, to be:

1059 Peterson Ranch Rd.
Templeton, CA

D. Decision and Order

1. Permanent Variance Application No. 22-V-107M1 is conditionally GRANTED, thereby modifying Board records, such that, without change in variance location, each elevator

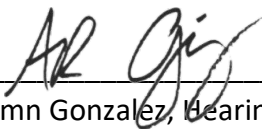
being the subject of Permanent Variance Nos. 22-V-107, and 22-V-107M1, shall have the following address designation:

1059 Peterson Ranch Rd.
Templeton, CA

2. Permanent Variance No. 22-V-107, 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. 22-V-107M1.

Pursuant to section 426(b), the above, duly completed Proposed Decision, is hereby submitted to the Board for consideration of adoption.

Dated: June 26, 2023



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:

Riverside Supportive Housing, L.P.

OSHSB File No.: 22-V-146M1
Proposed Decision Dated: June 26, 2023

DECISION

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

DAVID THOMAS, Chairman

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: July 20, 2023

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 (“OSHSB”)
DEPARTMENT OF INDUSTRIAL RELATIONS
STATE OF CALIFORNIA

In the Matter of Application to Modify Permanent Variance by: Riverside Supportive Housing, L.P.	OSHSB File No.: 22-V-146M1 <u>PROPOSED DECISION</u> Hearing Date: June 21, 2023
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A. Subject Matter

1. The following person or entity (“Applicant”) has applied for a modification of permanent variance from provisions of title 8 of the California Code of Regulations.*

Preexisting Permanent Variance No.	Applicant Name	Preexisting Variance Address of Record
22-V-146	Riverside Supportive Housing, L.P.	2340 14th St. Riverside, CA

A. This proceeding is conducted in accordance with Labor Code Section 143, and California Code of Regulations, Title 8, Section 401, et. seq. of the Board’s procedural regulations.

B. Procedural Matters

1. This hearing was held on June 21, 2023, in Sacramento, California, via videoconference, by Occupational Safety and Health Standards Board (“Board”), with Hearing Officer Autumn Gonzalez, 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 section 426.
2. At the hearing, Wolter Geesink with Otis Elevator Company, and Dan Leacox of Leacox & Associates, appeared on behalf of the Applicant; Jose Ceja and Mark Wickens appeared on behalf of the Division of Occupational Safety and Health (“Division”).

* Unless otherwise noted, all references are to California Code of Regulations, title 8.

3. Documentary and oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence:

Exhibit Number	Description of Exhibit
PD-1	Application for modification of Permanent Variance
PD-2	OSHSB Notice of Hearing
PD-3	Division Reviews of Variance Application
PD-4	Review Draft-1 Proposed Decision

4. Official notice is taken of the Board’s rulemaking records and variance decisions concerning the safety order provisions from which variance has been requested. On June 21, 2023, 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 conveyance the subject of previously granted Permanent Variance 22-V-146.
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 22-V-146 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 Permanent Variance File No. 22-V-146. 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 22-V-146 was, in part, based.
4. The Board finds the correct address by which to designate the location of each conveyance the subject of Permanent Variance No. 22-V-146, to be:

2335 14th St.
Riverside, CA

E. Decision and Order

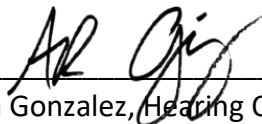
1. Permanent Variance Application No. 22-V-146M1 is conditionally GRANTED, thereby modifying Board records, such that, without change in variance location, each conveyance being the subject of Permanent Variance Nos. 22-V-146, and 22-V-146M1, shall have the following address designation:

2335 14th St.
Riverside, CA

Permanent Variance No. 22-V-146 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. 22-V-146M1.

Pursuant to section 426(b), the above, duly completed Proposed Decision, is hereby submitted to the Board for consideration of adoption.

Dated: June 26, 2023



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:

Lennar Homes

OSHSB File No.: 22-V-226M1
Proposed Decision Dated: June 26, 2023

DECISION

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

DAVID THOMAS, Chairman

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: July 20, 2023

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 (“OSHSB”)
 DEPARTMENT OF INDUSTRIAL RELATIONS
 STATE OF CALIFORNIA

In the Matter of Application to Modify Permanent Variance by: Lennar Homes	OSHSB File No.: 22-V-226M1 <u>PROPOSED DECISION</u> Hearing Date: June 21, 2023
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A. Subject Matter

1. The following person or entity (“Applicant”) has applied for a modification of permanent variance from provisions of title 8 of the California Code of Regulations.*

Preexisting Permanent Variance No.	Applicant Name	Preexisting Variance Address of Record
22-V-226	Lennar Homes	4000 1/2 Rivington, Building B Irvine, CA

2. This proceeding is conducted in accordance with Labor Code section 143, and California Code of Regulations, title 8, section 401, et. seq. of the Board’s procedural regulations.

B. Procedural Matters

1. This hearing was held on June 21, 2023, in Sacramento, California, via videoconference, by Occupational Safety and Health Standards Board (“Board”), with Hearing Officer Autumn Gonzalez, 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 section 426.
2. At the hearing, Justin Zoetewey with TK Elevator, appeared on behalf of the Applicant; and Jose Ceja and Mark Wickens appeared on behalf of the Division of Occupational Safety and Health (“Division”).
3. Documentary and oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence:

* Unless otherwise noted, all references are to California Code of Regulations, title 8.

Exhibit Number	Description of Exhibit
PD-1	Application for modification of Permanent Variance
PD-2	OSHSB Notice of Hearing
PD-3	Division Review of Variance Application
PD-4	Review Draft-1 Proposed Decision

4. Official notice is taken of the Board’s files, records, recordings and decisions concerning the requirements from which variance shall issue. On June 21, 2023, the hearing and record closed, and the matter was taken under submission by the Hearing Officer.

C. Findings of Fact

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 22-V-226.
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 22-V-226 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 Permanent Variance File No. 22-V-226.
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 22-V-226 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. 22-V-226, to be:

3000 1/2 Rivington, Building B
Irvine, CA

D. Decision and Order

1. Permanent Variance Application No. 22-V-226M1 is conditionally GRANTED, thereby modifying Board records, such that, without change in variance location, each elevator

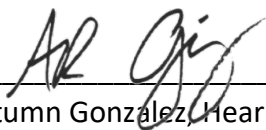
being the subject of Permanent Variance Nos. 22-V-226, and 22-V-226M1, shall have the following address designation:

3000 1/2 Rivington, Building B
Irvine, CA

2. Permanent Variance No. 22-V-226, 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. 22-V-226M1.

Pursuant to section 426(b), the above, duly completed Proposed Decision, is hereby submitted to the Board for consideration of adoption.

Dated: June 26, 2023



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:

9G San Diego, LLC

OSHSB File No.: 22-V-307M1
Proposed Decision Dated: June 26, 2023

DECISION

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

DAVID THOMAS, Chairman

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: July 20, 2023

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 (“OSHSB”)
DEPARTMENT OF INDUSTRIAL RELATIONS
STATE OF CALIFORNIA

In the Matter of Application to Modify Permanent Variance by: 9G San Diego, LLC	OSHSB File No.: 22-V-307M1 <u>PROPOSED DECISION</u> Hearing Date: June 21, 2023
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A. Subject Matter

1. The following person or entity (“Applicant”) has applied for a modification of permanent variance title 8 of the California Code of Regulations*.

Preexisting Permanent Variance No.	Applicant Name	Preexisting Variance Address of Record
22-V-307	9G San Diego, LLC	659 9th Ave San Diego, CA

2. This proceeding is conducted in accordance with Labor Code section 143, and section 401, et. seq. of the Board’s procedural regulations.

B. Procedural Matters

1. This hearing was held on June 21, 2023, in Sacramento, California, via videoconference, by Occupational Safety and Health Standards Board (“Board”), with Hearing Officer Autumn Gonzalez, 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 section 426.
2. At the hearing, Matt Jaskiewicz, with Mitsubishi Elevator, appeared on behalf of the Applicant; and Mark Wickens and Jose Ceja appeared on behalf of the Division of Occupational Safety and Health (“Division”).
3. Documentary and oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence:

* Unless otherwise noted, all references are to California Code of Regulations, title 8.

Exhibit Number	Description of Exhibit
PD-1	Application for modification of Permanent Variance
PD-2	OSHSB Notice of Hearing
PD-3	Division Reviews of Variance Application
PD-4	Review Draft-1 Proposed Decision

4. Official notice is taken of the Board’s files, records, recordings and decisions concerning the Elevator Safety Order requirements from which variance shall issue. On June 21, 2023, the hearing and record closed, and the matter was taken under submission by the Hearing Officer.

C. Findings of Fact

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 22-V-307.
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 22-V-307 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 Permanent Variance File No. 22-V-307.
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 22-V-307 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. 22-V-307, to be:

675 9th Ave.
San Diego, CA

D. Decision and Order

1. Permanent Variance Application No. 22-V-307M1 is conditionally GRANTED, thereby modifying Board records, such that, without change in variance location, each elevator

being the subject of Permanent Variance Nos. 22-V-307, and 22-V-307M1, shall have the following address designation:

675 9th Ave.
San Diego, CA

2. Permanent Variance No. 22-V-307, 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. 22-V-307M1.

Pursuant to section 426(b), the above, duly completed Proposed Decision, is hereby submitted to the Board for consideration of adoption.

Dated: June 26, 2023



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:

Drawbridge CDCII, LLC

OSHSB File No.: 22-V-350M1
Proposed Decision Dated: June 26, 2023

DECISION

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

DAVID THOMAS, Chairman

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: July 20, 2023

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 (“OSHSB”)
DEPARTMENT OF INDUSTRIAL RELATIONS
STATE OF CALIFORNIA

In the Matter of Application for Modification of Permanent Variance by: Drawbridge CDCII, LLC	OSHSB File No.: 22-V-350M1 <u>PROPOSED DECISION</u> Hearing Date: June 21, 2023
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A. Subject Matter

1. CDCII, LLC (“Applicant”) has applied for a modification of permanent variance from provisions of title 8 of the California Code of Regulations.*

Preexisting OSHSB File No.	Applicant Name	Preexisting Variance Address of Record	No. of Units
22-V-350	Drawbridge CDCII, LLC	16707 Via Del Campo Court Rancho Bernardo, CA	2

2. This proceeding is conducted in accordance with Labor Code section 143 and section 401, et. seq. of the Board’s procedural regulations.

B. Procedural Matters

1. This hearing was held on June 21, 2023, in Sacramento, California, via videoconference, by the Occupational Safety and Health Standards Board (“Board”), with Hearing Officer Autumn Gonzalez 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 section 426.
2. At the hearing, Fuei Saetern, of KONE, Inc., appeared on behalf of Applicant; Jose Ceja and Mark Wickens appeared on behalf of the Division of Occupational Safety and Health (“Division”).
3. Documentary and oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence:

* Unless otherwise noted, all references are to California Code of Regulations, title 8.

Exhibit Number	Description of Exhibit
PD-1	Application(s) for Permanent Variance per section A.1 table
PD-2	OSHSB Notice of Hearing
PD-3	Division Review of Variance Application
PD-4	Review Draft-1 Proposed Decision

4. Official notice is taken of the Board’s files, records, recordings and decisions concerning the Elevator Safety Order requirements from which variance shall issue. On June 21, 2023, the hearing and record closed, and the matter was taken under submission by the Hearing Officer.

C. Relevant Safety Orders

1. Section 3141 [ASME A17.1-2004, section 2.20.4] states, in part: “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.”
2. Section 3141 [ASME A17.1-2004, section 2.18.5.1] states: “Governor ropes shall be of iron, steel, monel metal, phosphor bronze, or stainless steel. They shall be of a regular-lay construction and not less than 9.5 mm (0.375 in.) in diameter. The factor of safety of governor ropes shall be not less than 5. Tiller-rope construction shall not be used.”
3. Section 3141.7(a)(10) states: “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.”

D. Findings of Fact

1. The designated postal address for the two (2) conveyances has been changed, although the conveyances have not physically moved locations. Applicant requests that the address be updated to:

16705 Via Del Campo Court, San Diego
2. Applicant also requests that the elevator type be modified to reflect that the conveyance is a KONE Monospace 500, rather than KONE Monospace 300, type.
3. The Division believes that the use of 8 mm steel suspension means, as proposed by the Applicant, along with the recommended conditions, provides equivalent safety.
4. The Applicant’s proposed steel governor rope with a 6mm (0.25 in.) diameter, and a factor of safety of 5 or greater, is in compliance with the Elevator Safety Orders; no variance from the safety orders in Section E is required.

5. The Applicant's proposed reduced diameter suspension ropes and governor ropes is similar to installations for which a permanent variance has been previously granted. (Permanent Variance No. 19-V-488)

E. Decision and Order

Permanent Variance No. 22-V-350 is hereby modified as Permanent Variance No. 22-V-350M1, and is conditionally GRANTED. The address associated with 22-V-350M1 is amended to the following:

16705 Via Del Campo Court, San Diego

Further, the following conditions are adopted:

1. Minimum Diameter of Suspension Ropes: 2.20.4 (Only to the extent necessary to permit the use of 8 mm [0.315 in.] diameter suspension ropes, where the Elevator Safety Orders require a minimum diameter of 9.5 mm [0.375]).
2. 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).
3. The outer wires of the suspension ropes shall be not less than 0.51 mm (0.02 in.) in diameter.
4. The number of suspension ropes shall be not less than as indicated in Table 1 below.
5. The ropes shall be inspected at least 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."
6. A rope inspection log shall be maintained and available in the elevator controller room / space at all times.
7. The elevator rated speed shall not exceed that as indicated in Table 1 below.
8. The total suspended load shall not exceed the maximum suspended load as shown in Table 1 below, plus 5%.
9. 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.
10. Any Certified Qualified Conveyance Company (CQCC-elevator contractor) performing inspections, maintenance, servicing or testing the elevator shall be provided a copy of this variance decision.

11. The Division shall be notified when the elevator is ready for inspection and the Division shall inspect the elevator before a Permit to Operate is issued.
12. The Applicant shall be subject to the suspension means replacement reporting condition stated in Exhibit 1; that condition is incorporated herein by this reference.
13. 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 full service prior to the Permit to Operate being issued by Division.
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 sections 411.2 and 411.3.
15. 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 section 426(b), the above, duly completed Proposed Decision, is hereby submitted to the Board for consideration of adoption.

DATED: June 26, 2023



Autumn Gonzalez, Hearing Officer

TABLE 1

Elevator ID	Rated Capacity (lbs.)	Minimum Number of Suspension Ropes	Maximum Rated Elevator Speed	Maximum Suspended Load (lbs.) [plus 5%]
1	3500	7	150	12,247

ATTACHMENT 1: 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 Pl., 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 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 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.

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:

Mitsubishi Elevators (Group IV)

OSHSB File No.: See Section A.1 Table
Proposed Decision Dated: June 26, 2023

DECISION

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

DAVID THOMAS, Chairman

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: July 20, 2023

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 (“OSHSB”)
 DEPARTMENT OF INDUSTRIAL RELATIONS
 STATE OF CALIFORNIA

In the Matter of Application for Permanent Variance Regarding: Mitsubishi Elevators (Group IV)	OSHSB File Nos.: See section A.1 Table <u>PROPOSED DECISION</u> Hearing Date: June 21, 2023
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A. Procedural Matters

- Each below listed applicant (“Applicant”) has applied for permanent variance from provisions of the Elevator Safety Orders, found at title 8 of the California Code of Regulations.*

Variance No.	Applicant Name	Variance Location Address	No. of Elevators
23-V-150	ARE - San Francisco No. 15 Owner, LLC	1450 Owens St. San Francisco, CA	4
23-V-151	CMV Scripps 4, LLC	Casa Mira View, Scripps 4 9801 Sydney Lane San Diego, CA	4

- This proceeding is conducted in accordance with Labor Code section 143 and title 8, section 401, et. seq. of the Board’s procedural regulations.
- This hearing was held on June 21, 2023, in Sacramento, California, via videoconference, by the Occupational Safety and Health Standards Board (“Board”), with Hearing Officer Autumn Gonzalez, 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 section 426.
- At the hearing, Matt Jaskiewicz with Mitsubishi Electric, Elevator Division, appeared on behalf of each Applicant, and Mark Wickens and Jose Ceja appeared on behalf of the Division of Occupational Safety and Health (“Division”).
- At the hearing, documentary and oral evidence was received, and by stipulation of all parties, documents were accepted into evidence:

* Unless otherwise noted, all references are to California Code of Regulations, title 8.

Exhibit Number	Description of Exhibit
PD-1	Permanent variance applications per section A.1 table
PD-2	OSHSB Notice of Hearing
PD-3	Division Reviews of Variance Application
PD-4	Review Draft-1 Proposed Decision

6. Official Notice is taken of the Board’s rulemaking records and variance decisions concerning the safety order requirements from which variance is requested. At the close of hearing on June 21, 2023, the record was closed and the matter taken under submission by the Hearing Officer.

B. Findings of Fact

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

1. Each section A table specified Applicant intends to utilize Mitsubishi elevators at the location and in the number stated in the table in Item A. The installation contracts for these elevators were signed on or after May 1, 2008, thus making the elevators subject to the Group IV Elevator Safety Orders.
2. The Board takes official notice and incorporates herein, Subsections D.3 through D.5 of the February 20, 2014, Decision of the Board in Permanent Variance File No. 13-V-270.
3. As reflected in the record of this matter, Division evaluation as PD-3, and testimony at hearing, it is the professionally informed opinion of the Division, that grant of requested variance, subject to conditions and limitations in substantial conforming with those set out per below Decision and Order, will provide Occupational Safety and Health equivalent or superior to that provided by the safety order requirements from which variance is sought.

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 from which variance is being sought.

D. Decision and Order

As of such date as the Board adopts this Proposed Decision, each Application for Permanent Variance listed in the above section A.1 table, is conditionally GRANTED to the extent each

Applicant of record shall have permanent variance from section 3141 [ASME A17.1-2004, sections 2.10.2.2 (only to the extent necessary to permit the intermediate rail to be located at a point other than halfway between the top rail and the surface on which the railing is installed), 2.10.2.4 (only to the extent necessary to permit a bevel sloping that conforms with the variance conditions) and 2.14.1.7.1 (only to the extent necessary to permit the car top railing to be inset to clear obstructions when the conveyance is elevated to perform work on the machine and/or governor). The variance applies to the location and number of elevators stated in the section A.1 table, and the variance is subject to the above limitations and following conditions:

1. The car top railing may be inset only to the extent necessary to clear obstructions when the conveyance is located at the top landing to perform work on the machine and/or governor.
2. Serviceable equipment shall be positioned so that mechanics, inspectors, and others working on the car top can remain positioned on the car top within the confines of the railings and do not have to climb on or over railings to perform adjustment, maintenance, minor repairs, inspections, or similar tasks. Persons performing those tasks are not to stand on or climb over railing, and those persons shall not remove handrails unless the equipment has been secured from movement and approved personal fall protection is used.
3. All exposed areas outside the car top railing shall preclude standing or placing objects or persons which may fall, and shall be beveled from an intermediate or bottom rail to the outside of the car top.
4. The top surface of the beveled area shall be clearly marked. The markings shall consist of alternating 4-inch red and white diagonal stripes.
5. The Applicant shall provide a durable sign with lettering not less than ½-inch high on a contrasting background. The sign shall be located on the inset top railing; the sign shall be visible from the access side of the car top, and the sign shall state:

CAUTION
DO NOT STAND ON OR CLIMB OVER RAILING.
PERSONNEL ARE PROHIBITED FROM REMOVING HANDRAIL
UNLESS THE EQUIPMENT HAS BEEN SECURED FROM MOVEMENT
AND APPROVED PERSONAL FALL PROTECTION IS USED.

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).
7. A mechanical means (e.g., locking bar mechanism) that will secure the car to the guide rail to prevent unintended movement shall be provided and used during machine and/or governor car-top work. The mechanical means (e.g., locking bar mechanism) shall have a safety factor of not less than 3.5 for the total unbalanced load.

8. An electrical switch or a lockout/tagout procedure shall be provided that will remove power from the driving machine and brake when the mechanical means (e.g., locking bar mechanism) is engaged.
9. In order to inhibit employees from working outside the car top railing, sections shall not be hinged and they shall be installed by means that will inhibit (but not necessarily completely preclude) removal. The Applicant shall ensure that all persons performing work that requires removal of any part of the car top railing are provided with fall protection that is appropriate and suitable for the assigned work. That fall protection shall consist of a personal fall arrest system or fall restraint system that complies with section 1670.
10. The bevel utilized by the Applicant in accordance with the variance granted from ASME A17.1-2004, section 2.10.2.4 shall slope at not less than 75 degrees from the horizontal to serve as the toe board; however, that slope may be reduced to a minimum of 40 degrees from the horizontal as may be required for sections where machine encroachment occurs.
11. If the Applicant directs or allows its employees to perform tasks on the car top, the Applicant shall develop, implement, and document a safety training program that shall provide training to Applicant employees. Components of the training shall include, but not necessarily be limited to, the following: car blocking procedures; how examination, inspection, adjustment, repair, removal and replacement of elevator components are to be performed safely, consistent with the requirements of the variance conditions; applicable provisions of the law and other sources of safety practices regarding the operation of the elevator. A copy of the training program shall be located in the control room of each elevator that is the subject of this variance, and a copy of the training program shall be attached to a copy of this variance that shall be retained in any building where an elevator subject to this variance is located. The Applicant shall not allow Certified Qualified Conveyance Company (CQCC) or other contractor personnel to work on the top of any elevator subject to this variance unless the Applicant first ascertains from the CQCC or other contractor that the personnel in question have received training equivalent to, or more extensive than, the training components referred to in this condition.
12. Any CQCC performing inspections, maintenance, servicing, or testing of 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 shall be 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 sections 411.2 and 411.3.

15. 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 section 426(b), the above, duly completed Proposed Decision, is hereby submitted to the Board for consideration of adoption.

Dated: June 26, 2023



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 for
Permanent Variance By:

A.Y.A.C.

OSHSB File No.: 23-V-152
Proposed Decision Dated: June 26, 2023

DECISION

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

DAVID THOMAS, Chairman

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: July 20, 2023

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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 (“OSHSB”)
DEPARTMENT OF INDUSTRIAL RELATIONS
STATE OF CALIFORNIA

In the Matter of Application for Permanent Variance by: A.Y.A.C.	OSHSB File No.: 23-V-152 PROPOSED DECISION Hearing Date: June 21, 2023
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A. Procedural Matters

1. A.Y.A.C. (“Applicant”) has applied for a permanent variance from provisions of title 8 of the California Code of Regulations.*
2. This application is for a vertical platform (wheelchair) lift proposed to be located at:

1811 S. Glendale Ave.
Glendale, CA
3. This proceeding is conducted in accordance with Labor Code section 143, and section 401, et. seq. of the Board’s procedural regulations.
4. This hearing was held on June 21, 2023, in Sacramento, California, via videoconference, by the Occupational Safety and Health Standards Board (“Board”), with Hearing Officer Autumn Gonzalez, 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 section 426.
5. At the hearing, Patrick Austin with Arrow Lift of California, appeared on behalf of the Applicant, and Mark Wickens and Jose Ceja appeared on behalf of the Division of Occupational Safety and Health (“Division”).
6. At the hearing, oral evidence was received and by stipulation of all parties, documents were accepted into evidence:

Exhibit Number	Description of Exhibit
PD-1	Permanent variance application per section A.1 table
PD-2	OSHSB Notice of Hearing
PD-3	Division Review of Variance Application
PD-4	Review Draft-1 Proposed Decision

* Unless otherwise noted, all references are to California Code of Regulations, title 8.

7. Official is notice taken of the Board’s rulemaking records and variance decision concerning the Elevator Safety Order requirements at issue. On June 21, 2023, at close of hearing, the record closed and the matter was taken under submission on behalf of the Board.

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 below cited permanent variance file decisions—the Board finds the following:

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

1811 S. Glendale Ave.
Glendale, CA

2. The subject vertical lift is proposed to be a Symmetry Model VPL SL-168, 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.
3. 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.).
4. Permanent variances regarding the extended travel of vertical platform lifts, of similar configuration to that of the subject proposed model, have been previously granted, absent subsequent harm attributable to such variance being reported by Division. (E.g. Permanent Variance Nos. 13-V-260, 15-V-097, 17-V-270, 18-V-278, 19-V-256).
5. With respect to the equivalence or superior of safety, conditions and limitations of the Decision and Order are in material conformity with findings and conditions of prior Board permanent variance decisions, including the above cited.
6. Per its written Review of Application for Permanent Variance, Exhibit PD-4, it is the informed opinion of Division that equivalent safety (at minimum) will be achieved upon grant of presently requested permanent variance, subject to conditions and limitations incorporated into the below Decision and Order. The Division in recommending that such conditional grant will provide for safety equivalence.

7. 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 for 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.

8. Decision and Order

The Application for Permanent Variance of A.Y.A.C., OSHSB File No. 23-V-152, is conditionally GRANTED to the limited extent, upon the Board's adoption of this Proposed Decision, A.Y.A.C., shall have permanent variance from sections 3142(a) and 3142.1 incorporated ASME A18.1-2003, section 2.7.1, inasmuch as it restricts the vertical rise of a wheelchair lift to a maximum of 12 feet, with respect to one (1) Symmetry Model VPL SL-168 Vertical Platform Lift, to be located at:

1811 S. Glendale Ave.
Glendale, CA

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

- a. 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.
- b. 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 otherwise.
- c. 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.
- d. 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:
 - i. Platform driving means examination;
 - ii. Platform examination;
 - iii. Suspension means examination;
 - iv. Platform alignment;

- v. Vibration examination;
 - vi. Door/gate electrical; and
 - vii. Mechanical lock examination.
- e. 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.
 - f. 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.
 - g. The Applicant shall notify the CQCC if the lift shuts down for any reason. The lift shall only be restarted by the CQCC.
 - h. 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.
 - i. 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.
 - j. Any CQCC performing inspections, maintenance, servicing or testing of the elevators shall be provided a copy of this variance decision.
 - k. 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.
 - l. 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 sections 411.2 and 411.3.
 - m. 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 accordance with title 8, Division 1, Chapter 3.5, rules and procedures.

Pursuant to section 426(b), the above, duly completed Proposed Decision, is hereby submitted to the Board for consideration of adoption.

Dated: June 26, 2023



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 for
Permanent Variance Regarding:

KONE Monospace 500 Elevators (Group IV)

OSHSB File No.: See Section A.1 Table Below
Proposed Decision Dated: June 26, 2023

DECISION

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

DAVID THOMAS, Chairman

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: July 20, 2023

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 (“OSHSB”)
DEPARTMENT OF INDUSTRIAL RELATIONS
STATE OF CALIFORNIA

In the Matter of Application for Permanent Variance Regarding: KONE Monospace 500 Elevators (Group IV)	OSHSB File Nos.: See Section A.1 Table Below <u>PROPOSED DECISION</u> Hearing Date: June 21, 2023
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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*.

Variance No.	Applicant Name	Variance Location Address	No. of Elevators
23-V-153	Pinnacle 360 Hoover, LLC	235 N. Hoover St. Los Angeles, CA	4
23-V-173	Harrison Street SF LLC	395 6th St. San Francisco, CA	2
23-V-174	Sutter Capital Group, LP	1629 S Street Sacramento, CA	1
23-V-176	Red Studios Hollywood, LLC	745 N. Cahuenga Blvd. Los Angeles, CA	1
23-V-177	Shemoil's Investment & Development	1001 S. Coffee St. Merced, CA	2
23-V-178	The Board of Trustees of the Leland Stanford Junior University	426 Galvez Mall Stanford, CA	1
23-V-181	ARE/CAL-SD Region No. 62, LLC	10075 Barnes Canyon Rd. San Diego, CA	2
23-V-188	CA 8070 Beverly, LLC	8070 Beverly Blvd. Los Angeles, CA	3

* Unless otherwise noted, all references are to California Code of Regulations, title 8.

2. Safety order requirements are set out within section 3141 incorporated ASME A17.1-2004, sections 2.18.5.1 and 2.20.4.

B. Procedural

1. This hearing was held on June 21, 2023, in Sacramento, California, via videoconference, by the Occupational Safety and Health Standards Board (“Board”), with Hearing Officer Autumn Gonzalez, 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 section 426.
2. At the hearing, Fuei Saetern, with KONE, Inc., appeared on behalf of each Applicant; Jose Ceja and Mark Wickens appeared on behalf of the Division of Occupational Safety and Health (“Division”).
3. Documentary and oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence:

Exhibit Number	Description of Exhibit
PD-1	Application(s) for Permanent Variance per section A.1 table
PD-2	OSHSB Notice of Hearing
PD-3	Division Review of Variance Application
PD-4	Review Draft-1 Proposed Decision

4. Official notice is taken of the Board’s files, records, recordings and decisions concerning the Elevator Safety Order requirements from which variance shall issue. On June 21, 2023, the hearing and 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, 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 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 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. Permanent Variance Nos. 06-V-203, 08-V-245, and 13-V-303).
13. As noted by the Board in Permanent Variance 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 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. 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 the Division as a condition of variance necessary to the achieving of safety equivalence to 9.5 mm rope.

17. The Division is 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. The Division, by way of written submissions to the record (Exhibit PD-3) and stated position 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 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 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.
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 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 or by the Board on its own motion, in accordance with procedures per title 8, Division 1, Chapter 3.5.

Pursuant to section 426(b), the above, duly completed Proposed Decision, is hereby submitted to the Board for consideration of adoption.

Dated: June 26, 2023



Autumn Gonzalez Hearing Officer

Appendix 1

Monospace 500 Suspension Appendix 1 Table

Variance Number	Elevator ID	Minimum Quantity of Ropes (per Condition 3)	Maximum Speed in Feet per Minute (per Condition 6)	Maximum Suspended Load (per Condition 7)
23-V-153	1	7	150	12247
23-V-153	2	7	150	12247
23-V-153	3	7	150	12247
23-V-153	4	7	150	12247
23-V-173	1	8	350	11706
23-V-173	2	8	350	11706
23-V-174	1	7	150	12247
23-V-176	1	7	150	12247
23-V-177	1	8	200	13207
23-V-177	2	7	200	11556
23-V-178	1	8	350	11706
23-V-181	A	8	200	13207
23-V-181	B	8	200	13207
23-V-188	1	8	200	13207
23-V-188	2	8	200	13207
23-V-188	3	7	150	12247

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

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 Gen2S/Gen3Edge Elevator & Medical
Emergency Elevator Car Dimensions
(Group IV)

OSHSB File No.: Per Section A table below
Proposed Decision Dated: June 26, 2023

DECISION

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

DAVID THOMAS, Chairman

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: July 20, 2023

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 (“OSHSB”)
DEPARTMENT OF INDUSTRIAL RELATIONS
STATE OF CALIFORNIA

<p>In the Matter of Application for Permanent Variance Regarding:</p> <p>Otis Gen2S/Gen3Edge Elevator & Medical Emergency Elevator Car Dimensions (Group IV)</p>	<p>OSHSB File Nos.: See section A table below</p> <p><u>PROPOSED DECISION</u></p> <p>Hearing Date: June 21, 2023</p>
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A. Subject Matter

1. 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.*

Variance No.	Applicant Name	Variance Location Address	No. of Elevators
23-V-155	The Cannery at Railroad Square, LP	3 W. 3rd St. Santa Rosa, CA	2
23-V-156	LH Shoreline Apartments LP, A Delaware limited partnership	1170 Spruce St. Mountain View, CA	3
23-V-157	San Ysidro Health National City Dev. Corp	601 E. 14th St. San Diego, CA	2
23-V-158	Oak Apartments, L.P.	2751 W. Francis Ave. Los Angeles, CA	1
23-V-159	Genentech, Inc.	1 Antibody Way Oceanside, CA	2
23-V-160	Bellarmino Place, LP	253 Race St. San Jose, CA	2
23-V-161	2225 Sunset Owner, LLC A Delaware limited liability company, Its sole member	2225 W. Sunset Blvd. Los Angeles, CA	3
23-V-164	Leya Holdings, LLC	3301 Innovation Way Fremont, CA	5
23-V-169	Pacific 825 Coronado LLC	825 S. Coronado St. Los Angeles, CA	2

* Unless otherwise noted, all references are to California Code of Regulations.

23-V-182	Clearwater at Newport Beach Owner, LLC	101 Bayview Place Newport Beach, CA	2
23-V-187	Ventura Veterans, L.P.	Buildings K1 & K2 10774 Morning Glory Rd. 10822 Morning Glory Rd. Ventura, CA	2
23-V-189	350 China Basin Partners, LLC	400 China Basin St. San Francisco, CA	2

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.
2. This hearing was held on June 21, 2023, in Sacramento, California, and via videoconference, by Occupational Safety and Health Standards Board (“Board”), with Hearing Officer Autumn Gonzalez, both presiding and hearing the matter on its merit, as a basis of proposed decision to be advanced to the Board for its consideration.
3. At the hearing, Dan Leacox of Leacox & Associates, and Wolter Geesink with Otis Elevator, appeared on behalf of each Applicant and Jose Ceja and Mark Wickens appeared on behalf of the Division of Occupational Safety and Health (“Division”).
4. Oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence:

Exhibit Number	Description of Exhibit
PD-1	Permanent variance applications per Section A.1 table
PD-2	OSHSB Notice of Hearing
PD-3	Division Reviews of Variance Application
PD-4	Review Draft-1 Proposed Decision

5. Official notice is 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 June 21, 2023, 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 Gen3 Edge/Gen2S elevators at the locations and in the numbers stated in the above section A table.
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 the relevant findings in previous Board decisions:
 - a. Items D.3 through D.9 of the Proposed Decision adopted by the Board on July 18, 2013 for Permanent Variance No. 12-V-093;
 - b. Item D.4 of the Proposed Decision adopted by the Board on September 25, 2014 for Permanent Variance No. 14-V-206; and
 - c. Item B of the Proposed Decision adopted by the Board on September 15, 2022 for Permanent Variance No. 22-V-302 regarding medical emergency car dimensions.
4. The Division, by way of written submission to the record (Exhibit PD-3), and position stated at hearing, is 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 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 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 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);
- 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).
- Minimum Inside Car Platform Dimensions: 3041(e)(1)(C) and 3141.7(b) (Only to the extent necessary to comply with the performance-based requirements of the 2019 California Building Code Section 3002.4.1a)

These variances apply to the locations and numbers of elevators stated in the section A table (so long as the elevators are Gen3 Edge/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.
 - 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).
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

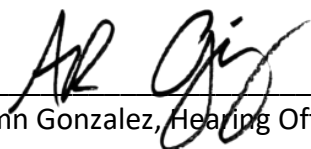
the inspection and test control panel located in one upper floor hoistway door jamb or in the control space (outside the hoistway) used by the motion controller.

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 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.
12. 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.).
13. All medical emergency service elevators shall comply with the following:
- a. The requirements of the 2019 California Building Code (CBC), section 3002.4.1a;
The medical emergency service elevator shall accommodate the loading and transport of two emergency personnel, each requiring a minimum clear 21-inch (533 mm) diameter circular area and an ambulance gurney or stretcher [minimum size 24 inches by 84 inches (610 mm by 2134 mm) with not less than 5-inch (127 mm) radius corners] in the horizontal, open position."
 - b. All medical emergency service elevators shall be identified in the building construction documents in accordance with the 2019 CBC, section 3002.4a.
 - c. Dimensional drawings and other information necessary to demonstrate compliance with these conditions shall be provided to the Division, at the time of inspection, for all medical emergency service elevator(s).
14. 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 Gen3 Edge/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.
15. Any Certified Qualified Conveyance Company performing inspections, maintenance, servicing, or testing of the elevators shall be provided a copy of this variance decision.
16. 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.
17. The Applicant shall be subject to the Suspension Means – Replacement Reporting Condition stated in Addendum 2, as hereby incorporated by this reference.
18. 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.
19. 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 the Board's procedural regulations at section 426, subdivision (b).

Pursuant to section 426(b) of the Board's procedural regulations, the above, Proposed Decision, is hereby submitted to the Board for consideration of adoption.

Dated: June 26, 2023



Autumn Gonzalez, 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 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:

1510 Webster Street LLC

City and County of San Francisco Public
Utilities Commission, Wastewater
Enterprise

OSHSB File No.: 23-V-162 & 23-V-184
Proposed Decision Dated: June 26, 2023

DECISION

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

DAVID THOMAS, Chairman

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: July 20, 2023

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: 1510 Webster Street LLC City and County of San Francisco Public Utilities Commission, Wastewater Enterprise	OSHSB File No: 23-V-162 & 23-V-184 <u>PROPOSED DECISION</u> Hearing Date: June 21, 2023
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A. Procedural & Jurisdictional Matters

- 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 Regulations¹, with respect to a conveyance, or conveyances, in the listed quantity, at the listed location:

Variance No.	Applicant Name	Variance Location Address	No. of Conveyances	Medical Emergency Service (MES)?
23-V-162	1510 Webster Street LLC	1510 Webster St. Oakland, CA	3	No
23-V-184	City and County of San Francisco Public Utilities Commission, Wastewater Enterprise	SEP 020 Headworks Plant 750 Phelps St. San Francisco, CA	2	Yes

- The subject safety order requirements are specified in B. Applicable Regulations below.
- These proceedings are conducted in accordance with Labor Code section 143 and section 401, et. seq. of the Board’s procedural regulations.
- This hearing was held on June 21, 2023, in Sacramento, California, and via videoconference, by Occupational Safety and Health Standards Board (“Board”) with Hearing Officer Autumn Gonzalez, 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.

¹ Unless otherwise noted, all references are to title 8, California Code of Regulations.

5. At the hearing, Dan Leacox of Leacox & Associates, and Wolter Geesink with Otis Elevator Company, appeared on behalf of each Applicant; Jose Ceja and Mark Wickens appeared on behalf of the Division of Occupational Safety and Health (“Division”).
6. Oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence:

Exhibit Number	Description of Exhibit
PD-1	Application(s) for Permanent Variance per section A.1 table
PD-2	OSHSB Notice of Hearing
PD-3	Division Review of Variance Application
PD-4	Review Draft-1 Proposed Decision

7. Official notice is taken of the Board’s files, records, recordings and decisions concerning the Elevator Safety Order requirements from which variance shall issue. On June 21, 2023, the hearing and record closed, and the matter was taken under submission by the Hearing Officer.

B. Applicable Regulation

1. The Applicants request variance from some or all of the following sections of ASME A17.1-2004 that section 3141 makes applicable to the elevators the subject of those applications:
 - a. 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 (Only to the extent necessary to permit the use of the Elastomeric Coated Steel Belts proposed by the Applicant in lieu of circular steel suspension ropes.);
 - b. Cartop Railing: 2.14.1.7.1 (Only to the extent necessary to permit the use of the car top railing system proposed by the Applicant, where the railing system is located inset from the elevator car top perimeter);
 - c. Inspection transfer switch: 2.26.1.4.4(a) (Only to the extent necessary to permit the inspection transfer switch to reside at a location other than the machine room);
 - d. Seismic reset switch: 8.4.10.1.1(a)(2)(b) (Only to the extent necessary to permit the seismic reset switch to reside at a location other than the machine room);
 - e. Governor Rope Diameter: 2.18.5.1 (Only to the extent necessary to permit the use of the governor rope proposed by the Applicant, where the rope has a diameter of 8 mm [0.315 in.]); Note: A variance from the section above is not required. However, the Board has included a variance from this code requirement in similar previous variances.

- f. Pitch Diameter: 2.18.7.4 (Only to the extent necessary to permit the use of the speed governor system, proposed by the Applicant, where the rope sheave pitch diameter is less than what is required by the Elevator Safety Orders).
- g. Minimum Inside Car Platform Dimensions: 3041(e)(1)(C) and 3141.7(b) (Only to the extent necessary to comply with the performance-based requirements of the 2019 California Building Code Section 3002.4.1a)

C. Findings of Fact

1. 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.
 - f. Item B of the Proposed Decision adopted by the Board on September 15, 2022 for OSHSB File No. 22-V-302 regarding medical emergency car dimensions.
2. Regarding requested variance in governor sheave diameter, and governor rope diameter, in variance from title 8, section 3141, incorporated ASME A17.1-2004, sections 2.18.7.4 and 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.
3. The installation contracts for elevators, the subject of the permanent variance application, were signed on or after May 1, 2008, making the elevators subject to the Group IV Elevator Safety Orders (“ESO”).

4. Both Board staff and Division safety engineers, 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. 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 the 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, Applicant shall have permanent variances from 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:

- 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 (Only to the extent necessary to permit the use of the Elastomeric Coated Steel Belts proposed by the Applicant in lieu of circular steel suspension ropes.);
- Cartop Railing: 2.14.1.7.1 (Only to the extent necessary to permit the use of the car top railing system proposed by the Applicant, where the railing system is located inset from the elevator car top perimeter);
- Inspection transfer switch: 2.26.1.4.4(a) (Only to the extent necessary to permit the inspection transfer switch to reside at a location other than the machine room);
- Seismic reset switch: 8.4.10.1.1(a)(2)(b) (Only to the extent necessary to permit the seismic reset switch to reside at a location other than the machine room);
- Governor Rope Diameter: 2.18.5.1 (Only to the extent necessary to permit the use of the governor rope proposed by the Applicant, where the rope has a diameter of 8 mm

[0.315 in.]); *Note: A variance from the section above is not required. However, the Board has included a variance from this code requirement in similar previous variances.*

- Pitch Diameter: 2.18.7.4 (Only to the extent necessary to permit the use of the speed governor system, proposed by the Applicant, where the rope sheave pitch diameter is less than what is required by the Elevator Safety Orders).
- Minimum Inside Car Platform Dimensions: 3041(e)(1)(C) and 3141.7(b) (Only to the extent necessary to comply with the performance-based requirements of the 2019 California Building Code Section 3002.4.1a)

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 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.

4. The Applicant shall not utilize each 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.
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.
 - 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. All medical emergency service elevators shall comply with the following²:
 - a. The requirements of the 2019 California Building Code (CBC), Section 3002.4.1a The medical emergency service elevator shall accommodate the loading and transport of

² Condition 13 is applicable to 23-V-184 only. All other conditions apply to both 23-V-184 and 23-V-162.

- two emergency personnel, each requiring a minimum clear 21-inch (533 mm) diameter circular area and an ambulance gurney or stretcher [minimum size 24 inches by 84 inches (610 mm by 2134 mm) with not less than 5 inch (127 mm) radius corners] in the horizontal, open position.”
- b. All medical emergency service elevators shall be identified in the building construction documents in accordance with the 2019 CBC, Section 3002.4a.
 - c. Dimensional drawings and other information necessary to demonstrate compliance with these conditions shall be provided to the Division, at the time of inspection, for all medical emergency service elevator(s).
14. Each 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 Gen3 Peak 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.
 15. Any Certified Qualified Conveyance Company performing inspections, maintenance, servicing, or testing of the elevators shall be provided a copy of this variance decision.
 16. The Division shall be notified when each elevator is ready for inspection. Each elevator shall be inspected by the Division, and a Permit to Operate shall be issued before each elevator is placed in service.
 17. The Applicant shall be subject to the suspension means replacement reporting condition stated in Addendum 2; that condition is incorporated herein by this reference.
 18. 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.
 19. 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 Section 426, subdivision (b) of the Board's procedural regulations, the above, Proposed Decision, is hereby submitted to the Occupational Safety and Health Standards Board for consideration of adoption.

DATED: June 26, 2023


Autumn Gonzalez, 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 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 Medical Emergency Elevator Car
Dimensions (Group IV)

OSHSB File No.: see grid below
Proposed Decision Dated: June 26, 2023

DECISION

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

DAVID THOMAS, Chairman

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: July 20, 2023

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>Otis Medical Emergency Elevator Car Dimensions (Group IV)</p>	<p>OSHSB File No.: see grid below</p> <p><u>PROPOSED DECISION</u></p> <p>Hearing Date: June 21, 2023</p>
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A. Jurisdictional and Procedural Matters

- 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 Regulations¹, with respect to the listed conveyance or conveyances, at the specified location:

Variance No.	Applicant Name	Variance Location Address
23-V-163	Central Fire Protection District	410 Kennedy Drive Capitola, CA
23-V-171	Dominican University of California	185 Palm Ave. San Rafael, CA
23-V-170	University of Southern California	USC One Institute 909 W. Adams Blvd. Los Angeles, CA
23-V-186	A&F Properties, LLC	4151 Middlefield Rd. Palo Alto, CA

- This proceeding is conducted in accordance with Labor Code section 143, and section 401, et. seq. of the Board’s rules of practice and procedure.
- This hearing was held on June 21, 2023, in Sacramento, California, and via videoconference, by Occupational Safety and Health Standards Board (“Board”), with Hearing Officer Autumn Gonzalez, 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 section 426.

¹ Unless otherwise noted, all references are to the California Code of Regulations, title 8.

4. At the hearing, Dan Leacox of Leacox & Associates, and Wolter Geesink with Otis Elevator, appeared on behalf of each Applicant; Jose Ceja and Mark Wickens appeared on behalf of the Division of Occupational Safety and Health (“Division”).
5. Oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence:

Exhibit Number	Description of Exhibit
PD-1	Permanent variance applications per Section A.1 table
PD-2	OSHSB Notice of Hearing
PD-3	Division Reviews of Variance Application
PD-4	Review Draft-1 Proposed Decision

Official notice is 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 June 21, 2023, the record was closed, and the matter taken under submission by the Hearing Officer.

B. Findings of Fact and Applicable Regulations

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

1. Applicant requests a permanent variance from section 3041, subdivision (e)(1)(C), which states:

(1) All buildings and structures constructed after the effective date of this order that are provided with one or more passenger elevators shall be provided with not less than one passenger elevator designed and designated to accommodate the loading and transport of an ambulance gurney or stretcher maximum size 22 ½ in. (572 mm) by 75 in. (1.90 m) in its horizontal position and arranged to serve all landings in conformance with the following:

...

(C) The elevator car shall have a minimum inside car platform of 80 in. (2.03 m) wide by 51 in. (1.30 m) deep.

The intent of this language is to ensure that there is enough space to accommodate the access and egress of a gurney and medical personnel inside of a medical service elevator.

This standard is made applicable to Group IV by section 3141.7, subdivision (b), which reads, “Elevators utilized to provide medical emergency service shall comply with Group II, section 3041(e).”

2. Applicant proposes to comply with the requirements of the 2019 California Building Code, section 3002.4.1a in the design of its medical emergency service elevator. That section requires:

The medical emergency service elevator shall accommodate the loading and transport of two emergency personnel, each requiring a minimum clear 21-inch (533 mm) diameter circular area and an ambulance gurney or stretcher [minimum size 24 inches by 84 inches (610 mm by 2134 mm) with not less than 5-inch (127 mm) radius corners] in the horizontal, open position.

The purpose of this requirement is to ensure that an elevator designated for emergency medical service will accommodate a minimum of two emergency personnel with an ambulance gurney or stretcher.

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 the Elevator Safety Orders from which variance is being sought.

D. 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.1 table shall have permanent variances from sections 3041, subdivision (e)(1)(C) and 3141.7, subdivision (b) subject of the following conditions:

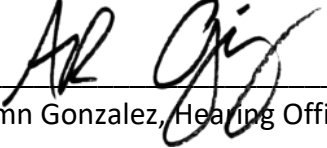
1. All medical emergency service elevator(s) shall comply with the requirements of the 2019 California Building Code section 3002.4.1a:

The medical emergency service elevator shall accommodate the loading and transport of two emergency personnel, each requiring a minimum clear 21-inch (533 mm) diameter circular area and an ambulance gurney or stretcher [minimum size 24 inches by 84 inches (610 mm by 2134 mm) with not less than 5-inch (127 mm) radius corners] in the horizontal, open position.

2. All medical emergency service elevator(s) shall be identified in the building construction documents in accordance with the 2019 California Building Code, section 3002.4a.
3. Dimensional drawings and other information necessary to demonstrate compliance with the conditions of this permanent variance decision shall be provided to the Division, at the time of inspection, for all medical emergency service elevator(s).
4. Any Certified Qualified Conveyance Company performing inspections, maintenance, servicing, or testing the elevators shall be provided a copy of this variance decision.
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. Applicant shall notify its employees and their authorized representative, 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 sections 411.2 and 411.3.
7. This Decision and Order shall remain in effect unless duly modified or revoked upon application by Applicant, affected employee(s), the Division, or by the Board on its own motion, in accordance with then in effect administrative procedures of the Board.

Pursuant to section 426, subdivision (b) of the Board's procedural regulations, the above, Proposed Decision, is hereby submitted to the Occupational Safety and Health Standards Board for consideration of adoption.

DATED: June 26, 2023



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 for
Permanent Variance Regarding:

TK Elevator Evolution (Group IV)

OSHSB File No.: Per Section A.1 table
Proposed Decision Dated: June 26, 2023

DECISION

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

DAVID THOMAS, Chairman

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: July 20, 2023

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 (“OSHSB”)
 DEPARTMENT OF INDUSTRIAL RELATIONS
 STATE OF CALIFORNIA

In the Matter of Application for Permanent Variance Regarding: TK Elevator Evolution (Group IV)	OSHSB File Nos.: Per Section A.1 table <u>PROPOSED DECISION</u> Hearing Date: June 21, 2023
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A. Procedural Matters

1. The below listed Applicants (“Applicant”) have applied for permanent variance from certain provisions of the Elevator Safety Orders, found at title 8 of the California Code of Regulations¹, 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
23-V-165	Cassadyne F Street, LLC and E20	1925 F Street Sacramento, CA	1
23-V-166	R CAP Avenue 34, LLC	3411 Pasadena Ave. Building B Los Angeles, CA	3
23-V-167	R CAP Avenue 34, LLC	3433 Pasadena Ave., Building C Los Angeles, CA	2
23-V-168	R CAP Avenue 34, LLC	131 W Avenue 34, Building A Los Angeles, CA	2
23-V-172	350 Rhode Island South Owner, LLC a Delaware Limited Liability Company	350 Rhode Island San Francisco, CA	2

2. These proceedings are conducted in accordance with Labor Code section 143, and section 401, et. seq. of the Board’s procedural regulations.
3. This hearing was held on June 21, 2023, in Sacramento, California via videoconference, by Occupational Safety and Health Standards Board (“Board”), with Hearing Officer Autumn Gonzalez, 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 section 426.

¹ Unless otherwise noted, references are to the California Code of Regulations, title 8.

4. At the hearing, Justin Zoetewey with TK Elevator appeared on behalf of the Applicant, and Mark Wickens and Jose Ceja appeared on behalf of the Division of Occupational Safety and Health (“Division”).
5. Documentary and oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence:

Exhibit Number	Description of Exhibit
PD-1	Application(s) for Permanent Variance per section A.1 table
PD-2	OSHSB Notice of Hearing
PD-3	Division Review of Variance Application
PD-4	Review Draft-1 Proposed Decision

6. Official notice is taken of the Board’s files, records, recordings and decisions concerning the requirements from which variance shall issue. On June 21, 2023, the hearing and record closed, and the matter was taken under submission by the Hearing Officer.

B. Relevant Safety Orders

Variance Request No. 1 (ASME A17.1-2004, section 2.14.1.7.1)

2.14.1.7.1 A standard railing conforming to 2.10.2 shall be provided on the outside perimeter of the car top on all sides where the perpendicular distance between the edges of the car top and the adjacent hoistway enclosure exceeds 300 mm (12 in.) horizontal clearance.

Variance Request No. 2A (ASME A17.1-2004, section 2.20.1)

2.20.1 Suspension Means

Elevator cars shall be suspended by steel wire ropes attached to the car frame or passing around sheaves attached to the car frame specified in 2.15.1. Ropes that have previously been installed and used on another installation shall not be reused.

Only iron (low-carbon steel) or steel wire ropes, having the commercial classification "Elevator Wire Rope," or wire rope specifically constructed for elevator use, shall be used for the suspension of elevator cars and for the suspension of counterweights. The wire material for ropes shall be manufactured by the open-hearth or electric furnace process or their equivalent.

Variance Request No. 2B (ASME A17.1-2004, section 2.20.2[.1])

2.20.2.1 On Crosshead Data Plate.

The crosshead data plate required by 2.16.3 shall bear the following wire-rope data:

(a) the number of ropes

(b) the diameter in millimeters (mm) or inches (in.)

(c) the manufacturer's rated breaking strength per rope in kilo Newton (kN) or pounds (lb)

Variance Request No. 2C (ASME A17.1-2004, section 2.20.2.2)

2.20.2.2 On Rope Data Tag.

A metal data tag shall be securely attached to one of the wire-rope fastenings. This data tag shall bear the following wire-rope data:

(a) the diameter in millimeters (mm) or inches (in.)

[...]

(f) whether the ropes were nonpreformed or preformed

[...]

Variance Request No. 2D. (ASME A17.1-2004, section 2.20.3)

2.20.3 Factor of Safety

The factor of safety of the suspension wire ropes shall be not less than shown in Table 2.20.3. Figure 8.2.7 gives the minimum factor of safety for intermediate rope speeds. The factor of safety shall be based on the actual rope speed corresponding to the rated speed of the car.

The factor of safety shall be calculated by the following formula:

$$f = \frac{S \times N}{W}$$

where

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

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

Variance Request No. 2E (ASME A17.1-2004, section 2.20.4)

2.20.4 Minimum Number and Diameter of Suspension Ropes

The minimum number of hoisting ropes used shall be three for traction elevators and two for drum-type elevators.

Where a car counterweight is used, the number of counterweight ropes used shall be not less than two.

The term "diameter," where used in reference to ropes, shall refer to the nominal diameter as given by the rope manufacturer.

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.

Variance Request No. 2F (ASME A17.1-2004, section 2.20.9[.1])

2.20.9 Suspension-Rope Fastening

2.20.9.1 Type of Rope Fastenings. The car and counterweight ends of suspension wire ropes, or the stationary hitch-ends where multiple roping is used, shall be fastened in such a manner that all portions of the rope, except the portion inside the rope sockets, shall be readily visible.

Fastening shall be

(a) by individual tapered rope sockets (see 2.20.9.4) or other types of rope fastenings that have undergone adequate tensile engineering tests, provided that

(1) such fastenings conform to 2.20.9.2 and 2.20.9.3;

(2) the rope socketing is such as to develop at least 80% of the ultimate breaking strength of the strongest rope to be used in such fastenings; or

(b) by individual wedge rope sockets (see 2.20.9.5); and

(c) U-bolt-type rope clamps or similar devices shall not be used for suspension rope fastenings.

Variance Request No. 3 (ASME A17.1-2004, section 2.26.9.4)

2.26.9.4 Redundant devices used to satisfy 2.26.9.3 in the determination of the occurrence of a single ground, or the failure of any single magnetically operated switch, contactor or relay, or of any single solid state device, or any single device that limits the leveling or truck zone, or a software system failure, shall be checked prior to each start of the elevator from a landing, when on automatic operation. When a single ground or failure, as specified in 2.26.9.3, occurs, the car shall not be permitted to restart. Implementation of redundancy by a software system is permitted, provided that the removal of power from the driving-machine motor and brake shall not be solely dependent on

software-controlled means.

Variance Request No. 4 (ASME A17.1-2004, section 2.26.9.6.1)

2.26.9.6.1 Two separate means shall be provided to independently inhibit the flow of alternating-current through the solid state devices that connect the direct-current power source to the alternating-current driving motor. At least one of the means shall be an electromechanical relay.

Variance Request No. 5 (ASME A17.1-2004, section 2.26.1.4].1](a))

2.26.1.4.1 General Requirements

(a) Operating devices for inspection operation shall be provided on the top of the car and shall also be permitted in the car and in the machine room.

Variance Request No. 6 (ASME A17.1-2004, section 8.4.10.1.1(a)(2)(b))

8.4.10.1.1 Earthquake Equipment (See Also Fig. 8.4.10.1.1)

(a) All traction elevators operating at a rated speed of 0.75 m/s (150 ft/min) or more and having counterweights located in the same hoistway shall be provided with the following:

(1) seismic zone 3 or greater: a minimum of one seismic switch per building

(2) seismic zone 2 or greater:

(a) a displacement switch for each elevator

(b) an identified momentary reset button or switch for each elevator, located in the control panel in the elevator machine room [see 8.4.10.1.3(i)]

C. Findings

1. Applicant proposes to utilize inset car top railings and guards in compliance with ASME 17.1-2013, section 2.14.1.7.1 and the *Vivante Westside, LLC* File No. 18-V-364 (Nov. 20, 2020) decision (*Vivante*). Applicant further claims that the request is consistent with the *Vivante*, the *Mack Urban, LLC*, File No. 15-V-349 (Nov. 17, 2016), and the *Patton Equities, LLC* File No. 20-V-128 (Nov. 12, 2020) decisions (*Patton Equities*).
2. Applicant proposes to utilize noncircular elastomeric-coated steel belts (“ECSBs”) rather than steel ropes in a machine room-less (“MRL”) elevator installation, with updated data plates, data tags, and wedge sockets designed for use with ECSBs, as well as the appropriate factor of safety criteria conforming to ASME 17.1-2013, with a continuous residual strength detection device (“RSDD”) compliant with the *San Francisco Public Works* (File No. 21-V-061, et al.)

decisions.

3. The installation shall utilize the TK Elevator Model 104DP001 RSDD, accepted by the Division on May 4, 2021.
4. Applicant proposes to comply with ASME A17.1-2013 sections 2.26.9.3, "Protection Against Failures", rather than the requirements of 2.26.9.3 and 2.26.9.4 in the ASME 2004 code.
5. Applicant proposes to use TKE's control systems, using the TKE TAC32T Controller with SIL3 rated elements, to provide equivalent safety to ASME A17.1-2004, section 2.26.9.4 as a means to inhibit flow of Alternating Current to the Driving Motor in compliance with ASME A17.1-2013, section 2.26.9.6.
6. Applicant proposes to locate the Inspection Transfer Switch within the machinery/control room/space in the MRL installation, in compliance with ASME 17.1-2013, section 2.26.1.4.
7. Applicant proposes to locate the Seismic-Operation Reset Switch in the machinery/control room/space in the MRL installation.

D. Decision and Order

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 TKE EVO 200 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 section 3141 of the Elevator Safety Orders:

- Car-Top Railing: 2.14.1.7.1 (Limited to the extent necessary to permit the use of an inset car-top railing)
- 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, and 2.20.9.1 (Limited to the extent necessary to permit the use of the elastomeric-coated steel belts in lieu of circular steel suspension ropes)
- Inspection transfer switch: 2.26.1.4.4(a) (Limited to the extent necessary to permit the inspection transfer switch to reside at a location other than the machine room)
- Software Reliant Means to Remove Power: 2.26.9.4 (Limited to the extent necessary to permit the exclusive use of SIL-rated software systems as a means to remove power from the driving machine motor and brake)
- SIL-Rated Circuitry to Inhibit Current Flow: 2.26.9.6.1 (Limited to the extent necessary to permit the use of SIL-rated circuitry in place of an electromechanical relay to inhibit current flow to the drive motor)

- Seismic reset switch: 8.4.10.1.1(a)(2)(b) (Limited to the extent necessary to permit the seismic reset switch to reside at a location other than the machine room)

Inset Car Top Railing (Variance Request No. 1)

- 1.0 Any and all inset car top railings shall comply with the following:
 - 1.1 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 trained elevator mechanics or elevator service personnel to stand or climb over the car top railing.
 - 1.2 The distance that the railing can be inset shall be limited to not more than six inches (6").
 - 1.3 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 two inches (2"), 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.
 - 1.4 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" diagonal red and white stripes.
 - 1.5 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**

- 1.6 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).

Suspension Means (Variance Request No. 2)

- 2.0 The elevator suspension system shall comply with the following:
 - 2.1 The elastomeric coated steel belts (ECSBs) 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

- 2.2 Additionally, ECSBs shall meet or exceed all requirements of ASME A17.6 2010, Standard for Elevator Suspension, Compensation, and Governor Systems, Part 3 Noncircular Elastomeric Coated Steel Suspension Members for Elevators.
- 2.3 The Applicant shall not utilize the elevator unless the manufacturer has written procedures for the installation, maintenance, inspection and testing of the ECSBs and fastenings and related monitoring and detection systems and criteria for ECSB 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.
- 2.4 ECSB mandatory replacement criteria shall include:
- 2.4.1. Any exposed wire, strand or cord;
 - 2.4.2. Any wire, strand or cord breaks through the elastomeric coating;
 - 2.4.3. Any evidence of rouging (steel tension element corrosion) on any part of the elastomeric coated steel suspension member;
 - 2.4.4. Any deformation in the elastomeric suspension member such as, but not limited to, kinks or bends.
- 2.5 Traction drive sheaves must have a minimum diameter of 112 mm. The maximum speed of ECSBs running on 112 mm drive sheaves shall be no greater than 6.1 m/s.
- 2.6 If any one (1) ECSB 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 ECSB having been placed into service, it is permissible to replace the individual damaged suspension member. ECSBs that have been installed on another installation shall not be re used.
- 2.7 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.
- 2.8 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).
- 2.9 An elevator controller integrated bend cycle monitoring system shall monitor actual ECSB bend cycles, by means of continuously counting, and storing in nonvolatile memory, the number of trips that the ECSB 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 ECSB member drops below (60%)

sixty percent of full rated strength. The monitoring means shall prevent the car from restarting. Notwithstanding any less frequent periodic testing requirement per Addendum 2 (Division Circular Letter), the bend cycle monitoring system shall be tested semiannually in accordance with the procedures required per above Conditions 2.3 and 2.4.

- 2.10 The elevator crosshead data plate shall comply with the requirements of ASME A17.1-2013, section 2.20.2.1.
- 2.11 A suspension means data tag shall be provided that complies with the requirements of ASME A17.1-2013, section 2.20.2.2.
- 2.12 Comprehensive visual inspections of the entire length of each and all installed suspension members, in conformity with above Conditions 2.3 and 2.4 specified criteria, shall be conducted and documented every six (6) months by a CCCM.
- 2.13 The Applicant shall be subject to the requirements per hereto attached, and inhere incorporated, Addendum 1, "Suspension Means Replacement Reporting Condition."
- 2.14 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.
- 2.15 The subject elevators(s) shall be equipped with a TK Elevator Model 104DP001 Residual Strength Detection Device accepted by the Division on May 4, 2021 or Division accepted equivalent device.

Control and Operating Circuits

Combined Software Redundant Devices with Software Removal of Power from Driving Motor and Brake (Variance Request No. 3)

Removal of Power from Driving Motor Without Electro-mechanical Switches (Variance Request No. 4)

- 3.0 The SIL rated circuitry used to provide device/circuit redundancy and to inhibit electrical current flow in accordance with ASME A17.1-2004, sections 2.26.9.4 and 2.26.9.6.1 shall comply with the following:
- 3.1 The SIL rated systems and related circuits shall consist of:
 - 3.1.1. ELGO LIMAX33 RED, (aka LIMAX3R-03-050-0500-CNXTG-RJU), Safe Magnetic Absolute Shaft Information System, 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 (968/A 163), followed by the applicable revision number (as in 968/A 163.07/19).
 - 3.1.2 Printed circuit board assembly SSOA (6300 AHE001), 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 (968/FSP 1347), followed by the applicable revision number (as in 968/FSP 1347.00/16).

- 3.1.3 Two circuit board components (Serializer S3I and S3O), 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 (968/A 162), followed by the applicable revision number (as in 968/A 162.04/18)
- 3.2 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.
- 3.3 The access door or cover of the enclosures containing the SIL rated components shall be clearly labeled or tagged on their exterior with the statement:

**Assembly contains SIL rated devices.
Refer to maintenance Control Program and wiring diagrams
prior to performing work.**

- 3.4 Unique maintenance procedures or methods required for the inspection, testing, or replacement of the SIL rated circuits shall be developed and a copy maintained in the elevator machine/control room/space. The procedures or methods shall include clear color photographs of each SIL rated component, with notations identifying parts and locations.
- 3.5 Wiring diagrams that include part identification, SIL, and certification information shall be maintained in the elevator machine/control room/space.
- 3.6 A successful test of the SIL rated circuits shall be conducted initially and not less than annually in accordance with the testing procedure. The test shall demonstrate that SIL rated devices, safety functions, and related circuits operate as intended.
- 3.7 Any alterations to the SIL rated circuits shall be made in compliance with the Elevator Safety Orders. If the Elevator Safety Orders do not contain specific provisions for the alteration of SIL rated devices, the alterations shall be made in conformance with ASME A17.1-2013, section 8.7.1.9.
- 3.8 Any replacement of the SIL rated circuits shall be made in compliance with the Elevator Safety Orders. If the Elevator Safety Orders do not contain specific provisions for the replacement of SIL rated devices, the replacement shall be made in conformance with ASME A17.1-2013, section 8.6.3.14.
- 3.9 Any repairs to the SIL rated circuits shall be made in compliance with the Elevator Safety Orders. If the Elevator Safety Orders do not contain specific provisions for the repair of SIL rated devices, the repairs shall be made in conformance with ASME A17.1-2013, section 8.6.2.6.
- 3.10 Any space containing SIL rated circuits shall be maintained within the temperature and humidity range specified by TKE. The temperature and humidity range shall be posted on each enclosure containing SIL rated software or circuits.
- 3.11 Field software changes to the SIL rated system are not permitted. Any changes to

the SIL rated system's circuitry will require recertification and all necessary updates to the documentation and diagrams required by Conditions 3.4 and 3.5 above.

Inspection Transfer Switch and Seismic Reset Switch (Variance Request Nos. 5 and 6):

- 4.0 Inspection Transfer switch and Seismic Reset switch placement and enclosure shall comply with the following:
 - 4.1 If the inspection transfer switch required by ASME A17.1-2004, section 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.
 - 4.2 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.
- 5.0 The elevator shall be serviced, maintained, adjusted, tested, and inspected only by CCCM having been trained, and competent, to perform those tasks on the TKE EVO 200 elevator system in accordance with written procedures and criteria, including as required per above Conditions 2.3, and 2.4.
- 6.0 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 full service prior to the Permit to Operate being issued by Division.
- 7.0 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 sections 411.2 and 411.3.
- 8.0 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 section 426(b), the above, duly completed Proposed Decision, is hereby submitted to the Board for consideration of adoption.

DATED: June 26, 2023


Autumn Gonzalez, Hearing Officer

ADDENDUM 1

SUSPENSION MEANS REPLACEMENT REPORTING REQUIREMENTS

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, Attn: Engineering Section, 2 MacArthur Place Suite 700, Santa Ana, CA 92707.
- (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, and certification expiration date 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 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.

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 2(a) above.

ADDENDUM 2

CIRCULAR LETTER E-10-04, October 6, 2010

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 HQ

ADDENDUM 3

- (A) A Residual Strength Detection Device (RSDD) shall continuously monitor all Elastomeric Coated Steel Belt suspension members (ECSB), automatically stopping the car if the residual strength of any belt drops below 60%. The RSDD shall prevent the elevator from restarting after a normal stop at a landing. The RSDD shall device shall apply a form of electrical current and/or signal through the entire length of the steel tension elements of the ECSB and measure the current and/or signal on its return. The values measured shall be continuously compared to values that have been correlated to the remaining residual strength of the ECSB through testing. The required RSDD shall not rely upon giant magnetoresistance technology, or other magnetic measurement means, for residual strength detection or monitoring.

The RSDD 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 or controller location. The removed RSDD must be replaced or returned to proper service within 30 days. If upon routine inspection, the RSDD device is found to be in a non-functional state, the date and findings are to be conspicuously documented in the elevator machine room or controller location.

If upon inspection by the Division, the RSDD 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.

- (B) On or before November 21 2021, and thereafter, the above specified and documented RSDD shall be installed and operational on the subject elevator.
- (C) A successful functionality test of each RSDD shall be conducted once a year, and a copy of completed testing documentation conspicuously located in the machine room or within proximity of the controller.

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 300 Elevators (Group IV)

OSHSB File No.: See Section A.1 Table Below
Proposed Decision Dated: June 26, 2023

DECISION

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

DAVID THOMAS, Chairman

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: July 20, 2023

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 (“OSHSB”)
 DEPARTMENT OF INDUSTRIAL RELATIONS
 STATE OF CALIFORNIA

In the Matter of Application for Permanent Variance Regarding: KONE Monospace 300 Elevators (Group IV)	OSHSB File Nos.: See Section A.1 Table Below <u>PROPOSED DECISION</u> Hearing Date: June 21, 2023
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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.*

Variance No.	Applicant Name	Variance Location Address	No. of Elevators
23-V-175	Elk Grove Unified School District	Elk Grove High School 9800 Elk Grove-Florin Road Elk Grove, CA	1
23-V-179	Sakata Seed America, Inc.	13459 County Road 100 Woodland, CA 95776	1

- Safety order requirements are set out within section 3141 incorporated ASME A17.1-2004, sections 2.18.5.1 and 2.20.4.

B. Procedural

- This hearing was held on June 21, 2023, in Sacramento, California, via videoconference, the Occupational Safety and Health Standards Board (“Board”), with Hearing Officer Autumn Gonzalez, 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 section 426.

* Unless otherwise noted, all references are to California Code of Regulations, title 8.

2. At the hearing, Fuei Saetern, with KONE, Inc., appeared on behalf of each Applicant; Jose Ceja and Mark Wickens appeared on behalf of the Division of Occupational Safety and Health (“Division”).
3. Documentary and oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence:

Exhibit Number	Description of Exhibit
PD-1	Application(s) for Permanent Variance per section A.1 table
PD-2	OSHSB Notice of Hearing
PD-3	Division Review of Variance Application
PD-4	Review Draft-1 Proposed Decision

4. Official notice is taken of the Board’s files, records, recordings and decisions concerning the Elevator Safety Order requirements from which variance shall issue. On June 21, 2023, the hearing and 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 300 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 the Division, having established an engineering practice for purposes of Monospace 300 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 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 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 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. Permanent Variance Nos. 06-V-203, 08-V-245, and 13-V-303).

13. As noted by the Board in Permanent Variance 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 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. 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 Applicants supplied 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 the Division as a condition of variance necessary to the achieving of safety equivalence to 9.5 mm rope.
17. The Division is in accord with Applicants, 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. The Division, by way of written submissions to the record (Exhibit PD-3), 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 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 from which variance is being sought.

E. Decision and Order

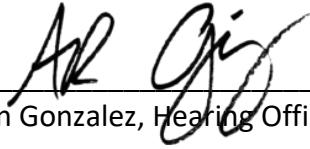
Each Application being the subject of this proceeding, per above Section A.1 table, is conditionally GRANTED, to the extent that each such Applicant shall be issued permanent variance section 3141 incorporated ASME A17.1-2004, section 2.20.4, in as much as it precludes use of suspension rope of between 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 300 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.
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 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 or by the Board on its own motion, in accordance with procedures per title 8, Division 1, Chapter 3.5.

Pursuant to section 426(b), the above, duly completed Proposed Decision, is hereby submitted to the Board for consideration of adoption.

Dated: June 26, 2023



Autumn Gonzalez, Hearing Officer

Appendix 1

Monospace 300 Suspension Ropes Appendix 1 Table

Variance Number	Elevator ID	Minimum Quantity of Ropes (per Condition 3)	Maximum Speed in Feet per Minute (per Condition 6)	Maximum Suspended Load (per Condition 7)
23-V-175	2	7	150	12247
23-V-179	1	7	150	12247

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 variance 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 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 By:

415 E Campbell LLC

OSHSB File No.: 23-V-197

Proposed Decision Dated: June 26, 2023

DECISION

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

DAVID THOMAS, Chairman

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: July 20, 2023

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 (“OSHSB”)
DEPARTMENT OF INDUSTRIAL RELATIONS
STATE OF CALIFORNIA

In the Matter of Application for Permanent Variance by: 415 E Campbell LLC	OSHSB File No.: 23-V-197 Proposed Decision Hearing Date: June 21, 2023
---	--

A. Procedural Matters

1. 415 E Campbell 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:

415 E Campbell Ave.
Campbell, CA

2. This proceeding is conducted in accordance with Labor Code section 143, and California Code of Regulations*, title 8, section 401, et. seq. of the Board’s procedural regulations.
3. This hearing was held on June 21, 2023, in Sacramento, California, via videoconference, by the Occupational Safety and Health Standards Board (“Board”), with Hearing Officer Autumn Gonzalez, 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 section 426.
4. Appearing at hearing were Craig Fiore with McKinley Elevator Corporation appearing on behalf of the Applicant; and Mark Wickens and Jose Ceja appeared on behalf of the Division of Occupational Safety and Health (“Division”).
5. Documentary and oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence:

Exhibit Number	Description of Exhibit
PD-1	Application for Permanent Variance
PD-2	OSHSB Notice of Hearing
PD-3	Division Review of Variance Application
PD-4	Review Draft-1 Proposed Decision

* Unless otherwise noted, all references are to California Code of Regulations, title 8.

6. Official notice is taken of the Board's files, records, recordings and decisions concerning the requirements from which variance shall issue. On June 21, 2023, the hearing and 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 vertical platform (wheelchair) lift at a location having the address of:

415 E Campbell Ave.
Campbell, CA

2. Applicant requests variance solely from section 3142(a) and section 3142.1.
3. The subject vertical lift is proposed to be a Garaventa Lift, Model GVL-SW-168, 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, without subsequent safety problems attributable to such variance being reported. (e.g. Permanent Variance Nos. 13-V-260, 15-V-097, 15-V-297, 18-V-069)
6. It is the well informed professional opinion of the Division (per Exhibit PD-3) 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.
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 415 E Campbell LLC, OSHSB File No. 23-V-197, is conditionally GRANTED to the limited extent, upon the Board's adoption of this Proposed Decision, 415 E Campbell LLC, shall have permanent variance from 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) Garaventa Lift, Model GVL-SW-168 Vertical Platform Lift, to be located at:

415 E Campbell Ave.
Campbell, 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

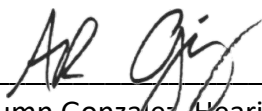
the routine preventive maintenance required by section 3094.5(a)(1) shall be performed at least quarterly and shall include but not be limited to:

- (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 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 section 426(b), the above, duly completed Proposed Decision, is hereby submitted to the Board for consideration of adoption.

Dated: June 26, 2023



Autumn Gonzalez, Hearing Officer

Occupational Safety and Health Standards Board

Business Meeting
Legislative Update

Legislative Update
Prepared July 6, 2023 for the July 20, 2023
Meeting of the Occupational Safety and Health Standards Board

AB-1 Oil refineries: maintenance.(2023-2024) – **NO UPDATE**

AB-1	AB-1 Oil refineries: maintenance.(2023-2024)	
	(Ting)	
	Date	Action
	01/26/23	Referred to Com. on P.E. & R.
	12/06/22	From printer. May be heard in committee January 5.
12/05/22	Read first time. To print.	
<p><u>Summary:</u></p> <p>AB 1, as introduced, Ting. Oil refineries: maintenance.</p> <p>The California Refinery and Chemical Plant Worker Safety Act of 1990 requires, among other things, every petroleum refinery employer to submit to the Division of Occupational Safety and Health a full schedule of planned turnarounds, meaning a planned, periodic shutdown of a refinery process unit or plant to perform maintenance, overhaul, and repair operations and to inspect, test, and replace process materials and equipment, as provided.</p> <p>This bill would express the intent of the Legislature to enact subsequent legislation to ensure that only one oil refinery in the state is undergoing scheduled maintenance at a time.</p> <p>Board staff is monitoring for potential impacts on Board operations.</p>		

Legislative Update
Prepared July 6, 2023 for the July 20, 2023
Meeting of the Occupational Safety and Health Standards Board

AB-521 Occupational safety and health standards: restrooms.(2023-2024) – **UPDATED**

AB-521	AB-521 Occupational safety and health standards: restrooms.(2023-2024)	
	(Bauer-Kahan)	
	Date	Action
	07/03/23	From committee: Do pass. (Ayes 5. Noes 0.) (July 3).
	06/26/23	Read second time and amended. Re-referred to Com. on APPR.
	06/22/23	From committee: Amend, and do pass as amended and re-refer to Com. on APPR. (Ayes 5. Noes 0.)
	06/14/23	In committee: Set, first hearing. Hearing canceled at the request of author.
	05/31/23	Referred to Com. on L., P.E. & R.
	05/23/23	In Senate. Read first time. To Com. on RLS. for assignment.
	05/22/23	Read third time. Passed. Ordered to the Senate. (Ayes 77. Noes 0.)
	05/15/23	Read third time and amended. Ordered to third reading.
	05/11/23	Read second time. Ordered to third reading.
	05/10/23	From committee: Do pass. (Ayes 15. Noes 0.) (May 10).
04/27/23	From committee: Do pass and re-refer to Com. on APPR. (Ayes 7. Noes 0.) (April 26). Re-referred to Com. on APPR.	
04/18/23	Re-referred to Com. on L. and E.	

Legislative Update
Prepared July 6, 2023 for the July 20, 2023
Meeting of the Occupational Safety and Health Standards Board

04/17/23	From committee chair, with author's amendments: Amend, and re-refer to Com. on L. and E. Read second time and amended
02/17/23	Referred to Com. on L. & E.
02/08/23	From printer. May be heard in committee March 10.
02/07/23	Read first time. To print.

Summary:

AB 521, as amended, Bauer-Kahan. Occupational safety and health standards: construction jobsites: toilet facilities.

Existing law grants the Division of Occupational Safety and Health, which is within the Department of Industrial Relations, jurisdiction over all employment and places of employment, with the power necessary to enforce and administer all occupational health and safety laws and standards. The Occupational Safety and Health Standards Board, an independent entity within the department, has the exclusive authority to adopt occupational safety and health standards within the state. Existing law, the California Occupational Safety and Health Act of 1973 (OSHA), requires employers to comply with certain safety and health standards, as specified, and charges the division with enforcement of the act.

Existing law requires the division, before December 1, 2025, to submit to the standards board a rulemaking proposal to consider revising the heat illness standard and wildfire smoke standard. Existing law also requires the standards board to review the proposed changes and consider adopting revised standards on or before December 31, 2025.

This bill would also require the division, before December 1, 2025, to submit to the standards board a rulemaking proposal to consider revising a regulation on construction jobsite toilet facilities to require at least one designated separate toilet facility for jobsites with 2 or more required separate toilet facilities for employees who self-identify as female or nonbinary. The bill would require the standards board to review the proposed changes and consider adopting revised standards for the standards described above on or before December 31, 2025. The bill would include related legislative findings.

Board staff is monitoring for potential impacts on Board operations.

Legislative Update
Prepared July 6, 2023 for the July 20, 2023
Meeting of the Occupational Safety and Health Standards Board

AB-1007 Occupational safety and health standards: plume.(2023-2024) - **UPDATED**

AB-1007	AB-1007 Occupational safety and health standards: plume.(2023-2024)	
	(Ortega)	
	Date	Action
		Set FOR Hearing ON 10-JUL-23 10 a.m.
	06/29/23	Read second time and amended. Re-referred to Com. on APPR.
	06/28/23	From committee: Amend, and do pass as amended and re-refer to Com. on APPR. (Ayes 4. Noes 0.)
	06/14/23	Referred to Com. on L., P.E. & R.
	06/01/23	In Senate. Read first time. To Com. on RLS. for assignment.
	05/31/23	Read third time. Passed. Ordered to the Senate.
	05/18/23	Read second time. Ordered to third reading.
05/18/23	From committee: Do pass. (Ayes 11. Noes 4.) (May 18).	

Legislative Update
Prepared July 6, 2023 for the July 20, 2023
Meeting of the Occupational Safety and Health Standards Board

04/19/23	In committee: Set, first hearing. Referred to suspense file.
03/22/23	From committee: Do pass and re-refer to Com. on APPR. (Ayes 5. Noes 2.) (March 22). Re-referred to Com. on APPR.
02/23/23	Referred to Com. on L. & E.
02/16/23	From printer. May be heard in committee March 18.
02/15/23	Read first time. To print.

Summary:

AB 1007, as amended, Ortega. Occupational safety and health standards: plume.

Under existing law, the Occupational Safety and Health Standards Board within the Department of Industrial Relations promulgates and enforces occupational safety and health standards for the state, including standards dealing with toxic materials and harmful physical agents. Under existing law, the Division of Occupational Safety and Health is required to enforce all occupational safety and health standards, as specified. A violation of these standards and regulations under specific circumstances is a crime.

This bill would, by January 1, 2025, require the division to submit to the board a proposed regulation requiring a health facility to evacuate or remove plume to the extent **technologically feasible** through the use of a plume scavenging system in all settings that employ techniques that involve the creation of plume. The bill would require the division, when developing regulations, to consider, among other things, recommendations on the evacuation of plume from the federal Occupational Safety and Health Administration and National Institute for Occupational Safety and Health. The bill would require the board to consider for adoption a proposed regulation by July 1, 2025.

This bill would provide that compliance with general room ventilation standards or the use of surgical masks does not satisfy the requirements for protection from surgical plumes under these provisions. The bill would provide that the use of respirators does not satisfy the requirements for protection from surgical plumes under these provisions, except as specified. The bill would require the manufacturer of a plume scavenging system to provide evidence that the system meets specified minimum requirements when installed, operated, and maintained in accordance with the manufacturer’s instructions.

Legislative Update
Prepared July 6, 2023 for the July 20, 2023
Meeting of the Occupational Safety and Health Standards Board

	<p>This bill would specify that these provisions do not limit the authority of the division to develop, or limit the authority of the board to adopt, a regulation with a broader scope or broader application than required by these provisions.</p> <p>By expanding the definition of an existing crime, this bill would impose a state-mandated local program.</p> <p>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.</p> <p>This bill would provide that no reimbursement is required by this act for a specified reason.</p> <p>Board staff is monitoring for potential impacts on Board operations.</p>
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AB-1424 Occupational safety and health: cannabis delivery employee. (2023-2024) - **NO UPDATE**

AB-1424	AB-1424 Occupational safety and health: cannabis delivery employee.(2023-2024)	
	(Jones-Sawyer)	
	Date	Action
	04/05/23	In committee: Set, first hearing. Hearing canceled at the request of author.
	04/04/23	Re-referred to Com. on L. & E.
	04/03/23	From committee chair, with author's amendments: Amend, and re-refer to Com. on L. & E. Read second time and amended.
	03/09/23	Referred to Com. on L. & E.
	02/18/23	From printer. May be heard in committee March 20.
02/17/23	Read first time. To print.	

Legislative Update
Prepared July 6, 2023 for the July 20, 2023
Meeting of the Occupational Safety and Health Standards Board

Summary:

AB 1424, as amended, Jones-Sawyer. Occupational safety and health: cannabis delivery employee.

The Control, Regulate and Tax Adult Use of Marijuana Act of 2016 (AUMA), an initiative measure, authorizes a person who obtains a state license under AUMA to engage in commercial adult-use cannabis activity pursuant to that license and applicable local ordinances. The Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), among other things, consolidates the licensure and regulation of commercial medicinal and adult-use cannabis activities. MAUCRSA establishes the Department of Cannabis Control within the Business, Consumer Services, and Housing Agency to administer the act.

This bill would require a cannabis delivery employer, as defined, to develop, implement, and maintain specified driver safety protocols allowing a cannabis delivery employee, as defined, to not complete a delivery if the delivery would create a real and apparent hazard to the employee or fellow employees, providing for notification and documentation procedures relating to incomplete deliveries, and providing information relating to worker retaliation protections. The bill would impose various requirements on a cannabis delivery employer relating to access to the driver safety protocols, including requiring the employer to make the protocols available to the Department of Cannabis Control upon request. The bill would require a cannabis delivery employer to notify the department upon being notified or becoming aware of an attempted robbery, injury, or death in the course of a delivery. The bill would also require a cannabis delivery employer to ensure that containers used in the delivery of cannabis goods do not indicate that the delivery employee is carrying cannabis goods, as specified.

Existing law prohibits an employee from being laid off or discharged for refusing to perform work in violation of prescribed safety standards, where the violation would create a real and apparent hazard to the employee or fellow employees. Existing law creates a cause of action for wages for the time an employee laid off or discharged for a refusal is without work as a result. Existing law authorizes an employee who believes they have been discharged or otherwise discriminated against in violation of that provision to file a complaint with the Labor Commissioner, as specified.

This bill would create a rebuttable presumption that the cannabis delivery employer violates the above-described prohibition if the employer lays off, discharges, or subjects an employee to an adverse employment action within 90 days of the employee reporting or documenting an incomplete delivery or refusing to complete a delivery that would create a real and apparent hazard, as described above.

Board staff is monitoring for potential impacts on Board operations.

Legislative Update
Prepared July 6, 2023 for the July 20, 2023
Meeting of the Occupational Safety and Health Standards Board

AB-1766 Division of Occupational Safety and Health: regulations. (2023-2024) - **UPDATED**

AB 1766 Division of Occupational Safety and Health: regulations. (2023-2024)	
(Kalra, Flora, Chen, Haney, Ortega, and Reyes)	
Date	Action
07/03/23	From committee: Be ordered to second reading file pursuant to Senate Rule 28.8 and ordered to Consent Calendar.
06/22/23	From committee: Do pass and re-refer to Com. on APPR with recommendation: To Consent Calendar. (Ayes 5. Noes 0.) Re-referred to Com. on APPR.
06/07/23	Referred to Com. on L., P.E. and R.
05/25/23	Read third time. Passed. Ordered to the Senate.
05/18/23	Read second time. Ordered to Consent Calendar.
05/17/23	From committee: Do pass. To Consent Calendar. (Ayes 15. Noes 0.) (May 17).
04/27/23	From committee: Do pass and re-refer to Com. on APPR. with recommendation: To Consent Calendar. (Ayes 7. Noes 0.) (April 26). Re-referred to Com. on APPR.
04/17/23	Re-referred to Com. on L. & E.
04/13/23	From committee chair, with author's amendments: Amend, and re-refer to Com. on L. & E. Read second time and amended.
04/13//23	Referred to Com. on L. & E.

Legislative Update
Prepared July 6, 2023 for the July 20, 2023
Meeting of the Occupational Safety and Health Standards Board

03/21/23

From printer. May be heard in committee April 20.

Summary:

AB 1766, as amended, Committee on Labor and Employment. Division of Occupational Safety and Health: regulations.

(1) Existing law grants the Division of Occupational Safety and Health, which is within the Department of Industrial Relations, jurisdiction over all employment and places of employment, with the power necessary to enforce and administer all occupational health and safety laws and standards, including standards for the operation of passenger tramways. Under existing law, the Occupational Safety and Health Standards Board, an independent entity within the department, has the exclusive authority to adopt occupational safety and health standards within the state.

This bill would require the division to formulate and propose rules and regulations for adoption by the Occupational Safety and Health Standards Board for the safe design, manufacture, installation, repair, maintenance, use, operation, and inspection of all passenger tramways as necessary to protect the public. The bill would require the division to adopt all other rules and regulations necessary for the administration and enforcement of these provisions on passenger tramways.

(2) Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, that generally requires employers to secure the payment of workers' compensation for injuries incurred by their employees that arise out of, or in the course of, employment. Existing law defines "employee" for those purposes.

This bill would correct an obsolete cross-reference within the provision that defines "employee."

(3) Existing federal law, the Workforce Innovation and Opportunity Act of 2014, repeals and supersedes the federal Workforce Investment Act of 1998 and provides for the establishment of a state workforce development board to develop strategies to support the use of career pathways for the purpose of providing individuals with workforce investment activities, education, and support services necessary for them to enter the workforce or retain employment. Existing law contains various programs for job training and employment investment.

Conforming to the federal act, existing state law, the California Workforce Innovation and Opportunity Act, renames the California Workforce Investment Board the California Workforce Development Board and renames local workforce investment boards as local workforce development boards. Existing law establishes the Employment Training Panel

Legislative Update
Prepared July 6, 2023 for the July 20, 2023
Meeting of the Occupational Safety and Health Standards Board

	<p>within the Employment Development Department and prescribes the functions and duties of the panel with respect to certain employment training programs. Existing law relating to the panel references the superseded federal act and refers to the state and local boards by their former names. Existing law declares the intent of the Legislature that programs developed pursuant to these provisions not replace, parallel, supplant, compete with, or duplicate in any way already existing approved apprenticeship programs.</p> <p>This bill would delete the above-described intent provision. The bill would update statutory references in provisions relating to the panel to refer to the federal Workforce Innovation and Opportunity Act of 2014, the California Workforce Development Board, and local workforce development boards.</p> <p>Board staff is monitoring for potential impacts on Board operations.</p>
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SB-553 Occupational safety: workplace violence. (2023-2024) - **UPDATED**

SB-553	SB-553 Occupational safety: workplace violence. (2023-2024)	
	(Cortese)	
	Date	Action
		Set FOR Hearing ON 05-JUL-23 1:30 p.m.
	06/29/23	From committee: Do pass and re-refer to Com. on JUD. (Ayes 5. Noes 2.) (June 28). Re-referred to Com. on JUD.
	06/20/23	From committee with author's amendments. Read second time and amended. Re-referred to Com. on L. and E.
	06/15/23	Referred to Coms. on L. and E. and JUD.
06/01/23	In Assembly. Read first time. Held at Desk.	

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05/31/23	Read third time. Passed. (Ayes 28. Noes 8.) Ordered to the Assembly.
05/23/23	Read third time and amended.
05/18/23	From committee: Do pass. (Ayes 5. Noes 2.) (May 18).
05/08/23	May 8 hearing: Placed on APPR suspense file.
05/01/23	Set for Hearing on May 8.
04/26/23	From committee: Do pass and re-refer to Com. on APPR. (Ayes 10. Noes 1.) (April 25). Re-referred to Com. on APPR.
04/19/23	Re-referred. to Com. on JUD.
04/14/23	Set for Hearing April 25 in JUD. Pending receipt.
04/13/23	From committee: Do pass as amended and re-refer to Com. on RLS. (Ayes 5. Noes 0.) (April 12)
03/28/23	From committee with author's amendments. Read second time and amended. Re-referred to Com. on L., P.E. & R.
03/21/23	Set for hearing April 12.
03/20/23	From committee with author's amendments. Read second time and amended. Re-referred to Com. on L., P.E. & R.
<p><u>Summary:</u></p> <p>SB 553, as amended, Cortese. Occupational safety: workplace violence: restraining orders and workplace violence prevention plan.</p> <p>Existing law authorizes any employer, whose employee has suffered unlawful violence or a credible threat of violence from any individual that can reasonably be construed to be carried out or to have been carried out at the workplace, to seek a temporary restraining order and an order after hearing on behalf of the employee and other employees at the workplace, as described.</p>	

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This bill would also authorize a collective bargaining representative of an employee, as described above, to seek a temporary restraining order and an order after hearing on behalf of the employee and other employees at the workplace, as described. The bill would make various conforming changes.

Existing law, the California Occupational Safety and Health Act of 1973, imposes safety responsibilities on employers and employees, including the requirement that an employer establish, implement, and maintain an effective injury prevention program, and makes specified violations of these provisions a crime. The act is enforced by the Division of Occupational Safety and Health within the Department of Industrial Relations, including the enforcement of standards adopted by the Occupational Safety and Health Standards Board.

This bill would require every employer, as defined, to also establish, implement, and maintain, at all times in all of the employer's facilities, a workplace violence prevention plan as part of the injury prevention program, as described. The bill would require the employer to record information in a violent incident log about every incident, postincident response, and workplace violence injury investigation required to be performed as part of the workplace violence prevention plan, as described. The bill would require the employer to establish and implement a system to review, at least annually and in conjunction with employees and their collective bargaining representatives, if any, the effectiveness of the workplace violence prevention plan, as described. The bill would require the employer to provide effective training to employees that addresses the workplace violence risks that employees may reasonably anticipate to encounter in their jobs, as described. The bill would require records of workplace violence hazard identification, evaluation, and correction to be created and maintained in accordance with specified law, except as provided. The bill would provide that an employer shall not prohibit an employee from, and shall not take punitive or retaliatory action against an employee for, seeking assistance and intervention from local emergency services or law enforcement when a violent incident occurs.

Because this bill would expand the scope of a crime, the 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 is monitoring for potential impacts on Board operations.

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SB-686 Domestic workers: occupational safety.(2023-2024) - **UPDATED**

SB-686	SB-686 Domestic workers: occupational safety.(2023-2024)	
	(Durazo)	
	Date	Action
	06/29/23	From committee: Do pass and re-refer to Com. on APPR. (Ayes 7. Noes 0.) (June 28). Re-referred to Com. on APPR.
	06/08/23	Referred to Com. on L. and E.
	05/26/23	In Assembly. Read first time. Held at Desk.
	05/26/23	Read third time. Passed. (Ayes 23. Noes 8.) Ordered to the Assembly.
	05/18/23	Read second time. Ordered to third reading.
	05/18/23	From committee: Do pass. (Ayes 5. Noes 2.) (May 18).
	05/08/23	May 8 hearing: Placed on APPR suspense file.
	05/01/23	Set for hearing on May 8.
	04/26/23	From committee: Do pass and re-refer to Com. on APPR. (Ayes 4. Noes 1.) (April 26). Re-referred to Com. on APPR.
	04/13/23	Set hearing for April 26.
	03/01/23	Referred to Com. on L., P.E. & R.
02/17/23	From printer. May be acted upon on or after March 19.	
02/16/23	Introduced. Read first time. To Com. on RLS. for assignment. To print.	

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Summary:

SB 686, as introduced, Durazo. Domestic workers: occupational safety.

Existing law establishes within the Department of Industrial Relations the Division of Labor Standards Enforcement and the Division of Occupational Safety and Health, with duties and powers, as prescribed.

Existing law, the California Occupational Safety and Health Act of 1973, requires employers to comply with certain standards ensuring healthy and safe working conditions, as specified. The act charges the Division of Occupational Safety and Health with enforcement of the act, subject to oversight by the Chief of the Division of Occupational Safety and Health. The act excludes household domestic service from the definition of “employment.” The act requires the chief, or a representative of the chief, to convene an advisory committee for the purposes of creating voluntary guidance and making recommendations to the department and the Legislature on policies the state may adopt to protect the health and safety of privately funded household domestic service employees, except publicly funded household domestic service and family daycare homes, as specified. The act requires the advisory committee to develop voluntary industry-specific occupational health and safety guidance relating to workplace hazards and the prevention or minimization of work-related injuries and illnesses. The act requires the advisory committee to make recommendations, as specified, on additional policies to protect the health and safety of household domestic service employees. Under specified circumstances, a violation of the act is a crime.

Existing law, until July 1, 2024, requires the Division of Labor Standards Enforcement, upon appropriation of funding for this purpose, to establish and maintain an outreach and education program for the purpose of promoting awareness of, and compliance with, labor protections that affect the domestic work industry and fair and dignified labor standards in this industry and other low-wage industries. Existing law requires the Division of Labor Standards Enforcement to issue a competitive request to community-based organizations (CBOs) to provide education and outreach services in this connection and prescribes requirements for these organizations. Existing law makes CBOs responsible for developing and consulting with the Division of Labor Standards Enforcement regarding the core education and outreach materials, as specified. Existing law requires the Division of Labor Standards Enforcement and CBOs to meet at least biannually to coordinate efforts around outreach, education, and enforcement, including sharing information, in accordance with applicable privacy and confidentiality laws, that will shape and inform the overall enforcement strategy of the division regarding low-wage industries, including the domestic work industry. Existing law prohibits the Division of Labor Standards Enforcement from expending more than 5% of the budget allocation on the administration of the program.

This bill would make CBOs responsible for developing and consulting with the Division of Occupational Safety and Health regarding the core education and outreach materials regarding health and safety standards, retaliation, and the division’s workplace safety

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complaint and retaliation process, including specific issues that affect the domestic work industry differently. The bill would make CBOs responsible for all costs related to the development, printing, advertising, or distribution of the education and outreach materials. The bill, on and after July 1, 2024, would require the chief, representatives of the consultation services and enforcement branches of the Division of Occupational Safety and Health, and CBOs to meet periodically, as specified, to coordinate efforts around outreach, education, and enforcement. The bill would prohibit the Division of Labor Standards Enforcement and the Division of Occupational Safety and Health from expending more than 5% of the budget allocation on the administration of the program. The bill would remove the repeal date, thereby making these provisions operative indefinitely.

This bill, for purposes of the California Occupational Safety and Health Act of 1973, would narrow the exclusion of household domestic service from the definition of “employment” to exclude only publicly funded household domestic service and family daycare homes, as specified. The bill would require the Division of Occupational Safety and Health, by July 1, 2024, to adopt industry guidance to assist household domestic service employers on their legal obligations under existing occupational safety and health laws and regulations that apply to the work activity of household domestic service employees. The bill would require the guidance to be consistent with the voluntary industry guidelines established by the advisory committee. The bill would require a household domestic services employer, by January 1, 2025, to comply with, and adhere to, all applicable occupational safety and health regulations. The bill would require the Division of Occupational Safety and Health, if the division determines that additional industry-specific regulations are necessary, to propose those regulations to the standards board for its review, and would require the standards board to adopt regulations by January 1, 2026.

The bill would require the Division of Occupational Safety and Health, upon appropriation of funds by the Legislature to the division for the specified purpose, to establish and administer the Household Domestic Services Employment Safety and Technical Assistance Program for the purpose of providing one-time grants and technical assistance to household domestic service employers, as prescribed. The bill would prohibit the Division of Occupational Safety and Health from expending more than 5% of the budget allocation on the administration of the program. The bill would require the program to commence by July 1, 2024, and continue until July 1, 2029, with an opportunity to expand or renew contingent on the additional allocation of state funds or identification of other revenue sources.

By expanding the application of criminal penalties under the act to household domestic service employers, this bill would impose a state-mandated local program.

The bill would make related legislative findings and declarations.

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.

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	<p>This bill would provide that no reimbursement is required by this act for a specified reason.</p> <p>Board staff is monitoring for potential impacts on Board operations.</p>
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SB-735 Motion picture productions: safety: firearms: ammunition.(2023-2024) – **UPDATED**

SB-735	SB-735 Motion picture productions: safety: firearms: ammunition.(2023-2024)	
	(Cortese and Portantino)	
	Date	Action
	06/01/23	Referred to Com. on L. and E.
	05/25/23	In Assembly. Read first time. Held at Desk.
	05/24/23	Read third time. Passed. (Ayes 33. Noes 4.) Ordered to the Assembly.
	05/18/23	Read second time and amended. Ordered to second reading.
	05/18/23	From committee: Do pass. (Ayes 5. Noes 2.) (May 18).
	05/12/23	Set for hearing May 18.
	05/08/23	May 8 hearing: Placed on APPR suspense file.
	05/01/23	Set for hearing on May 8.
	04/25/23	Re-referred to Com. on APPR.
	04/24/23	Read second time and amended. Re-referred to Com. on JUD.
	04/20/23	From committee: Do pass as amended and re-refer to Com. on JUD. (Ayes 5. Noes 0.) (April 19).
04/13/23	From committee with author's amendments. Read second time and amended. Re-referred to Com. on L., P.E. & R.	

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04/11/23	Set for hearing April 19.
03/01/23	Referred to Coms. on L., P.E. & R. and JUD.
02/21/23	From printer. May be acted upon on or after March 20.
02/17/23	Introduced. Read first time. To Com. on RLS. for assignment. To print.

Summary:

SB 735, as amended, Cortese. Motion picture productions: safety: firearms: ammunition.

Existing law grants the Division of Occupational Safety and Health, which is within the Department of Industrial Relations, jurisdiction over all employment and places of employment, with the power necessary to enforce and administer all occupational health and safety laws and standards. The Occupational Safety and Health Standards Board, an independent entity within the department, has the exclusive authority to adopt occupational safety and health standards within the state. Existing law, the California Occupational Safety and Health Act of 1973, requires employers to comply with certain standards ensuring healthy and safe working conditions, as specified, and charges the division with enforcement of the act. Other existing law relating to occupational safety imposes special provisions on certain industries and charges the division with enforcement of these provisions.

This bill would establish the Safety on Productions Pilot Program. The bill, commencing July 1, 2025, and until June 30, 2030, inclusive, would require that an employer for a motion picture production that receives a specified motion picture tax credit, for that motion picture production, hire or assign a qualified safety advisor for California filming activities to perform a risk assessment and, if required under the bill, a specific risk assessment, as specified. The bill would require a dedicated safety advisor to be present on every motion picture production in the pilot program who is assigned exclusively to that motion picture production. The bill would require assessments to be accessible to specified affected persons and safety advisor access to locations and relevant facilities and items to ensure safety. The bill would require production to conduct a daily safety meeting, including, but not limited to, a safety meeting required when firearms are involved in a scene. The bill would require a safety advisor to participate in daily safety meetings, as specified. The bill would require an employer to identify a person for performers, crew, labor organization representatives, and the division to contact for issues regarding compliance. The bill would require the safety advisor to prepare a final safety evaluation report based on the actual risk and compliance experience. The bill would require the safety advisor, within 60 days following completion of filming activities, to provide the final safety evaluation report to the Industry-Wide Labor-Management Safety Committee and the California Film Commission. The bill would require

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the committee and the California Film Commission to jointly select an organization or firm to perform a written evaluation of the pilot program. The bill would require the selected organization or firm to review and assess the final safety evaluation reports on or before June 30, 2029, and make a nonbinding set of recommendations to the Legislature, as prescribed. These pilot program provisions would be repealed as of January 1, 2031.

This bill would allow the use of a firearm or blank on motion picture productions only for specified purposes and under specified safety conditions. The bill would require a qualified property master, armorer, or assistant property master handling a firearm in the course of the motion picture production to have a specified state permit, to have completed certain training in firearms, and to have a specified federal document for the possession and custody of the firearm. The bill would specifically impose prescribed reporting requirements on employers engaged in motion picture production. The bill would specifically authorize the division to investigate, inspect, and cite employers, as prescribed.

This bill would prohibit ammunition on a motion picture production, except in prescribed circumstances, subject to certain safety rules and laws. The bill would require an employer to require that any employee responsible for handling, or in proximity to, firearms on set completes a specific firearm training or equivalent training, as prescribed. The bill would require an employer to comply with the bill and any applicable safety standard. The bill would establish exemptions from its provisions for specified registered security guards and peace officers when they are on the perimeter of a set where motion picture production is happening.

This bill would require the division to enforce its provisions. The bill would define terms for its purposes. The bill's provisions would become operative on January 1, 2025.

Board staff is monitoring for potential impacts on Board operations.

Occupational Safety and Health Standards Board

Business Meeting Executive Officer's Report