Occupational Safety and Health Standards Board

Public Meeting and Business Meeting

September 16, 2021

Via teleconference / videoconference

Board Meeting Packet

Occupational Safety and Health Standards Board

Meeting Agenda

STATE OF CALIFORNIA GAVIN NEWSOM, *Governor*

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

MISSION STATEMENT

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

September 16, 2021 at 10:00 a.m.
TELECONFERENCE AGENDA

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

PLEASE NOTE: In accordance with Executive Order N-29-20, and Executive Order N-33-20, this month's Board Meeting will be conducted via teleconference.

Attend the meeting via Video-conference:

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

Attend the meeting via Teleconference:

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

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

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

Public Comment Queue:

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

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

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

NOTE: In accordance with Executive Order N-29-20,
Board Members will participate via video-conference and/or teleconference.

I. **CALL TO ORDER AND INTRODUCTIONS**

II. **PUBLIC MEETING (Open for Public Comment)**

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

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

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

A. PUBLIC COMMENT

B. ADJOURNMENT OF THE PUBLIC MEETING

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

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

A. PROPOSED VARIANCE DECISIONS FOR ADOPTION

1. **Consent Calendar**

B. REPORTS

1. Division Update

2. COVID-19 Prevention ETS Subcommittee Update

3. Legislative Update

4. Executive Officer's Report

C. NEW BUSINESS

1. Future Agenda Items

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

D. CLOSED SESSION

1. Western States Petroleum Association (WSPA) v. California Occupational Safety and Health Standards Board (OSHSB), et al. United States District Court (Eastern District of California) Case No. 2:19-CV-01270

2. WSPA v. OSHSB, et al., County of Sacramento, CA Superior Court Case No. 34-2019-00260210

3. Western Growers Association, California Farm Bureau Federation, et. al. v OSHSB, et al., County of San Francisco, CA Superior Court Case No. CPF-21-517344

4. Personnel

E. RETURN TO OPEN SESSION

1. Report from Closed Session

F. ADJOURNMENT OF THE BUSINESS MEETING

Next Meeting: October 21, 2021
In Person and via Teleconference and Video-conference
State Resources Building
Auditorium
1416 9th Street
Sacramento, CA 95814
10:00 a.m.

CLOSED SESSION

1. If necessary, consideration of personnel matters. (Government Code section 11126(a)(1)).

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

PUBLIC COMMENT

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

Pursuant to Executive Orders N-29-20 and N-35-20, certain provisions of the Bagley-Keene Open Meeting Act are suspended due to a State of Emergency in response to the COVID-19 pandemic. Consistent with the Executive Orders, this meeting of the Occupational Safety and Health Standards Board will be conducted remotely via video/teleconference only. None of the locations from which the Board Members will participate will be open to the public. Members of the public who wish to participate in the meeting may do so via livestream on our website at https://videobookcase.com/california/oshsb/. The video recording and transcript of this meeting will be posted on our website as soon as practicable.

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

Occupational Safety and Health Standards Board

Meeting Notice

STATE OF CALIFORNIA GAVIN NEWSOM, *Governor*

DEPARTMENT OF INDUSTRIAL RELATIONS
Occupational Safety and Health Standards Board
2520 Venture Oaks Way, Suite 350
Sacramento, CA 95833
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NOTICE OF PUBLIC MEETING AND BUSINESS MEETING OF THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

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

PUBLIC MEETING: On **September 16, 2021,** at 10:00 a.m. via the following:

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

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

BUSINESS MEETING: On **September 16, 2021,** at 10:00 a.m. via the following:

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

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

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

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

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD

DAVE THOMAS, Chairman

Occupational Safety and Health Standards Board

Business Meeting

Occupational Safety and Health Standards Board

Business Meeting

Proposed Variance Decisions

CONSENT CALENDAR—PROPOSED VARIANCE DECISIONS
SEPTEMBER 16, 2021, MONTHLY BUSINESS MEETING
OF THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

A. DEPARTMENT OF STATE HOSPITALS— HEARD AUGUST 30, 2019 AND MARCH 11, 2021

OSHSB FILE NUMBER	APPLICANT NAME	SAFETY ORDERS	PROPOSED DECISION
19-V-028	Department of State Hospitals	GISO	DENY

B. SAN DIEGO COUNTY REGIONAL AIRPORT AUTHORITY— HEARD AUGUST 25, 2021

OSHSB FILE NUMBER	APPLICANT NAME	SAFETY ORDERS	PROPOSED DECISION
19-V-302M1	San Diego County Regional Airport Authority	Elevator	GRANT

C. 10-950 GOUGH OWNER, LLC— HEARD AUGUST 25, 2021

OSHSB FILE NUMBER	APPLICANT NAME	SAFETY ORDERS	PROPOSED DECISION
19-V-321M1	10-950 Gough Owner, LLC	Elevator	GRANT

D. SHAC LS APARTMENTS I, LLC — HEARD AUGUST 25, 2021

OSHSB FILE NUMBER	APPLICANT NAME	SAFETY ORDERS	PROPOSED DECISION
19-V-325M1	SHAC LS Apartments I, LLC	Elevator	GRANT

E. THE IRVINE COMPANY— HEARD AUGUST 25, 2021

OSHSB FILE NUMBER	APPLICANT NAME	SAFETY ORDERS	PROPOSED DECISION
19-V-359M1	The Irvine Company	Elevator	GRANT

F. M10 DEVELOPMENT, LLC — HEARD AUGUST 25, 2021

OSHSB FILE NUMBER	APPLICANT NAME	SAFETY ORDERS	PROPOSED DECISION
19-V-438M1	M10 Development, LLC	Elevator	GRANT

G. HERCULES BLOCK Q&R DEVELOPMENT PARTNERS LP—HEARD AUGUST 25, 2021

OSHSB FILE NUMBER	APPLICANT NAME	SAFETY ORDERS	PROPOSED DECISION
19-V-497M1	Hercules Block Q&R Development Partners LP.	Elevator	GRANT

H. DIGITAL 1550 SPACE PARK, LLC— HEARD AUGUST 25, 2021

OSHSB FILE NUMBER	APPLICANT NAME	SAFETY ORDERS	PROPOSED DECISION
20-V-016M1	Digital 1550 Space Park, LLC	Elevator	GRANT

I. ONE DE HARO, LLC — HEARD AUGUST 25, 2021

OSHSB FILE NUMBER	APPLICANT NAME	SAFETY ORDERS	PROPOSED DECISION
20-V-308M1	One De Haro, LLC	Elevator	GRANT

J. TK ELEVATOR EVOLUTION (GROUP IV) —HEARD SEPTEMBER 2, 2021

OSHSB FILE NUMBER	APPLICANT NAME	SAFETY ORDERS	PROPOSED DECISION
21-V-061	San Francisco Public Works.	Elevator	GRANT
21-V-075	Pinnacle International Development, Inc.	Elevator	GRANT
21-V-145	Essex Property Trust, Inc.	Elevator	GRANT
21-V-146	40th Street Development LLC	Elevator	GRANT
21-V-147	BP3-SD5 5510 Morehouse Drive LLC	Elevator	GRANT
21-V-149	SIOF 6 Properties, LLC	Elevator	GRANT

21-V-150	SIOF 7 Properties, LLC	Elevator	GRANT
21-V-151	SIOF 7 Properties, LLC	Elevator	GRANT
21-V-162	Murrays Mansions, LLC	Elevator	GRANT
21-V-163	ARE-SD Region No. 23, LLC	Elevator	GRANT
21-V-164	833 Bryant LP, A California Limited Partnership	Elevator	GRANT
21-V-173	CA/AG Logan Park Property Owner LLC	Elevator	GRANT
21-V-174	Broadway Plaza Family Apartments, LP	Elevator	GRANT
21-V-175	Ashton at Dublin Station, LLC	Elevator	GRANT
21-V-176	Chino Valley Unified School District	Elevator	GRANT
21-V-177	City of Ventura	Elevator	GRANT
21-V-178	San Jose Hotel Investments, LLC	Elevator	GRANT
21-V-199	Gateway Millbrae Residential LLC	Elevator	GRANT
21-V-209	Gateway Millbrae Hotel LLC	Elevator	GRANT
21-V-210	Gateway Millbrae Office LLC	Elevator	GRANT
21-V-214	Jefferson Union High School	Elevator	GRANT
21-V-219	Block 7 Retail Investors LLC	Elevator	GRANT
21-V-220	311 Mathilda Owner LLC	Elevator	GRANT
21-V-225	Bayswater Myrtle Venture LLC	Elevator	GRANT
21-V-249	San Francisco Day School	Elevator	GRANT

K. <u>OTIS GEN2S ELEVATORS (GROUP IV)— HEARD AUGUST 25, 2021</u>

OSHSB FILE NUMBER	APPLICANT NAME	SAFETY ORDERS	PROPOSED DECISION
21-V-202	Arastoo Zahiri	Elevator	GRANT
21-V-215	Ocotillo LA Pico, LLC	Elevator	GRANT

21-V-221	Rabco Investments I, LLC	Elevator	GRANT
21-V-222	399 East Del Mar LLC.	Elevator	GRANT
21-V-223	1235 5th Street Properties SM LLC	Elevator	GRANT
21-V-224	Hauser Property Investors, LLC	Elevator	GRANT
21-V-227	1665 Carmel LLC	Elevator	GRANT
21-V-229	City of Sunnyvale	Elevator	GRANT
21-V-230	City of Sunnyvale	Elevator	GRANT
21-V-231	West Valley Mission Community College	Elevator	GRANT
21-V-232	Toll West Coast, LLC	Elevator	GRANT
21-V-233	Toll West Coast LLC	Elevator	GRANT
21-V-234	Toll West Coast LLC	Elevator	GRANT
21-V-235	Toll West Coast LLC	Elevator	GRANT
21-V-242	3670 Imperial LLC	Elevator	GRANT
21-V-243	William Ashley, Inc.	Elevator	GRANT
21-V-250	Pulte Home Company LLC	Elevator	GRANT
21-V-253	520 North Central Property Owner LLC	Elevator	GRANT
21-V-254	Whisky LLC	Elevator	GRANT
21-V-255	1819 Pico Blvd., L.P.	Elevator	GRANT
21-V-257	SAHA Arya, L.P.	Elevator	GRANT
21-V-258	Chinese Catholic Association of Los Angeles	Elevator	GRANT
21-V-271	Pulte Home Company LLC	Elevator	GRANT
21-V-272	Contra Costa Community College District	Elevator	GRANT
21-V-301	Kumar Hotels Inc	Elevator	GRANT

L. KONE MONOSPACE 500 ELEVATORS (GROUP IV) — HEARD AUGUST 25, 2021

OSHSB FILE NUMBER	APPLICANT NAME	SAFETY ORDERS	PROPOSED DECISION
21-V-203	CLG Construction, Inc.	Elevator	GRANT
21-V-204	BMR-700 Gateway LP	Elevator	GRANT
21-V-205	BMR-750 Gateway LP	Elevator	GRANT
21-V-244	726 Wilton LLC	Elevator	GRANT
21-V-247	Los Angeles County	Elevator	GRANT
21-V-248	West Covina Unified School District	Elevator	GRANT
21-V-251	Sharks Ice, LLC.	Elevator	GRANT
21-V-260	Mariposa Lily, L.P.	Elevator	GRANT
21-V-264	Congregational Homes, Inc. dba Mt. San Antonio Gardens	Elevator	GRANT
21-V-266	BLG San Diego, LLC	Elevator	GRANT
21-V-268	Hoag Memorial Hospital Presbyterian	Elevator	GRANT
21-V-269	Scripps Health	Elevator	GRANT
21-V-270	Mt San Antonio College	Elevator	GRANT

M. SCHINDLER 3300 WITH SIL-RATED DRIVE TO DE-ENERGIZE MOTOR (GROUP IV) — HEARD AUGUST 25, 2021

OSHSB FILE NUMBER	APPLICANT NAME	SAFETY ORDERS	PROPOSED DECISION
21-V-211	Blackpoint Management, Inc.	Elevator	GRANT
21-V-213	Beacon Villa, LP	Elevator	GRANT
21-V-218	Fortunate Productions LLC	Elevator	GRANT
21-V-226	1619 Bundy, LLC	Elevator	GRANT
21-V-238	Anargyros John Caloyeras	Elevator	GRANT

21-V-241	Oxnard Town Square 12, LLC	Elevator	GRANT
21-V-245	Oxnard Town Square 12, LLC	Elevator	GRANT
21-V-246	3050 W. 11th St LLC	Elevator	GRANT
21-V-261	Ruth Teague Homes, LP	Elevator	GRANT
21-V-262	Wonderful Real Estate Development, LLC	Elevator	GRANT
21-V-265	Shivam Real Estate LLC	Elevator	GRANT

N. SCHINDLER MODEL 3300 ELEVATORS WITH VARIANT GOV. ROPES & SHEAVES (GROUP IV)— HEARD AUGUST 25, 2021

OSHSB FILE NUMBER	APPLICANT NAME	SAFETY ORDERS	PROPOSED DECISION
21-V-212	8521 S, LLC	Elevator	GRANT
21-V-237	SummerHill N40 LLC	Elevator	GRANT
21-V-252	Spring Education Group	Elevator	GRANT

O. OTIS ELEVATOR (GROUP IV) GEN2(O) AND/OR GEN2L ALTERATIONS— HEARD AUGUST 25, 2021

OSHSB FILE NUMBER	APPLICANT NAME	SAFETY ORDERS	PROPOSED DECISION
21-V-216	The Regents of the University of California	Elevator	GRANT

P. SCHINDLER MODEL 6400 ELEVATORS (GROUP IV, STM ALTERATION] — HEARD AUGUST 25, 2021

OSHSB FILE NUMBER	APPLICANT NAME	SAFETY ORDERS	PROPOSED DECISION
21-V-228	Coronado Shores Condominium Association No.9	Elevator	GRANT

Q. SCHINDLER MODEL 5500 ELEVATORS (GROUP IV)— HEARD AUGUST 25, 2021

OSHSB FILE NUMBER	APPLICANT NAME	SAFETY ORDERS	PROPOSED DECISION
21-V-236	161 South San Antonio LLC	Elevator	GRANT

R. SC 1729 ABBOT KINNEY LLC—HEARD AUGUST 25, 2021

OSHSB FILE NUMBER	APPLICANT NAME	SAFETY ORDERS	PROPOSED DECISION
21-V-240	SC 1729 Abbot Kinney LLC	Elevator	GRANT

S. OTIS ELEVATOR CONTROLLER ALTERATION (GROUP IV) —HEARD AUGUST 25, 2021

OSHSB FILE NUMBER	APPLICANT NAME	SAFETY ORDERS	PROPOSED DECISION
21-V-256	101 Second Street, Inc.	Elevator	GRANT

T. OTIS RADAR SLEEPMODE ESCALATORS —HEARD AUGUST 25, 2021

OSHSB FILE NUMBER	APPLICANT NAME	SAFETY ORDERS	PROPOSED DECISION
21-V-259	Los Angeles World Airports	Elevator	GRANT

U. KONE MONOSPACE 500 ELEVATORS WITH RETRACTABLE PLATFORM GUARD (GROUP IV) HEARD AUGUST 25, 2021

OSHSB FILE NUMBER	APPLICANT NAME	SAFETY ORDERS	PROPOSED DECISION
21-V-263	Le Lion Building LLC	Elevator	GRANT

V. KONE RETRACTABLE PLATFORM GUARD —HEARD AUGUST 25, 2021

OSHSB FILE NUMBER	APPLICANT NAME	SAFETY ORDERS	PROPOSED DECISION
21-V-267	Campbell Union High School District	Elevator	GRANT

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

In the Matter of Application for Permanent Variance by:

Department of State Hospitals

OSHSB File No.: 19-V-028
Proposed Decision Dated: August 30, 2021

DECISION

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

_____
DAVID THOMAS, Chairman

_____
BARBARA BURGEL, Member

_____
KATHLEEN CRAWFORD, Member

_____
DAVID HARRISON, Member

_____
NOLA KENNEDY, Member

_____
CHRIS LASZCZ-DAVIS, Member

_____
LAURA STOCK, Member

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Date of Adoption: September 16, 2021

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

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

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

In the Matter of Application for Permanent Variance Regarding: Department of State Hospitals	OSHSB File No.: 19-V-028 2nd PROPOSED DECISION Hearing Dates: August 30, 2019 and March 11, 2021

A. Jurisdictional and Procedural Matters

1. The State of California - Department of State Hospitals (Applicant) has applied for permanent variance from certain provisions of California Code of Regulations, title 8, section 3342, Violence Prevention in Healthcare, subdivision (g), Reporting Requirements for General Acute Care Hospitals, Acute Psychiatric Hospitals, and Special Hospitals, within the General Industry Safety Orders.[1]

2. This proceeding is conducted in accordance with Labor Code section 143, and section 401, et. seq.

3. The first day of hearing was held on August 30, 2019, in Sacramento, California, by delegation of the Occupational Safety and Health Standards Board (Board), with Hearing Officer Peter Healy presiding. Serving on the Hearing Panel were Board Members David Harrison and Chris Laszcz-Davis. The matter was subsequently reassigned to Hearing Officer Autumn Gonzalez. A second day of hearing was subsequently held on March 11, 2021, with Hearing Officer Gonzalez presiding, and panel members David Harrison and Christ Laszcz-Davis in attendance. Hearing Officer Gonzalez reviewed the record in its entirety, and issues this proposed decision to the Board for its consideration, in accordance with section 426 of the Board's rules of procedure.

4. Appearing for the Applicant were Ellen Bachman, Deputy Director for Statewide Quality and Improvement and Garilyn Richardson, DSH, RN and Chief of Quality Improvement. David Kernazitskas appeared on behalf of Board staff acting in a technical advisory role apart from the Board. Eric Berg represented the Division of Occupational Safety and Health (Division). Northern Vice President for AFSCME Local 2620, Chelsea Harris, appeared on behalf of the union at day two of hearing. Not present at hearing was SEIU Local 1000. Both the AFSCME and SEIU unions were granted party status pursuant to section 406 of the Board's procedural regulations.

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

Oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence: subject Application for Permanent Variance as Exhibit PD-1; Notice of Hearing as Exhibit PD-2; Division Evaluation of Application as Exhibit PD-3; Board Staff Evaluation of Application as Exhibit PD-4. Applicant's Exhibit PD-5 was received by the Board on March 11, 2021, and added to the record. At the close of day two of hearing, Applicant and both AFSCME Local 2620 and SEIU Local 1000 were given 60 days to submit post-hearing briefs. By stipulation of the parties, official notice is taken of the Board's rulemaking records, and variance decisions concerning the safety order requirements from which variance is requested.

5. Following the submissions post-hearing submissions of the parties, the record was closed and matter taken under submission on May 11, 2021.

B. Findings of Fact

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

1. The Applicant requests a permanent variance from the existing temporary variance from California Code of Regulations, title 8, section 3342, Violence Prevention in Healthcare, subdivision (g) Reporting Requirements for General Acute Care Hospitals, Acute Psychiatric Hospitals, and Special Hospitals, a general industry safety regulation.

2. A temporary variance from section 3342 was granted to Applicant by the Division on June 27, 2017, which expired on June 27, 2019.

3. Applicant's basis for the permanent variance include the high numbers of assaults perpetrated by patients in Applicant's five hospitals.

4. Board staff and Division recommend approval of the Applicant's request for a permanent variance from California Code of Regulations, title 8, section 3342, subdivision (g), with conditions, as described in Exhibit PD-3 and PD-4.

5. Applicant requests that it only be required to report certain violent incidents, rather than reporting any and all incidents involving physical force, per section 3342, subdivision (g)(1).

6. Applicant requests that rather than reporting these instances within 24 hours, or 72 hours, as required by section 3342, subdivisions (g)(2) and (3), it be allowed to report only certain violent events in a quarterly report to the Division.

7. Applicant also requests that it not be required to report certain information as required by section 3342, subdivision (g)(4). Specifically, Applicant proposes that it not be required to provide information as to:
    - Whether security or law enforcement was contacted, and how security or law enforcement assisted the employee(s);
    - Whether there is a continuing threat, and if so, what measures are being taken to protect employees by engineering control modifications, work practice modifications, or other measures;
    - A unique incident identifier;
    - Whether the incident was reported to the nearest Division district office as required in section 342.
    (See, section 3342, subdivisions (g)(4)(E) through (I).

C. Relevant Safety Regulations

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

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

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

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

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

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

(2) The report to the Division required by subsection (g)(1) shall be made within 24 hours, after the employer knows or with diligent inquiry would have known of the incident, if the incident results in injury, involves the use of a firearm or other dangerous weapon,

or presents an urgent or emergent threat to the welfare, health, or safety of hospital personnel. For purposes of this reporting process:

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

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

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

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

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

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

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

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

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

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

(G) A unique incident identifier;

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

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

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

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

D. Conclusive Findings

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

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

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

E. Decision And Order

The Application for Permanent Variance of Department of State Hospitals, OSHSB File No. 19-V-028, is DENIED. The Board lacks jurisdiction to grant Applicant a one-year extension of its current experimental variance granted by the Division, but believes such a one-year extension would assist in Applicant's efforts to come into compliance with the safety regulations. The Board encourages Applicant to seek such an extension, and the Division to consider granting it.

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

DATED: August 30, 2021

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: San Diego County Regional Airport Authority	OSHSB File No.: 19-V-302M1 Proposed Decision Dated: August 31, 2021 DECISION

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

_____
DAVID THOMAS, Chairman

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BARBARA BURGEL, Member

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KATHLEEN CRAWFORD, Member

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DAVID HARRISON, Member

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NOLA KENNEDY, Member

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CHRIS LASZCZ-DAVIS, Member

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LAURA STOCK, Member

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Date of Adoption: September 16, 2021

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

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

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

In the Matter of Application to Modify Permanent Variance by: San Diego County Regional Airport Authority	OSHSB File No.: 19-V-302M1 PROPOSED DECISION Hearing Date: August 25, 2021

A. The following person or entity ("Applicant") has applied for a modification of permanent variance from provisions of the Elevator Safety Orders, found at Title 8 of the California Code of Regulations, for each elevator having the specified preexisting variance location address of record:

Preexisting OSHSB File No.	**Applicant Name**	**Preexisting Variance Address of Record**
19-V-302	San Diego County Regional Airport Authority	San Diego International Airport T2E & T2W 3225 North Harbor Dr. San Diego, CA

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

C. Procedural Matters:

1. This hearing was held on August 25, 2021, in Sacramento, California, via teleconference, 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.

2. At the hearing, Manish Sablok with KONE, Inc., appeared on behalf of the Applicant; Kevin Wright appeared on behalf of IUEC Local 8; Mark Wickens and David Morris appeared on behalf of the Division of Occupational Safety and Health ("Division"); and Michael Nelmida appeared on behalf of Board staff in a technical advisory role apart from the Board.

3. Documentary and oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence: the subject modification of permanent variance application captioned above as Exhibit PD-1, Notice of Hearing as Exhibit PD-2, Board staff Pending Application(s) for Permanent Variance Opinion Letter as PD-3,

Division evaluation as PD-4, Review Draft 1 Proposed Decision as PD-5, and official notice taken of the Board's files, records, recordings and decisions concerning the Elevator Safety Order requirements from which variance shall issue. On August 25, 2021, the hearing and record closed, and the matter was taken under submission by the Hearing Officer.

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

1. The Applicant requests modification of the address of the unchanging variance location specified within Board records for each elevator the subject of previously granted Permanent Variance 19-V-302.

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 19-V-302 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. 19-V-302.

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 19-V-302 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. 19-V-302, to be:

State ID 119251
3707 Harbor Dr.
San Diego, CA

State ID 108357 through 108362
3835 Harbor Dr.
San Diego, CA

E. Decision and Order:

1. Permanent Variance Application No. 19-V-302M1 is conditionally GRANTED, thereby modifying Board records, such that, without change in variance location, each elevator being the subject of Permanent Variance Nos. 19-V-302, and 19-V-302M1, shall have the following address designation:

State ID 119251
3707 Harbor Dr.
San Diego, CA

State ID 108357 through 108362
3835 Harbor Dr.
San Diego, CA

2. Permanent Variance No. 19-V-302, 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. 19-V-302M1.

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

Dated: August 31, 2021

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:

10-950 Gough Owner, LLC

OSHSB File No.: 19-V-321M1
Proposed Decision Dated: August 31, 2021

DECISION

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

_____
DAVID THOMAS, Chairman

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BARBARA BURGEL, Member

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KATHLEEN CRAWFORD, Member

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DAVID HARRISON, Member

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NOLA KENNEDY, Member

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CHRIS LASZCZ-DAVIS, Member

_____
LAURA STOCK, Member

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Date of Adoption: September 16, 2021

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

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

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

In the Matter of Application to Modify Permanent Variance by: 10-950 Gough Owner, LLC	OSHSB File No.: 19-V-321M1 PROPOSED DECISION Hearing Date: August 25, 2021

A. The following person or entity ("Applicant") has applied for a modification of permanent variance from provisions of the Elevator Safety Orders, found at Title 8 of the California Code of Regulations, for each elevator having the specified preexisting variance location address of record:

Preexisting OSHSB File No.	**Applicant Name**	**Preexisting Variance Address of Record**
19-V-321	10-950 Gough Owner, LLC	950 Gough St. San Francisco, CA

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

C. Procedural Matters:

1. This hearing was held on August 25, 2021, in Sacramento, California, via teleconference, 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.

2. At the hearing, Manish Sablok with KONE, Inc. appeared on behalf of the Applicant, Kevin Wright appeared on behalf of IUEC Local 8; Mark Wickens and David Morris appeared on behalf of the Division of Occupational Safety and Health ("Division"); and Michael Nelmida appeared on behalf of Board staff in a technical advisory role apart from the Board.

3. Documentary and oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence: the subject modification of permanent variance application captioned above as Exhibit PD-1, Notice of Hearing as Exhibit PD-2, Board staff Pending Application(s) for Permanent Variance Opinion Letter as PD-3, Division evaluation as PD-4, Review Draft 1 Proposed Decision as PD-5, and official notice taken of the Board's files, records, recordings and decisions concerning the

Elevator Safety Order requirements from which variance shall issue.
On August 25, 2021, the hearing and record closed, and the matter was taken under submission by the Hearing Officer.

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

1. The Applicant requests modification of the address of the unchanging variance location specified within Board records for each elevator the subject of previously granted Permanent Variance 19-V-321.

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 19-V-321 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. 19-V-321.

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 19-V-321 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. 19-V-321, to be:

971 Eddy Street
San Francisco, CA

E. <u>Decision and Order:</u>

1. Permanent Variance Application No. 19-V-321M1 is conditionally GRANTED, thereby modifying Board records, such that, without change in variance location, each elevator

being the subject of Permanent Variance Nos. 19-V-321, and 19-V-321M1, shall have the following address designation:

971 Eddy Street
San Francisco, CA

2. Permanent Variance No. 19-V-321, 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. 19-V-321M1.

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

Dated: August 31, 2021

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:

SHAC LS Apartments I, LLC

OSHSB File No.: 19-V-325M1
Proposed Decision Dated: August 31, 2021

DECISION

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

_____
DAVID THOMAS, Chairman

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BARBARA BURGEL, Member

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KATHLEEN CRAWFORD, Member

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DAVID HARRISON, Member

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NOLA KENNEDY, Member

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CHRIS LASZCZ-DAVIS, Member

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LAURA STOCK, Member

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Date of Adoption: September 16, 2021

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

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

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

In the Matter of Application for Modification of Permanent Variance by: SHAC LS Apartments I, LLC	OSHSB File No.: 19-V-325M1 PROPOSED DECISION Hearing Date: August 25, 2021

A. Subject Matter

SHAC LS Apartments I, LLC ("Applicant") has applied for a modification of permanent variance from provisions of title 8 of the California Code of Regulations.*

B. This proceeding is conducted in accordance with Labor Code section 143, and section 401, et. seq.

C. Procedural Matters:

1. This hearing was held on August 25, 2021, in Sacramento, California, via teleconference, 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, Andrew Ferris, of TK Elevator, appeared on behalf of Applicant; Kevin Wright appeared on behalf of IUEC Local 8; David Morris and Mark Wickens appeared on behalf of the Division of Occupational Safety and Health (Division); and Michael Nelmida, Senior Safety Engineer, appeared on behalf of Board staff, in a technical advisory role apart from the Board.

3. Documentary and oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence: the subject modification of permanent variance application captioned above as Exhibit PD-1, Notice of Hearing as Exhibit PD-2, Board staff Pending Application(s) for Permanent Variance Opinion Letter as PD-3, Division evaluation as PD-4, Proposed Decision as PD-5, and official notice taken of the Board's rulemaking records and variance decisions concerning the safety order provisions from which variance has been requested. The hearing closed on August 25, 2021.

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

D. Based on the record of this hearing, the Board makes the following findings of fact:
On October 17, 2019, the Board granted a permanent variance in File No. 19-V-325. Applicant requests to correct the speed of the conveyance as stated in the Factor of Safety (FOS) calculations.

1. The Division proposes the following modification to Appendix 1:

OSHSB File Number	Car	Minimum Suspension Ropes per Elevator (Per Condition No. 3)	Roping Ratio	Max. Rated Speed In Feet Per Minute (per Condition No. 6)	Minimum Suspended Load per Elevator (+5%) (per Cond. No. 7)
19-V-325	1	7	2:1	~~150~~ **200**	7,062
19-V-325	2	7	2:1	~~150~~ **200**	7,062

2. The requested modification increases the speed of the elevator, thereby marginally reducing the actual FOS. The FOS calculations submitted by the applicant still provides over double the value for the FOS required under the existing code. The proposed modification does not impair the Applicant's prior demonstration of equivalent safety.

E. <u>Decision and Order:</u>

1. Permanent Variance Application No. 19-V-325M1 is conditionally GRANTED, thereby modifying Board records, such that, without other change, Appendix 1 reads as follows:

OSHSB File Number	Car	Minimum Suspension Ropes per Elevator (Per Condition No. 3)	Roping Ratio	Max. Rated Speed In Feet Per Minute (per Condition No. 6)	Minimum Suspended Load per Elevator (+5%) (per Cond. No. 7)
19-V-325	1	7	2:1	~~150~~ **200**	7,062
19-V-325	2	7	2:1	~~150~~ **200**	7,062

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

DATED: August 31, 2021

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:

The Irvine Company

OSHSB File No.: 19-V-359M1
Proposed Decision Dated: August 31, 2021

DECISION

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

_____
DAVID THOMAS, Chairman

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BARBARA BURGEL, Member

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KATHLEEN CRAWFORD, Member

_____
DAVID HARRISON, Member

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NOLA KENNEDY, Member

_____
CHRIS LASZCZ-DAVIS, Member

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LAURA STOCK, Member

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Date of Adoption: September 16, 2021

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

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

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

In the Matter of Application to Modify Permanent Variance by: The Irvine Company	OSHSB File No.: 19-V-359M1 PROPOSED DECISION Hearing Date: August 25, 2021

A. The following person or entity ("Applicant") has applied for a modification of permanent variance from provisions of the Elevator Safety Orders, found at Title 8 of the California Code of Regulations, for each elevator having the below specified preexisting variance location address of record:

Preexisting OSHSB File No.	Applicant Name	Variance Address of Record	Preexisting Number of Elevators
19-V-359	The Irvine Company	3238 Scott Boulevard Santa Clara, CA	4

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

C. Procedural Matters:

1. This hearing was held on August 25, 2021, in Sacramento, California, via teleconference, 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.

2. At the hearing, Dan Leacox of Leacox & Associates, appeared on behalf of the Applicant; Kevin Wright appeared on behalf of IUEC Local 8; Mark Wickens and David Morris appeared on behalf of the Division of Occupational Safety and Health ("Division"); and Michael Nelmida appeared on behalf of Board staff, in a technical advisory role apart from the Board.

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

Section A table as Exhibit PD-1, Notice of Hearing as Exhibit PD-2, Division evaluation as PD-3, Review Draft 1 Proposed Decision as PD-4, and official notice taken of the Board's files, records, recordings and decisions concerning Otis elevators. On August 25, 2021, the hearing and record closed, and the matter was taken under submission by the Hearing Panel.

D. Findings and Basis:

1. The Applicant requests modification of the quantity of elevators the subject of previously granted Permanent Variance No. 19-V-359, to increase the quantity of elevators from three (3) to four (4).

2. Application Section 3, declared to be wholly truthful under penalty of perjury by the Applicant signatory, states facts upon which to reasonably find that additional requested subject elevator is to be of the same manufacturer model type and material technical characteristics and specifications, as the existing elevator the subject of Permanent Variance No. 19-V-359.

3. The Division has evaluated the immediate request for modification of variance, finds no issue with it, and recommends that the application for modification be granted subject to the same conditions of the Decision and Order in OSHSB Permanent Variance File No. 19-V-359.

4. The Board finds the Section 2 referenced declaration to be credible, uncontroverted, and consistent with available, sufficient facts, and finds modification of Permanent Variance 19-V-359, increasing the quantity of subject elevators from three (3) to four (4), to be of no bearing upon the finding of equivalent occupational health and safety upon which Grant of preexisting Permanent Variance 19-V-359 was, in part, based.

E. Decision and Order:

1. Application for Modification of Permanent Variance, No. 19-V-359M1, is conditionally GRANTED, as specified below, such that a total of four elevators are the subject of Permanent Variance No. 19-V-359, as hereby modified.

2. Permanent Variance No. 19-V-359, being only modified as to the subject quantity of elevators specified in above Decision and Order Section 1, is otherwise unchanged and remaining in full force and effect, as hereby incorporated by reference into Modification of Permanent Variance No. 19-V-359M1.

3. The applicant shall notify its employees or their authorized representative(s), or both, of this order in the same way that the Applicant was required to notify them of the

application for permanent variance, per California Code of Regulations, Title 8, Sections 411.2 and 411.3.

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

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

Dated: August 31, 2021

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:

M10 Development LLC

OSHSB File No.: 19-V-438M1
Proposed Decision Dated: August 31, 2021

DECISION

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

_____
DAVID THOMAS, Chairman

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BARBARA BURGEL, Member

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KATHLEEN CRAWFORD, Member

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DAVID HARRISON, Member

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NOLA KENNEDY, Member

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CHRIS LASZCZ-DAVIS, Member

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LAURA STOCK, Member

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Date of Adoption: September 16, 2021

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

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

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

In the Matter of Application for Modification of Permanent Variance by: M10 Development, LLC	OSHSB File No.: 19-V-438M1 PROPOSED DECISION Hearing Date: August 25, 2021

A. Subject Matter:
M10 Development, LLC ("Applicant") has applied for a modification of permanent variance from provisions of title 8 of the California Code of Regulations.*

B. This proceeding is conducted in accordance with Labor Code section 143, and section 401, et. seq.

C. Procedural Matters:

1. This hearing was held on August 25, 2021, in Sacramento, California, via teleconference, 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, Manish Sablok of KONE Elevators, Inc., appeared on behalf of Applicant; Kevin Wright appeared on behalf of IUEC Local 8; David Morris and Mark Wickens appeared on behalf of the Division of Occupational Safety and Health (Division); and Michael Nelmida, Senior Safety Engineer, appeared on behalf of Board staff, in a technical advisory role apart from the Board.

3. Documentary and oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence: the subject modification of permanent variance application captioned above as Exhibit PD-1, Notice of Hearing as Exhibit PD-2, Board staff Pending Application(s) for Permanent Variance Opinion Letter as PD-3, Division evaluation as PD-4, Proposed Decision as PD-5, and official notice taken of the Board's rulemaking records and variance decisions concerning the safety order provisions from which variance has been requested. The hearing closed on August 25, 2021.

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

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

On February 20, 2020, the Board granted a permanent variance in File No. 19-V-438. The Applicant requests to update the elevator ID designations listed in Appendix 1 of the Decision and Order.

1. The requested modification changes the "Elevator ID" references in Appendix 1 of the Decision and Order:

	Monospace 500 Suspension Ropes Appendix 1 Table			
OSHSB File No.	Elevator ID	Minimum Quantity of Ropes (per Condition 3)	Maximum Speed in Feet per Minute (per Condition 6)	Maximum Suspended Load (per Condition 7)
19-V-438	~~1~~**3**	6	200	9,905 lb
19-V-438	2	6	200	9,905 lb

2. The proposed modification does not impair the Applicant's prior demonstration of equivalent safety. No concerns regarding the amendment were expressed by either the Division or Board staff.

3. Applicant proposed to amend Appendix 1 as follows:

	Monospace 500 Suspension Ropes Appendix 1 Table			
OSHSB File No.	Elevator ID	Minimum Quantity of Ropes (per Condition 3)	Maximum Speed in Feet per Minute (per Condition 6)	Maximum Suspended Load (per Condition 7)
[Omitted table rows remain unchanged.]				
19-V-438	2	6	200	9,905 lb
19-V-438	~~1~~**3**	6	200	9,905 lb
[Omitted table rows remain unchanged.]				

E. Decision and Order**:**

1. Permanent Variance Application No. 19-V-438M1 is conditionally GRANTED, thereby modifying Board records, such that, without other change, the Appendix reads as follows:

	Monospace 500 Suspension Ropes Appendix 1 Table			
OSHSB File No.	Elevator ID	Minimum Quantity of Ropes (per Condition 3)	Maximum Speed in Feet per Minute (per Condition 6)	Maximum Suspended Load (per Condition 7)
[Omitted table rows remain unchanged.]				
19-V-438	2	6	200	9,905 lb
19-V-438	~~1~~**3**	6	200	9,905 lb
[Omitted table rows remain unchanged.]				

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

DATED: August 31, 2021

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: Hercules Block Q&R Development Partners LP.	OSHSB File No.: 19-V-497M1 Proposed Decision Dated: August 31, 2021 DECISION

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

_____
DAVID THOMAS, Chairman

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BARBARA BURGEL, Member

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KATHLEEN CRAWFORD, Member

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DAVID HARRISON, Member

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NOLA KENNEDY, Member

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CHRIS LASZCZ-DAVIS, Member

_____
LAURA STOCK, Member

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Date of Adoption: September 16, 2021

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

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

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

In the Matter of Application to Modify Permanent Variance by: Hercules Block Q&R Development Partners LP	OSHSB File No.: 19-V-497M1 PROPOSED DECISION Hearing Date: August 25, 2021

A. The following person or entity ("Applicant") has applied for a modification of permanent variance from provisions of the Elevator Safety Orders, found at Title 8 of the California Code of Regulations, for each elevator having the below specified preexisting variance location address of record:

Preexisting OSHSB File No.	Applicant Name	Variance Address of Record	Preexisting Number of Elevators
19-V-497	Hercules Block Q&R Development Partners LP	2200 John Muir Parkway Hercules, CA	2

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

C. Procedural Matters:

1. This hearing was held on August 25, 2021, in Sacramento, California, via teleconference, 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.

2. At the hearing, Jennifer Linares with Schindler Elevator Company, appeared on behalf of the Applicant; Kevin Wright appeared on behalf of IUEC Local 8; Mark Wickens and David Morris appeared on behalf of the Division of Occupational Safety and Health ("Division"); and Michael Nelmida appeared on behalf of Board staff, in a technical advisory role apart from the Board.

3. Documentary and oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence: the subject modification of permanent variance application captioned above as Exhibit PD-1, Notice of Hearing as Exhibit PD-2, Board staff Pending Application(s) for Permanent Variance Opinion Letter as PD-3, Division evaluation as PD-4, Review Draft 1 Proposed Decision as PD-5, and official notice taken of the Board's files, records, recordings and decisions concerning the Elevator Safety Order requirements from which variance shall issue. On August 25, 2021, the hearing and record closed, and the matter was taken under submission by the Hearing Officer.

D. Findings and Basis:

1. The Applicant requests modification of the quantity of elevators the subject of previously granted Permanent Variance No. 19-V-497, to increase the quantity of elevators from two (2) to three (3).

2. Application Section 3, declared to be wholly truthful under penalty of perjury by the Applicant signatory, states facts upon which to reasonably find that additional requested subject elevator is to be of the same manufacturer model type and material technical characteristics and specifications, as the existing elevator the subject of Permanent Variance No. 19-V-497.

3. The Division has evaluated the immediate request for modification of variance, finds no issue with it, and recommends that the application for modification be granted subject to the same conditions of the Decision and Order in OSHSB Permanent Variance File No. 19-V-497.

4. The Board finds the Section 2 referenced declaration to be credible, uncontroverted, and consistent with available, sufficient facts, and finds modification of Permanent Variance 19-V-497, increasing the quantity of subject elevators from two (2) to three (3), to be of no bearing upon the finding of equivalent occupational health and safety upon which Grant of preexisting Permanent Variance 19-V-497 was, in part, based.

E. Decision and Order:

1. Application for Modification of Permanent Variance, No. 19-V-497M1, is conditionally GRANTED, as specified below, such that a total of three (3) elevators are the subject of Permanent Variance No. 19-V-497, as hereby modified.

2. Permanent Variance No. 19-V-497, being only modified as to the subject quantity of elevators specified in above Decision and Order Section 1, is otherwise unchanged and

remaining in full force and effect, as hereby incorporated by reference into Modification of Permanent Variance No. 19-V-497M1.

3. The applicant shall notify its employees or their authorized representative(s), or both, of this order in the same way that the Applicant was required to notify them of the application for permanent variance, per California Code of Regulations, Title 8, Sections 411.2 and 411.3.

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

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

Dated: August 31, 2021

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:

Digital 1550 Space Park, LLC

OSHSB File No.: 20-V-016M1
Proposed Decision Dated: August 31, 2021

DECISION

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

_____
DAVID THOMAS, Chairman

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BARBARA BURGEL, Member

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KATHLEEN CRAWFORD, Member

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DAVID HARRISON, Member

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NOLA KENNEDY, Member

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CHRIS LASZCZ-DAVIS, Member

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LAURA STOCK, Member

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Date of Adoption: September 16, 2021

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

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

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

In the Matter of Application for Modification of Permanent Variance by: Digital 1550 Space Park, LLC	OSHSB File No.: 20-V-016M1 PROPOSED DECISION Hearing Date: August 25, 2021

A. Subject Matter:

Digital 1550 Space Park, LLC ("Applicant") has applied for a modification of permanent variance from provisions of title 8 of the California Code of Regulations.[1]

B. This proceeding is conducted in accordance with Labor Code section 143, and section 401, et. seq.

C. Procedural Matters:

1. This hearing was held on August 25, 2021, in Sacramento, California, via teleconference, 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, Jennifer Linares with Schindler Elevator Corporation, appeared on behalf of Applicant; Kevin Wright appeared on behalf of IUEC Local 8; David Morris and Mark Wickens appeared on behalf of the Division of Occupational Safety and Health (Division); and Michael Nelmida, Senior Safety Engineer, appeared on behalf of Board staff, in a technical advisory role apart from the Board.

3. Documentary and oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence: the subject modification of permanent variance application captioned above as Exhibit PD-1, Notice of Hearing as Exhibit PD-2, Board staff Pending Application(s) for Permanent Variance Opinion Letter as PD-3, Division evaluation as PD-4, Proposed Decision as PD-5, and official notice taken of the Board's rulemaking records and variance decisions concerning the safety order provisions from which variance has been requested. The hearing closed on August 25, 2021.

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

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

On April 16, 2020, the Board granted a permanent variance in File No. 20-V-016. The Applicant requests to add a variant governor (including ropes and sheaves) to the existing conveyance, materially changing the existing variance calculations.

Requested Suspension Means Related Variance:

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

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

Requested Car Top Railing Inset Variance:

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

    Section 2.14.1.7.1—Top of Car Perimeter Railing Placement

Requested Seismic Reset Switch Placement Variance:

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

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

Requested Transfer Switch Placement Variance:

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

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

Requested Governor Sheave to Rope Diameter Ratio Variance:

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

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

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

Table 2.18.7.4 Multiplier for Determining Governor Sheave Pitch Diameter

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

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

6. Per the Application, the proposal is stated as follows: "The approved speed governor provided for this elevator has a sheave diameter-to-governor rope diameter ratio [D/d] of 33. This is not compliant with the current Group IV Elevator Safety Orders which require a [D/d] of 42-46. Equivalent safety will be attained by providing a governor rope with a breaking strength that provides a factor of safety greater than that required by the Elevator Safety Orders, and a governor sheave diameter which complies with the requirements of ASME A17.1-2010, Section 2.18.5.1, and Section 2.18.7.4, which, under certain conditions, permits the use of a governor rope and governor sheave ratio [D/d] of not less than 30."

7. Having analyzed the request, as reflected in its Review of Application (Exhibit PD-4) Division is of the well informed professional opinion that the proposal, in as much as it is to use a governor with sheave pitch diameter of not less than the product of the governor rope diameter and a multiplier of 30, in conjunction with a steel governor rope with a diameter of 6 mm (0.25 in.), 6-strand construction, and a factor of safety of 8 or greater, will provide safety, and workplace safety and health equivalent or superior to that of the ASME A17.1-2004, Section 2.18.7.4. Division also correctly notes Applicant's proposed governor sheave pitch diameter, and reduced diameter governor rope installation is similar to installations for which a permanent variance has been previously conditionally granted. (e.g. OSHSB File No. 19-V-076)

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

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

Positions of Division, and Board Staff:

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

B. 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 the Elevator Safety Orders from which variance is being sought.

C. 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 Schindler Model 3300 elevator(s), at the specified location, each shall conditionally hold permanent variance from the following subparts of ASME A17.1-2004, currently incorporated by reference into section 3141.

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

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

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

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

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

Further Conditions and Limitations:

1. The elevator suspension system shall comply to the following:

    1.1. The suspension traction media (STM) members and their associated fastenings shall conform to the applicable requirements of ASME A17.1-2013, sections:

    - 2.20.4.3 – Minimum Number of Suspension Members
    - 2.20.3 – Factor of Safety
    - 2.20.9 – Suspension Member Fastening

    1.1.1 Additionally, STMs shall meet or exceed all requirements of ASME 17.6-2010, Standard for Elevator Suspension, Compensation, and Governor Systems, Part 3 Noncircular Elastomeric Coated Steel Suspension Members for Elevators.

    1.2. The Applicant shall not utilize the elevator unless the manufacturer has written procedures for the installation, maintenance, inspection and testing of the STM members and fastenings and related monitoring and detection systems and criteria for STM replacement, and the Applicant shall make those procedures and criteria available to the Certified Competent Conveyance Mechanic (CCCM) at the location of the elevator, and to the Division of Occupational Safety and Health (Division) upon request.

    1.3. STM member mandatory replacement criteria shall include:

    1.3.1 Any exposed wire, strand or cord;

    1.3.2 Any wire, strand or cord breaks through the elastomeric coating;

    1.3.3 Any evidence of rouging (steel tension element corrosion) on any part of the elastomeric coated steel suspension member;

    1.3.4 Any deformation in the elastomeric suspension member such as, but not limited to, kinks or bends.

    1.4. Traction drive sheaves must have a minimum diameter of 72 mm. The maximum speed of STM members running on 72 mm, 87 mm and 125 mm drive sheaves shall be no greater than 2.5 m/s, 6.0 m/s and 8.0 m/s respectively.

    1.5. If any one STM member needs replacement, the complete set of suspension members on the elevator shall be replaced. Exception: If a new suspension member is damaged during installation, and prior to any contemporaneously

installed STM having been placed into service, it is permissible to replace the individual damaged suspension member. STM members that have been installed on another installation shall not be re-used.

1.6. A traction loss detection means shall be provided that conforms to the requirements of ASME A17.1-2013, Section 2.20.8.1. The means shall be tested for correct function annually in accordance with ASME A17.1-2013, section 8.6.4.19.12.

1.7. A broken suspension member detection means shall be provided that conforms to the requirements of ASME A17.1-2013, Section 2.20.8.2. The means shall be tested for correct function annually in accordance with ASME A17.1-2013, section 8.6.4.19.13(a).

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

1.9. Each elevator shall be provided with a device that electronically detects a reduction in residual strength of each STM member. The device shall be in compliance with Division Circular Letter E-10-04, a copy of which is attached hereto as Addendum 1, and incorporated herein by reference.

1.10. The elevator crosshead data plate shall comply with the requirements of ASME A17.1-2013, Section 2.20.2.1.

1.11. A suspension means data tag shall be provided that complies with the requirements of ASME A17.1-2013, Section 2.20.2.2.

1.12. Comprehensive visual inspections of the entire length of each and all installed suspension members, in conformity with above Conditions 1.2 and 1.3 specified criteria, shall be conducted and documented every six months by a CCCM.

1.13. The Applicant shall be subject to the requirements per hereto attached, and inhere incorporated, Addendum 2, "Suspension Means Replacement Reporting Condition."

1.14. Records of all tests and inspections shall be maintenance records subject to ASME A17.1-2004, Sections 8.6.1.2, and 8.6.1.4, respectively.

2. Inspection Transfer switch and Seismic Reset switch placement and enclosure shall comply with the following:

2.1. If the inspection transfer switch required by ASME A17.1-2004, Rule 2.26.1.4.4, does not reside in a machine room, that switch shall not reside in the elevator hoistway. The switch shall reside in the control/machinery room/space containing the elevator's control equipment in an enclosure secured by a lock openable by a Group 1 security key. The enclosure is to remain locked at all times when not in use.

2.2. If the seismic reset switch does not reside in the machine room, that switch shall not reside in the elevator hoistway. The switch shall reside in the control/machinery room/space containing the elevator's control equipment in an enclosure secured by a lock openable by a Group 1 security key. The enclosure is to remain locked at all times when not in use.

3. Any and all inset car top railing shall comply with the following:

3.1. Serviceable equipment shall be positioned so that mechanics and inspectors do not have to stand on or climb over the railings to perform adjustments, maintenance, repairs or inspections. The Applicant shall not permit anyone to stand or climb over the car top railing.

3.2. The distance that the railing can be inset shall be limited to not more than 6 inches.

3.3. All exposed areas of the car top outside the car top railing where the distance from the railing to the edge of the car top exceeds 2 inches, shall be beveled with metal, at an angle of not less than 75 degrees with the horizontal, from the mid or top rail to the outside of the car top, such that no person or object can stand, sit, kneel, rest, or be placed in the exposed areas.

3.4. The top surface of the beveled area and/or car top outside the railing, shall be clearly marked. The markings shall consist of alternating 4 inch diagonal red and white stripes.

3.5. The applicant shall provide durable signs with lettering not less than 1/2 inch on a contrasting background on each inset railing; each sign shall state:

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

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

4. The elevator shall be serviced, maintained, adjusted, tested, and inspected only by CCCM having been trained, and competent, to perform those tasks on the Schindler Model 3300 elevator system in accordance with written procedures and criteria, including as required per above Conditions 1.2, and 1.3.

5. The speed governor rope and sheaves shall comply with the following:

5.1. The governor shall be used in conjunction with a steel 6 mm (0.25 in.) diameter governor rope with 6-strand, regular lay construction.

5.2. The governor rope shall have a factor of safety of 8 or greater as related to the strength necessary to activate the safety.

5.3. The governor sheaves shall have a pitch diameter of not less than 200 mm (7.87 in.).

6. The Division shall be notified when the elevator is ready for inspection. The elevator shall be inspected by the Division, and all applicable requirements met, including conditions of this permanent variance, prior to a Permit to Operate the elevator being issued. The elevator shall not be placed in service prior to the Permit to Operate being issued by Division.

7. The Applicant shall notify its employees or their authorized representative(s), or both, of this order in the same way and to the same extent that employees and authorized representatives are to be notified of docketed permanent variance applications pursuant to sections 411.2, and 411.3.

8. This Decision and Order shall remain in effect unless modified or revoked upon application by the Applicant, affected employee(s), the Division, or by the Board on its own motion, in procedural accordance with sections 411, et. seq. This Decision and Order shall replace in its entirety the previous 20-V-216 Decision issued by this Board.

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

Dated: August 31, 2021

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 to Modify Permanent Variance by:

One De Haro, LLC

OSHSB File No.: 20-V-308M1
Proposed Decision Dated: August 31, 2021

DECISION

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

_____
DAVID THOMAS, Chairman

_____
BARBARA BURGEL, Member

_____
KATHLEEN CRAWFORD, Member

_____
DAVID HARRISON, Member

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NOLA KENNEDY, Member

_____
CHRIS LASZCZ-DAVIS, Member

_____
LAURA STOCK, Member

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Date of Adoption: September 16, 2021

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

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

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

In the Matter of Application for Modification of Permanent Variance by: One De Haro, LLC	OSHSB File No.: 20-V-308M1 PROPOSED DECISION Hearing Date: August 25, 2021

A. Subject Matter:

One De Haro, LLC ("Applicant") has applied for a modification of permanent variance from provisions of title 8 of the California Code of Regulations.[*]

B. This proceeding is conducted in accordance with Labor Code section 143, and section 401, et. seq.

C. Procedural Matters:

1. This hearing was held on August 25, 2021, in Sacramento, California, via teleconference, 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, Manish Sablok of KONE, Inc., appeared on behalf of Applicant; Kevin Wright appeared on behalf of IUEC Local 8; David Morris and Mark Wickens appeared on behalf of the Division of Occupational Safety and Health (Division); and Michael Nelmida, Senior Safety Engineer, appeared on behalf of Board staff, in a technical advisory role apart from the Board.

3. Documentary and oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence: the subject modification of permanent variance application captioned above as Exhibit PD-1, Notice of Hearing as Exhibit PD-2, Board staff Pending Application(s) for Permanent Variance Opinion Letter as PD-3, Division evaluation as PD-4, Proposed Decision as PD-5, and official notice taken of the Board's rulemaking records and variance decisions concerning the safety order provisions from which variance has been requested. The hearing closed on August 25, 2021.

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

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

On October 15, 2020, the Board granted a permanent variance in File No. 20-V-308. However, effective April 14, 2021, we were informed the Elevator ID, Maximum Speed & Maximum Suspended Load were incorrect and should be: Elevator ID 2 & 3 Maximum Speed of 350 FPM and Maximum Suspended Load of 11,706.

The Division proposes the following modification to Appendix 1:

	Monospace 500 Suspension Ropes Appendix 1 Table			
OSHSB File No.	Elevator ID	Minimum Quantity of Ropes (per Condition 3)	Maximum Speed in Feet per Minute (per Condition 6)	Maximum Suspended Load (per Condition 7)
20-V-308	2	8	350	11,706
	3	8	350	11,706

E. Decision and Order:

1. Permanent Variance Application No. 20-V-308M1 is conditionally GRANTED, thereby modifying Board records, such that, without other change, Appendix 1 reads as follows:

	Monospace 500 Suspension Ropes Appendix 1 Table			
OSHSB File No.	Elevator ID	Minimum Quantity of Ropes (per Condition 3)	Maximum Speed in Feet per Minute (per Condition 6)	Maximum Suspended Load (per Condition 7)
20-V-308	2	8	350	11,706
	3	8	350	11,706

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

DATED: August 31, 2021

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.: See Table A in: Proposed Decision Dated: September 3, 2021 DECISION

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

_____
DAVID THOMAS, Chairman

_____
BARBARA BURGEL, Member

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KATHLEEN CRAWFORD, Member

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DAVID HARRISON, Member

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NOLA KENNEDY, Member

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CHRIS LASZCZ-DAVIS, Member

_____
LAURA STOCK, Member

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Date of Adoption: September 16, 2021

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

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

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

In the Matter of Application for Permanent Variance Regarding: TK Elevator Evolution (Group IV)	OSHSB File Nos.: See Section A Table Below PROPOSED DECISION Hearing Date: September 2, 2021

A. Procedural Matters:

Variance No.	Applicant Name	Variance Location Address	No. of Conveyances
21-V-061	San Francisco Public Works	399B The Embarcadero/Pier 22½, San Francisco	1
21-V-075	Pinnacle International Development, Inc.	955 11th Avenue, San Diego	1
21-V-145	Essex Property Trust, Inc.	420 Station Park Circle, San Mateo	2
21-V-146	40th Street Development LLC	387 40th St., Oakland	1
21-V-147	BP3-SD5 5510 Morehouse Drive LLC	5510 Morehouse Dr., San Diego	1
21-V-149	SIOF 6 Properties, LLC	6401 S Avalon Blvd., Los Angeles	1
21-V-150	SIOF 7 Properties, LLC	1130 W Martin Luther King Jr Blvd., Los Angeles	1

21-V-151	SIOF 7 Properties, LLC	4209 S Western Ave., Los Angeles	1
21-V-162	Murrays Mansions, LLC	4506 Dockweiler Street, Los Angeles	1
21-V-163	ARE-SD Region No. 23, LLC	3115 Merryfield Row, San Diego	4
21-V-164	833 Bryant LP, A California Limited Partnership	833 Bryant St., San Francisco	2
21-V-173	CA/AG Logan Park Property Owner LLC	2050 Durant Ave., Berkeley	2
21-V-174	Broadway Plaza Family Apartments, LP	1241 Broadway Plaza, Fresno	1
21-V-175	Ashton at Dublin Station, LLC	5421 Campbell Lane, Dublin	4
21-V-176	Chino Valley Unified School District	5472 Park Place, Chino	4
21-V-177	City of Ventura	505 E. Poli Street, Ventura	1
21-V-178	San Jose Hotel Investments, LLC	1130 Champions Dr., San Jose	3
21-V-199	Gateway Millbrae Residential LLC	126 N Rollins Rd., Millbrae	4

21-V-209	Gateway Millbrae Residential LLC	161 North Rollins Rd., Millbrae	3
21-V-210	Gateway Millbrae Office LLC	166 Rollins Rd., Millbrae	3
21-V-214	Jefferson Union High School	705 Serramonte Blvd., Daly City	2
21-V-219	Block 7 Retail Investors LLC	1451 California St., Redding	1
21-V-220	311 Mathilda Owner LLC	311 S Mathilda Ave. Sunnyvale	2
21-V-225	Bayswater Myrtle Venture LLC	920 Bayswater Ave., Burlingame	2
21-V-249	San Francisco Day School	350 Masonic Ave., San Francisco	1

1. The above-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 Regulations[1], with respect to a conveyance, or conveyances, in the listed quantity, at the listed location:

2. These proceedings are conducted in accordance with Labor Code section 143, and section 401, et. seq.

3. This hearing was held on September 2, 2021, via online videoconference, before 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 of the Board's rules of procedure. The Hearing Panelists were Board Members Kathleen Crawford and Nola Kennedy.

4. At the hearing, Kathleen E. Finnerty of Finnerty Law Offices, Inc., Phillip Hampton, John Stockstill, and Andy Ferris of TK Elevator ("TKE"), appeared

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

on behalf of Applicant; David Morris appeared on behalf of the Division of Occupational Safety and Health ("Division"), and Michael Nelmida appeared on behalf of Board staff, in a technical advisory role apart from the Board. Eric McClaskey and Kevin Wright appeared on behalf of IUEC Local 8 ("IUEC").

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	Variance Applications listed in the above table
PD-2	OSHSB Notice of Hearing
PD-3	Division Reviews of Variance Applications listed in the above table
PD-4	Board Staff Reviews of Variance Applications listed in the above table

6. The parties stipulated to official notice being taken of the Board's rulemaking records, and variance decisions concerning the safety order requirements from which variance is requested.

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 *Vivante* and *Patton Equities* decisions.

3. On or before November 21, 2021, the Applicant proposes to install the TK Elevator Corp – Model 104DP001 residual-strength detection device (RSDD). This RSDD has been previously evaluated by the Division and determined to provide continuous residual-strength monitoring of the elastomeric-coated steel belt (ECSB) suspension proposed by the Applicant, in accordance with Addendum 2.

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 No later than November 21, 2021, the subject elevator(s) shall be equipped with a residual strength detection device as specified per Addendum 2 to this Decision and Order. Prior to November 21, 2021 the Applicant shall have complied with the requirements of Addendum 3, and corrected any Division identified deficiencies in performing those requirements.

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 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 162.04), 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 California Code of Regulations, Title 8, 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.

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

DATED: September 3, 2021

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:

Otis Gen2S Elevators (Group IV)

OSHSB File No.: See Section A.1 Table in Proposed Decision Dated: August 31, 2021

DECISION

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

_____
DAVID THOMAS, Chairman

_____
BARBARA BURGEL, Member

_____
KATHLEEN CRAWFORD, Member

_____
DAVID HARRISON, Member

_____
NOLA KENNEDY, Member

_____
CHRIS LASZCZ-DAVIS, Member

_____
LAURA STOCK, Member

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Date of Adoption: September 16, 2021

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

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

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

In the Matter of Application for Permanent Variance Regarding: Otis Gen2S Elevators (Group IV)	OSHSB File Nos.: See Section A table below PROPOSED DECISION Hearing Date: August 25, 2021

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, with respect to the listed conveyance or conveyances, in the specified quantity, at the specified location:

Variance No.	Applicant Name	Variance Location Address	No. of Elevators
21-V-202	Arastoo Zahiri	12128 W. Idaho Ave. 1-3 Los Angeles, CA	1
21-V-215	Ocotillo LA Pico, LLC	10759 Ayres Avenue Los Angeles, CA	2
21-V-221	Rabco Investments I, LLC	BLD019-01843 819 E. La Palma Dr. Inglewood, CA	1
21-V-222	399 East Del Mar LLC.	399 East Del Mar Blvd. Pasadena, CA	2
21-V-223	1235 5th Street Properties SM LLC	1235 5th Street Santa Monica, CA	1
21-V-224	Hauser Property Investors, LLC	2405 S. Hauser Blvd. Los Angeles, CA	2
21-V-227	1665 Carmel LLC	1665 Carmel Drive Walnut Creek, CA	1
21-V-229	City of Sunnyvale	456 W. Olive Avenue Sunnyvale, CA	3
21-V-230	City of Sunnyvale	700 All America Way Sunnyvale, CA	1

21-V-231	West Valley Mission Community College	Mission College MT Building 3000 Mission College Santa Clara, CA	1
21-V-232	Toll West Coast, LLC	1100 S Urbana St. Anaheim, CA	1
21-V-233	Toll West Coast LLC	1300 S Urbana St. Anaheim, CA	1
21-V-234	Toll West Coast LLC	1500 S Urbana St. Anaheim, CA	1
21-V-235	Toll West Coast LLC	1600 S Urbana St. Anaheim, CA	1
21-V-242	3670 Imperial LLC	3670 Imperial Hwy Inglewood, CA	4
21-V-243	William Ashley, Inc.	11311 Hawthorne Blvd Hawthorne, CA	1
21-V-250	Pulte Home Company LLC	220 Waters Park Circle San Mateo, CA	1
21-V-253	520 North Central Property Owner LLC	521 N. Orange Street Glendale, CA	1
21-V-254	Whisky LLC	1717 N. Wilcox Ave. Los Angeles, CA	2
21-V-255	1819 Pico Blvd., L.P.	1819 Pico Blvd. Santa Monica, CA	1
21-V-257	SAHA Arya, L.P.	500 Almaden Blvd San Jose, CA	2
21-V-258	Chinese Catholic Association of Los Angeles	445 W Cottage Home Street Los Angeles, CA	1
21-V-271	Pulte Home Company LLC	230 Waters Park Circle San Mateo, CA	1
21-V-272	Contra Costa Community College District	Contra Costa College New Science Bldg. & Planetarium 2600 Mission Bell Dr. San Pablo, CA	1

21-V-301	Kumar Hotels Inc	1651 Springfield Dr. Chico, 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, and California Code of Regulations, Title 8, Section 401, et. seq.

2. This hearing was held on August 25, 2021, in Sacramento, California, via teleconference, 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.

3. At the hearing, Dan Leacox of Leacox & Associates, appeared on behalf of each Applicant; Kevin Wright appeared on behalf of IUEC Local 8; Mark Wickens and David Morris appeared on behalf of the Division of Occupational Safety and Health ("Division"), and Michael Nelmida appeared on behalf of Board staff, in a technical advisory role apart from the Board.

4. Oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence: each respective permanent variance applications per Section A table as Exhibit PD-1; Notice of Hearing as Exhibit PD-2; Board staff Pending Application Memorandum as PD-3; Division Review of Application as PD-4; Review Draft 1 Proposed Decision as PD-5; and official notice taken of the Board's rulemaking records, and variance files and decisions, concerning the Elevator Safety Order standards at issue. At close of hearing on August 25, 2021, the record was closed, and the matter taken under submission by the Hearing Officer.

C. Findings and Basis:

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

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

2. The installation contracts for these elevators were or will be signed on or after May 1, 2008, making the elevators subject to the Group IV Elevator Safety Orders.

3. The Board incorporates by reference Items (i.e. Sections) D.3 through D.9 of the Proposed Decision adopted by the Board on July 18, 2013 regarding OSHSB File No. 12-V-093 and Item D.4 of the Proposed Decision adopted by the Board on September 25, 2014 in OSHSB File No. 14-V-206.

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

D. Conclusive Findings:

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

E. Decision and Order:

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

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

- Speed governor over-speed switch: 2.18.4.2.5(a) (only insofar as is necessary to permit the use of the speed reducing system proposed by the Applicants, where the speed reducing switch resides in the controller algorithms, rather than on the governor, with the necessary speed input supplied by the main encoder signal from the motor);

- Governor rope diameter: 2.18.5.1 (only to the extent necessary to allow the use of reduced diameter governor rope);

- Pitch diameter: 2.18.7.4 (to the extent necessary to use the pitch diameter specified in Condition No. 13.c);

- Suspension means: 2.20.1, 2.20.2.1, 2.20.2.2(a), 2.20.2.2(f), 2.20.3, 2.20.4, 2.20.9.3.4 and 2.20.9.5.4—the variances from these "suspension means" provisions are only to the extent necessary to permit the use of Otis Gen2 flat coated steel suspension belts in lieu of conventional steel suspension ropes;

- Inspection transfer switch: 2.26.1.4.4(a) (only to the extent necessary to allow the inspection transfer switch to reside at a location other than a machine room, if, in fact, it does not reside in the machine room); and

- Seismic reset switch: 8.4.10.1.1(a)(2)(b) (only to the extent necessary to allow the seismic reset switch to reside at a location other than a machine room, if, in fact, it does not reside in the machine room).

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

1. The suspension system shall comply with the following:

    a. The coated steel belt and connections shall have factors of safety equal to those permitted for use by Section 3141 [ASME A17.1-2004, Section 2.20.3] on wire rope suspended elevators.

    b. Steel coated belts that have been installed and used on another installation shall not be reused.

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 elevator shall be serviced, maintained, adjusted, tested, and inspected only by Certified Competent Conveyance Mechanics who have been trained to, and are competent to, perform those tasks on the Gen2S elevator system in accordance with the written procedures and criteria required by Condition No. 3 and in accordance with the terms of this permanent variance.

12. The governor speed-reducing switch function shall comply with the following:

    a. It shall be used only with direct drive machines; i.e., no gear reduction is permitted between the drive motor and the suspension means.

    b. The velocity encoder shall be coupled to the driving machine motor shaft. The "C" channel of the encoder shall be utilized for velocity measurements required by the speed reducing system. The signal from "C" channel of the encoder shall be verified with the "A" and "B" channels for failure. If a failure is detected then an emergency stop shall be initiated.

    c. Control system parameters utilized in the speed-reducing system shall be held in non-volatile memory.

    d. It shall be used in conjunction with approved car-mounted speed governors only.

    e. It shall be used in conjunction with an effective traction monitoring system that detects a loss of traction between the driving sheave and the suspension means. If a loss of traction is detected, then an emergency stop shall be initiated.

f. A successful test of the speed-reducing switch system's functionality shall be conducted at least once a year (the record of the annual test of the speed-reducing switch system shall be a maintenance record subject to ASME A17.1-2004, Section 8.6.1.4).

g. A successful test of the traction monitoring system's functionality shall be conducted at least once a year (the record of the annual test of the traction monitoring system shall be a maintenance record subject to ASME A17.1-2004, Section 8.6.1.4).

h. The Applicant shall not utilize the elevator unless the manufacturer has written procedures for the maintenance, inspection, and testing of the speed-reducing switch and traction monitoring systems. The Applicant shall make the procedures available to the Division upon request.

13. The speed governor rope and sheaves shall comply with the following:

    a. The governor shall be used in conjunction with a 6 mm (0.25 in.) diameter steel governor rope with 6-strand, regular lay construction.

    b. The governor rope shall have a factor of safety of 8 or greater as related to the strength necessary to activate the safety.

    c. The governor sheaves shall have a pitch diameter of not less than 180 mm (7.1 in.).

14. Any Certified Qualified Conveyance Company performing inspections, maintenance, servicing, or testing of the elevators shall be provided a copy of this variance decision.

15. The Division shall be notified when the elevator is ready for inspection. The elevator shall be inspected by the Division, and a Permit to Operate shall be issued before the elevator is placed in service.

16. The Applicant shall be subject to the Suspension Means – Replacement Reporting Condition stated in Addendum 2, as hereby incorporated by this reference.

17. The Applicant shall notify its employees or their authorized representative(s), or both, of this order in the same way and to the same extent that employees and authorized representatives are to be notified of docketed permanent variance applications pursuant to California Code of Regulations, Title 8, Sections 411.2 and 411.3.

18. This Decision and Order shall remain in effect unless modified or revoked upon application by the Applicant, affected employee(s), the Division of Occupational Safety

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

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

Dated: August 31, 2021

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: KONE Monospace 500 Elevators (Group IV)	OSHSB File No.: See Section A.1 Table in Proposed Decision Dated: August 31, 2021 DECISION

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

_____
DAVID THOMAS, Chairman

_____
BARBARA BURGEL, Member

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KATHLEEN CRAWFORD, Member

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DAVID HARRISON, Member

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NOLA KENNEDY, Member

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CHRIS LASZCZ-DAVIS, Member

_____
LAURA STOCK, Member

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Date of Adoption: September 16, 2021

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

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

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

In the Matter of Application for Permanent Variance Regarding: KONE Monospace 500 Elevators (Group IV)	OSHSB File Nos.: See Section A.1 Table Below PROPOSED DECISION Hearing Date: August 25, 2021

A. Subject Matter:

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

Variance No.	Applicant Name	Variance Location Address	No. of Elevators
21-V-203	CLG Construction, Inc.	10424 Venice Blvd. Culver City, CA	1
21-V-204	BMR-700 Gateway LP	710 Gateway Blvd. South San Francisco, CA	2
21-V-205	BMR-750 Gateway LP	760 Gateway Blvd. South San Francisco, CA	1
21-V-244	726 Wilton LLC	726 Wilton Pl Los Angeles, CA	1
21-V-247	Los Angeles County	1741 E. 120th Street Los Angeles, CA	2
21-V-248	West Covina Unified School District	1609 East Cameron Ave. West Covina, CA	1
21-V-251	Sharks Ice, LLC.	1500 South 10th Street San Jose, CA	1
21-V-260	Mariposa Lily, L.P.	1055 Mariposa Avenue Los Angeles, CA	1
21-V-264	Congregational Homes, Inc. dba Mt. San Antonio Gardens	900 E. Harrison Ave. Pomona, CA	1

21-V-266	BLG San Diego, LLC	743 Fifth Ave. San Diego, CA	4
21-V-268	Hoag Memorial Hospital Presbyterian	16200 Sand Canyon Ave. Irvine, CA	3
21-V-269	Scripps Health	4077 5th Ave. San Diego, CA	1
21-V-270	Mt San Antonio College	1100 No Grand Ave Walnut Creek, CA	6

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

B. Procedural:

1. This hearing was held on August 25, 2021, in Sacramento, California, via teleconference, by delegation of 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 California Code of Regulations, Title 8, Section 426.

2. At the hearing, Manish Sablok with KONE, Inc., appeared on behalf of each Applicant; Kevin Wright appeared on behalf of IUEC Local 8; Mark Wickens and David Morris appeared on behalf of the Division of Occupational Safety and Health ("Division"), and Michael Nelmida appeared on behalf of Board staff, in a technical advisory capacity apart from the Board.

3. Documentary and oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence: permanent variance applications per Section A.1 table as Exhibit PD-1, Notice of Hearing as Exhibit PD-2, Board staff Pending Application Memorandum as PD-3, Division Review of Application as PD-4, Review Draft 1 Proposed Decision as PD-5, and official notice taken of the Board's rulemaking records and variance decisions concerning the safety order requirements from which variance is sought. Upon close of hearing on August 25, 2021, the record closed and the matter was taken under submission by the Hearing Officer.

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

1. Each respective Applicant intends to utilize the KONE Inc. Monospace 500 type elevator, in the quantity, at the location, specified per the above Section A.1 table.

2. The installation contract for this elevator was or will be signed on or after May 1, 2008, thus making the elevator subject to the Group IV Elevator Safety Orders.

3. Each Applicant proposes to use hoisting ropes that are 8 mm in diameter which also consist of 0.51 mm diameter outer wires, in variance from the express requirements of ASME A17.1-2004, Section 2.20.4.

4. In relevant part, ASME A17.1-2004, Section 2.20.4 states:

> *2.20.4 Minimum Number and Diameter of Suspension Ropes*
>
> *…The minimum diameter of hoisting and counterweight ropes shall be 9.5 mm (0.375 in.). Outer wires of the ropes shall be not less than 0.56 mm (0.024 in.) in diameter.*

5. An intent of the afore cited requirement of ASME A17.1-2004, Section 2.20.4, is to ensure that the number, diameter, and construction of suspension ropes are adequate to provided safely robust and durable suspension means over the course of the ropes' foreseen service life.

6. KONE has represented to Division and Board staff, having established an engineering practice for purposes of Monospace 500 elevator design, of meeting or exceeding the minimum factor of safety of 12 for 8 mm suspension members, as required in ASME A17.1-2010, Section 2.20.3—under which, given that factor of safety, supplemental broken suspension member protection is not required.

7. Also, each Applicant proposes as a further means of maintaining safety equivalence, monitoring the rope in conformity with the criteria specified within the *Inspector's Guide to 6 mm Diameter Governor and 8 mm Diameter Suspension Ropes for KONE Elevators* (per Application attachment "B", or as thereafter revised by KONE subject to Division approval).

8. In addition, each Applicant has proposed to utilize 6 mm diameter governor ropes in variance from Title 8, Section 3141, incorporated ASME A17.1-2004, Section 2.18.5.1.

9. ASME A17.1-2004, Section 2.18.5.1, specifies, in relevant part:

> *2.18.5.1 Material and Factor of Safety.*
>
> *… [Governor ropes] not less than 9.5 mm (0.375 in.) in diameter. The factor of safety of governor ropes shall be not less than 5…*

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

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

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

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

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

14. The presently proposed wire rope is Wuxi Universal steel rope Co LTD. 8 mm 8x19S+8x7+PP, with a manufacturer rated breaking strength of 35.8 kN, and an outer wire diameter of less than 0.56 mm, but not less than 0.51 mm. Both Board staff and Division safety engineers have scrutinized the material and structural specifications, and performance testing data, of this particular proposed rope, and conclude it will provide for safety equivalent to ESO compliant 9.5 mm wire rope, with 0.56 mm outer wire (under conditions of use included within the below Decision and Order).

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

    W = (S x N)/ f

    where

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

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

    S = manufacturer's rated breaking strength of one rope

    f = the factor of safety from Table 2.20.3

16. ASME A17.1-2010 Sections 2.20.3 and 2.20.4 utilize the same formula, but provide for use of suspension ropes having a diameter smaller than 9.5 mm, under specified conditions, key among them being that use of ropes having a diameter of between 8 mm to 9.5 mm be engineered with a factor of safety of 12 or higher. This is a higher minimum factor of safety than that proposed by Applicant, but a minimum recommended by both Board staff and Division as a condition of variance necessary to the achieving of safety equivalence to 9.5 mm rope.

17. Board staff and Division are in accord with Applicant, in proposing as a condition of safety equivalence, that periodic physical examination of the wire ropes be performed to confirm the ropes continue to meet the criteria set out in the (Application attachment) *Inspector's Guide to 6 mm Diameter Governor and 8 mm Diameter Suspension Ropes for KONE Elevators.* Adherence to this condition will provide an additional assurance of safety equivalence, regarding smaller minimum diameter suspension rope outer wire performance over the course of its service life.

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

D. Conclusive Findings:

The above stated procedural prerequisites, legal authority, and factual findings, as further supported by the documentary record and hearing testimony in this matter, provide a substantive and reasonable basis of conclusion that: (1) Each Applicant has complied with

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

E. Decision and Order:

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

1. The diameter of the hoisting steel ropes shall be not less than 8 mm (0.315 in) diameter and the roping ratio shall be two to one (2:1).

2. The outer wires of the suspension ropes shall be not less than 0.51 mm (0.02 in.) in diameter.

3. The number of suspension ropes shall be not fewer than those specified per hereby incorporated Decision and Order Appendix 1 Table.

4. The ropes shall be inspected annually for wire damage (rouge, valley break etc.) in accordance with “KONE Inc. Inspector’s Guide to 6 mm diameter and 8 mm diameter steel ropes for KONE Elevators” (per Application Exhibit B, or as thereafter amended by KONE subject to Division approval).

5. A rope inspection log shall be maintained and available in the elevator controller room / space at all times.

6. The elevator rated speed shall not exceed those speeds specified per the Decision and Order Appendix 1 Table.

7. The maximum suspended load shall not exceed those weights (plus 5%) specified per the Decision and Order Appendix 1 Table.

8. The opening to the hoistway shall be effectively barricaded when car top inspection, maintenance, servicing, or testing of the elevator equipment in the hoistway is required.

If the service personnel must leave the area for any reason, the hoistway and control room doors shall be closed.

9. The installation shall meet the suspension wire rope factor of safety requirements of ASME A17.1-2013 Section 2.20.3.

10. Any Certified Qualified Conveyance Company performing inspections, maintenance, servicing or testing the elevators shall be provided a copy of this variance decision.

11. The Division shall be notified when the elevator is ready for inspection. The elevator shall be inspected by the Division and a "Permit to Operate" issued before the elevator is placed in service.

12. The Applicant shall comply with suspension means replacement reporting condition per hereby incorporated Decision and Order Appendix 2.

13. The Applicant shall notify its employees or their authorized representative(s), or both, of this order in the same way and to the same extent that employees and authorized representatives are to be notified of docketed permanent variance applications pursuant to California Code of Regulations, Title 8, Sections 411.2 and 411.3.

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

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

Dated: August 31, 2021

Autumn Gonzalez, Hearing Officer

Appendix 1

	Monospace 500 Suspension Ropes Appendix 1 Table			
OSHSB File No.	Elevator ID	Minimum Quantity of Ropes (per Condition 3)	Maximum Speed in Feet per Minute (per Condition 6)	Maximum Suspended Load (per Condition 7)
21-V-203	2	7	200	11,556
21-V-204	1	8	350	11,706
21-V-204	2	8	350	11,706
21-V-205	2	8	350	11,706
21-V-244	1	7	150	12,247
21-V-247	1	7	200	11,556
21-V-247	2	7	200	11,556
21-V-248	1	8	200	13,207
21-V-251	1	7	150	12,247
21-V-260	1	8	200	13,207
21-V-264	1	7	150	12,247
21-V-266	1	8	350	11,706
21-V-266	2	8	350	11,706
21-V-266	3	7	350	10,243
21-V-266	4	8	350	11,706
21-V-268	1	7	150	12,247

21-V-268	2	7	150	12,247
21-V-268	3	7	150	12,247
21-V-269	1	5	200	8,254
21-V-270	1	7	200	11,556
21-V-270	2	7	200	11,556
21-V-270	3	7	200	11,556
21-V-270	4	7	150	12,247
21-V-270	7	7	150	12,247
21-V-270	8	7	150	12,247

Appendix 2

Suspension Means Replacement Reporting Condition

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

1. A separate report for each elevator shall be submitted, in a manner acceptable to the Division, to the following address (or to such other address as the Division might specify in the future): DOSH Elevator Unit, 2 MacArthur Place, Suite 700, Santa Ana, CA 92707, Attn: Engineering Section.

2. Each such report shall contain, but not necessarily be limited to, the following information:

    a. The State-issued conveyance number, complete address, and OSHSB file number that identifies the permanent variance.

    b. The business name, complete address, telephone number, and contact person of the elevator responsible party (presumably the Applicant or the subsequent holder of this variance).

    c. The business name, complete address, telephone number, and Certified Qualified Conveyance Company (CQCC) certification number of the firm performing the replacement work.

    d. The name (as listed on certification), Certified Competent Conveyance Mechanic (CCCM) certification number, certification expiration date, and signature of each CCCM performing the replacement work.

    e. The date and time the elevator was removed from normal service for suspension replacement, the date and time the replacement work commenced, the date and time the replacement work was completed, and the date and time the elevator was returned to normal service.

    f. A detailed description of, and clear color photographs depicting, (1) all the conditions that existed in the suspension components requiring their replacement and (2) any conditions that existed to cause damage or distress to the suspension components being replaced.

g. A detailed list of all elevator components adjusted, repaired, or replaced in conjunction with the suspension component replacement.

h. All information provided on the crosshead data plate per ASME A17.1-2004, Section 2.20.2.1, unless that ASME requirement is modified by the conditions of a variance that pertains to the elevator in question, in which case, the information to be reported shall be the information required by the ASME provision as modified by the variance.

i. For the suspension means being replaced, all information provided on the data tag required per ASME A17.1-2004, Section 2.20.2.2, unless that ASME requirement is modified by the conditions of a variance that pertains to the elevator in question, in which case, the information to be reported shall be the information required by the ASME provision as modified by the variance.

j. For the replacement suspension means, all information provided on the data tag required by ASME A17.1-2004, Section 2.20.2.2, unless that ASME requirement is modified by the conditions of a variance that pertains to the elevator in question, in which case, the information to be reported shall be the information required by the ASME provision as modified by the variance.

k. Any other information requested by the Division regarding the replacement of the suspension means or fastenings.

3. In addition to the submission of the report to the Division, the findings of any testing, failure analysis, or other engineering evaluations performed on any portion of the replaced suspension components, or other elevator components replaced in conjunction therewith, shall be submitted to the Division referencing the information contained in above Appendix 2, Section 2, Subsection (a), above.

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

In the Matter of Application for Permanent Variance regarding: Schindler 3300 with SIL-Rated Drive to De-energize Motor (Group IV)	OSHSB File No.: See Section A.1 Table in Proposed Decision Dated: August 31, 2021 DECISION

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

_____
DAVID THOMAS, Chairman

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BARBARA BURGEL, Member

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KATHLEEN CRAWFORD, Member

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DAVID HARRISON, Member

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NOLA KENNEDY, Member

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CHRIS LASZCZ-DAVIS, Member

_____
LAURA STOCK, Member

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Date of Adoption: September 16, 2021

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

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

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

In the Matter of Application for Permanent Variance Regarding: Schindler 3300 with SIL-Rated Drive to De-energize Drive Motor (Group IV)	OSHSB File Nos.: Per table, in Jurisdictional and Procedural Matters below PROPOSED DECISION Hearing Date: August 25, 2021

Jurisdictional and Procedural Matters

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

Variance No.	Applicant Name	Variance Location Address	No. of Elevators
21-V-211	Blackpoint Management, Inc.	100 Avram Ave Rohnert Park, CA	3
21-V-213	Beacon Villa, LP	505 W. 10th Street Pittsburg, CA	1
21-V-218	Fortunate Productions LLC	2436 Market Street San Diego, CA	1
21-V-226	1619 Bundy, LLC	1619 S. Bundy Dr. Los Angeles, CA	1
21-V-238	Anargyros John Caloyeras	4264 Centinela Ave Los Angeles, CA	1
21-V-241	Oxnard Town Square 12, LLC	Parking Structure 2710 Wagon Wheel Rd. Oxnard, CA	1
21-V-245	Oxnard Town Square 12, LLC	Apartments 2720 Wagon Wheel Oxnard, CA	1
21-V-246	3050 W. 11th St LLC	3050 W. 11th St. Los Angeles, CA	2
21-V-261	Ruth Teague Homes, LP	6706 S. Main Street Los Angeles, CA	2

21-V-262	Wonderful Real Estate Development, LLC	4050 7th Standard Rd Shafter, CA	1
21-V-265	Shivam Real Estate LLC	5600 John Muir Drive Newark, CA	2

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

3. This hearing was held on August 25, 2021, in Sacramento, California, via teleconference, 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.

4. At the hearing, Jennifer Linares, with the Schindler Elevator Company, appeared on behalf of each Applicant; Kevin Wright appeared on behalf of IUEC Local 8; Mark Wickens and David Morris appeared on behalf of the Division of Occupational Safety and Health ("Division"), and Michael Nelmida appeared on behalf of Board staff, in a technical advisory role apart from the Board.

5. Oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence: each respective permanent variance applications per Section A table as Exhibit PD-1, Notice of Hearing as Exhibit PD-2, Board staff Pending Application Memorandum as PD-3, Division Review of Application as PD-4, Review Draft 1 Proposed Decision as PD-5, and official notice taken of the Board's rulemaking records, and variance decisions concerning the safety order requirements from which variance is requested. At close of hearing on August 25, 2021, the record was closed, and the matter taken under submission by the Hearing Officer.

Relevant Safety Order Provisions

Applicant seeks a permanent variance from section 3141 [ASME A.17.1-2004, sections 2.20.1, 2.20.2.1, 2.20.2.2(a), 2.20.2.2(f), 2.20.3, 2.20.4, 2.20.9.5.4, 2.26.1.4.4(a), 8.4.10.1.1(a)(2)(B), 2.14.1.7.1, and 2.26.9.6.1]. The relevant language of those sections are below.

1. Suspension Means

Section 3141 [ASME A17.1-2004, section 2.20.1, Suspension Means] states in part:

> 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.

Section 3141 [ASME A17.1-2004, section 2.20.2.1(b), On Crosshead Data Plate] states in part:

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

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

Section 3141 [ASME A17.1-2004, section 2.20.2.2(a) and (f) On Rope Data Tag] states in part:

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 non preformed or preformed

Section 3141 [ASME A17.1-2004, section 2.20.3, Factor of Safety] states:

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:

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

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

Section 3141 [ASME A17.1-2004, section 2.20.4, Minimum Number and Diameter of Suspension Ropes] states:

> 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.

Section 3141 [ASME A17.1-2004, section 2.20.9.3.4] states:

> Cast or forged steel rope sockets, shackle rods, and their connections shall be made of unwelded steel, having an elongation of not less than 20% in a gauge length of 50 mm (2 in.), when measured in accordance with ASTM E 8, and conforming to ASTM A 668, Class B for forged steel, and ASTM A 27, Grade 60/30 for cast steel, and shall be stress relieved. Steels of greater strength shall be permitted, provided they have an elongation of not less than 20% in a length of 50 mm (2 in.).

Section 3141 [ASME A17.1-2004, section 2.20.9.5.4] states:

> When the rope has been seated in the wedge socket by the load on the rope, the wedge shall be visible, and at least two wire-rope retaining clips shall be provided to attach the termination side to the load-carrying side of the rope (see Fig. 2.20.9.5). The first clip shall be placed a maximum of 4 times the rope diameter above the socket, and the second clip shall be located within 8 times the rope diameter above the first clip. The purpose of the two clips is to retain the wedge and prevent the rope from slipping in the socket should the load on the rope be removed for any reason. The clips shall be designed and installed so that they do not distort or damage the rope in any manner.

2. Inspection Transfer Switch

Section 3141[ASME A17.1-2004, section 2.26.1.4.4(a), Machine Room Inspection Operation] states:

> When machine room inspection operation is provided, it shall conform to 2.26.1.4.1, and the transfer switch shall be
>
> (a) located in the machine room[.]

3. Seismic Reset Switch

Section 3141[ASME A17.1-2004, section 8.4.10.1.1(a)(2)(b), Earthquake Equipment] states:

> *(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

4. Car-top Railings

Section 3141[ASME A17.1-2004, section 2.14.1.7.1] states:

> 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.

5. SIL-Rated System to Inhibit Current Flow to AC Drive Motor

Section 3141[ASME A17.1-2004, section 2.26.9.6.1] states:

> 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.

Findings of Fact

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

1. Applicant intends to utilize Schindler model 3300 MRL elevator cars at the locations listed in Jurisdictional and Procedural Matters, section 1.

2. The installation contract for these 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. The Schindler model 3300 MRL elevator cars are not supported by circular steel wire ropes, as required by the Elevator Safety Orders (ESO). They utilize non-circular elastomeric-coated steel belts and specialized suspension means fastenings.

4. No machine room is provided, preventing the inspection transfer switch from being located in the elevator machine room. The lack of machine room also prevents the seismic reset switch from being located in the elevator machine room.

5. Applicant proposes to relocate the inspection transfer switch and seismic reset switch in an alternative enclosure.

6. The driving machine and governor are positioned in the hoistway and restrict the required overhead clearance to the elevator car top.

7. Applicant proposes to insert the car-top railings at the perimeter of the car top.

8. Applicant intends to use an elevator control system, model CO NX100NA, with a standalone, solid-state motor control drive system that includes devices and circuits having a Safety Integrity Level (SIL) rating to execute specific elevator safety functions.

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 California Code of Regulation, Title 8, Elevator Safety Orders from which variance is being sought.

Decision and Order:

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

Elevator Safety Orders:

• 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.);

• 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. room);

• Car-Top 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);

• Means of Removing Power: 2.26.9.6.1 (Only to the extent necessary to permit the use of SIL-rated devices and circuits as a means to remove power from the AC driving motor, where the redundant monitoring of electrical protective devices is required by the Elevator Safety Orders).

Conditions:

1. The elevator suspension system shall comply to the following:

    a. The suspension traction media (STM) members and their associated fastenings shall conform to the applicable requirements of ASME A17.1-2013, sections:

        2.20.4.3 – Minimum Number of Suspension Members
        2.20.3 – Factor of Safety
        2.20.9 – Suspension Member Fastening

    b. The Applicant shall not utilize the elevator unless the manufacturer has written procedures for the installation, maintenance, inspection and testing of the STM members and fastenings and related monitoring and detection systems and criteria for STM replacement, and the Applicant shall make those procedures and criteria

available to the Certified Competent Conveyance Mechanic (CCCM) at the location of the elevator, and to the Division upon request.

STM member mandatory replacement criteria shall include:

i. Any exposed wire, strand or cord;
ii. Any wire, strand or cord breaks through the elastomeric coating;
iii. Any evidence of rouging (steel tension element corrosion) on any part of the elastomeric-coated steel suspension member;
iv. Any deformation in the elastomeric suspension member such as, but not limited to, kinks or bends;

c. Traction drive sheaves must have a minimum diameter of 72 mm. The maximum speed of STM members running on 72 mm, 87 mm and 125 mm drive sheaves shall be no greater than 2.5 m/s, 6.0 m/s and 8.0 m/s respectively.

d. If any one STM member needs replacement, the complete set of suspension members on the elevator shall be replaced. Exception: if a new suspension member is damaged during installation, and prior to any contemporaneously installed STM having been placed into service, it is permissible to replace the individual damaged suspension member. STM members that have been installed on another installation shall not be re-used.

e. 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.

f. 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).

g. An elevator controller integrated bend cycle monitoring system shall monitor actual STM bend cycles, by means of continuously counting, and storing in nonvolatile memory, the number of trips that the STM makes traveling, and thereby being bent, over the elevator sheaves. The bend cycle limit monitoring means shall automatically stop the car normally at the next available landing before the bend cycle correlated residual strength of any single STM member drops below 80 percent of full rated strength. The monitoring means shall prevent the car from restarting. The bend cycle monitoring system shall be tested annually in accordance with the procedures required by condition 1b above.

h. The elevator shall be provided with a device to monitor the remaining residual strength of each STM member. The device shall conform to the requirements of

Division Circular Letter E-10-04, a copy of which is attached hereto as Exhibit 1 and incorporated herein by reference.

i. The elevator crosshead data plate shall comply with the requirements of ASME A17.1-2013, section 2.20.2.1.

j. A suspension means data tag shall be provided that complies with the requirements of ASME A17.1-2013, section 2.20.2.2.

k. Comprehensive visual inspections of the entire length of each and all installed suspension members, to the criteria developed in condition 1b, shall be conducted and documented every six months by a CCCM.

l. The Applicant shall be subject to the requirements set out in Exhibit 2 of this Decision and Order, "Suspension Means Replacement Reporting Condition," Incorporated herein by this reference.

m. 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. 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.

3. 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.

4. 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 the railings to perform adjustments, maintenance, repairs or inspections. The Applicant shall not permit anyone to stand or climb over the car-top railing.

b. The distance that the railing can be inset shall be limited to not more than 6 inches.

c. All exposed areas of the car top outside the car-top railing where the distance from the railing to the edge of the car top exceeds 2 inches, shall be beveled with metal, at an angle of not less than 75 degrees with the horizontal, from the mid or top rail to

the outside of the car top, such that no person or object can stand, sit, kneel, rest, or be placed in the exposed areas.

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 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

f. 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).

5. The SIL-rated devices and circuits used to inhibit electrical current flow in accordance with ASME A17.1-2004, section 2.26.9.6.1 shall comply with the following:

a. The SIL-rated devices and circuits shall consist of a Variodyn SIL-3 rated Regenerative, Variable Voltage Variable Frequency (VVVF) motor drive unit, model VAF013 or VAF023, 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 1556.00), and followed by the applicable revision number (as in 968/FSP 1556.00/19).

b. The devices and circuits shall be certified for compliance with the applicable requirements of ASME A17.1-2013, section 2.26.4.3.2.

c. 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.

d. 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.

e. Wiring diagrams that include part identification, SIL, and certification information shall be maintained in the elevator machine/control room/space.

f. A successful test of the SIL-rated devices and 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.

g. Any alterations to the SIL-rated devices and 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.

h. Any replacement of the SIL-rated devices and 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.

i. Any repairs to the SIL-rated devices and 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.

j. Any space containing SIL-rated devices and circuits shall be maintained within the temperature and humidity range specified by Schindler Elevator Corporation. The temperature and humidity range shall be posted on each enclosure containing SIL-rated devices and circuits.

k. Field changes to the SIL-rated system are not permitted. Any changes to the SIL-rated system's devices and circuitry will require recertification and all necessary updates to the documentation and diagrams required by conditions d. and e. above.

6. The Division shall be notified when the elevator is ready for inspection. The elevator shall be inspected by the Division, and all applicable requirements met, including conditions of this permanent variance, prior to a Permit to Operate the elevator being issued. The elevator shall not be placed in service prior to the Permit to Operate being issued by Division.

7. The Applicant shall notify its employees or their authorized representative(s), or both, of this order in the same way that the Applicant was required to notify them of the docketed application for permanent variance per California Code of Regulations, Title 8, Sections 411.2 and 411.3.

8. This Decision and Order shall remain in effect unless modified or revoked upon application by the Applicant, affected employee(s), the Division of Occupational Safety and Health, or by

the Board on its own motion, in the procedural manner prescribed per Title 8, Chapter 3.5, Subchapter 1.

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

DATED: August 31, 2021

Autumn Gonzalez, Hearing Officer

EXHIBIT 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

EXHIBIT 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 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 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 Al7.l-2004, Section 2.20.2.1, unless that ASME requirement is modified by the conditions of a variance that pertains to the elevator in question, in which case, the information to be reported shall be the information required by the ASME provision as modified by the variance.

i. For the suspension means being replaced, all information provided on the data tag required per ASME A17.1-2004, Section 2.20.2.2, unless that ASME requirement is modified by the conditions of a variance that pertains to the elevator in question, in which case, the information to be reported shall be the information required by the ASME provision as modified by the variance.

j. For the replacement suspension means, all information provided on the data tag required by ASME A17.1-2004, Section 2.20.2.2, unless that ASME requirement is modified by the conditions of a variance that pertains to the elevator in question, in which case, the information to be reported shall be the information required by the ASME provision as modified by the variance.

k. Any other information requested by the Division regarding the replacement of the suspension means or fastenings.

3. In addition to the submission of the report to the Division, the findings of any testing, failure analysis, or other engineering evaluations performed on any portion of the replaced suspension components, or other elevator components replaced in conjunction therewith, shall be submitted to the Division referencing the information contained in item 2a above.

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

In the Matter of Application for Permanent Variance regarding: Schindler Model 3300 Elevators with Variant Gov. Ropes & Sheaves (Group IV)	OSHSB File No.: See Section A.1 Table in Proposed Decision Dated: August 31, 2021 DECISION

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

_____
DAVID THOMAS, Chairman

_____
BARBARA BURGEL, Member

_____
KATHLEEN CRAWFORD, Member

_____
DAVID HARRISON, Member

_____
NOLA KENNEDY, Member

_____
CHRIS LASZCZ-DAVIS, Member

_____
LAURA STOCK, Member

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Date of Adoption: September 16, 2021

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

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

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

In the Matter of Application for Permanent Variance Regarding: Schindler Model 3300 Elevators with variant Gov. Ropes & Sheaves (Group IV)	OSHSB File Nos.: See Section A.1 table below PROPOSED DECISION Hearing Date: August 25, 2021

A. Subject Matter and Jurisdiction**:**

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

Variance No.	Applicant Name	Variance Location Address	No. of Elevators
21-V-212	8521 S, LLC	8521 Sepulveda Blvd. Los Angeles, CA	2
21-V-237	SummerHill N40 LLC	14225 Walker St Los Gatos, CA	2
21-V-252	Spring Education Group	25 Corning Avenue Milpitas, CA	1

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

3. The safety orders at issue are set out in below Section C.1—C.4.

B. Process and Procedure**:**

1. This hearing was held on August 25, 2021, in Sacramento, California, via teleconference, 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.

2. At the hearing, Jennifer Linares with the Schindler Elevator Corporation, appeared on behalf of each Applicant; Kevin Wright appeared on behalf of IUEC Local 8;

Mark Wickens and David Morris appeared on behalf of the Division of Occupational Safety and Health ("Division"); and Michael Nelmida appeared on behalf of Board staff, in a technical advisory role apart from the Board.

3. Oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence: each respective permanent variance application per Section A table as Exhibit PD-1, Notice of Hearing as Exhibit PD-2, Board staff Pending Application Memorandum as PD-3, Division Review of Application as PD-4, Review Draft 1 Proposed Decision as PD-5, and official notice taken of the Board's rulemaking records, and variance decisions concerning the safety order requirements from which variance is requested. At close of hearing on August 25, 2021, the record was closed, and the matter taken under submission by the Hearing Officer.

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

Requested Suspension Means Related Variance:

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

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

Requested Car Top Railing Inset Variance:

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

    Section 2.14.1.7.1—Top of Car Perimeter Railing Placement

Requested Seismic Reset Switch Placement Variance:

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

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

Requested Transfer Switch Placement Variance:

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

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

Requested Governor Sheave to Rope Diameter Ratio Variance:

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

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

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

Table 2.18.7.4 Multiplier for Determining Governor Sheave Pitch Diameter

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

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

6. Per the Application, the proposal is stated as follows: "The approved speed governor provided for this elevator has a sheave diameter-to-governor rope diameter ratio [D/d] of 33. This is not compliant with the current Group IV Elevator Safety Orders which require a [D/d] of 42-46. Equivalent safety will be attained by providing a governor rope with a breaking strength that provides a factor of safety greater than that required by the Elevator Safety Orders, and a governor sheave diameter which complies with the requirements of ASME A17.1-2010, Section 2.18.5.1, and Section 2.18.7.4, which, under certain conditions, permits the use of a governor rope and governor sheave ratio [D/d] of not less than 30."

7. Having analyzed the request, as reflected in its Review of Application (Exhibit PD-4) Division is of the well informed professional opinion that the proposal, in as much as it is to use a governor with sheave pitch diameter of not less than the product of the governor rope diameter and a multiplier of 30, in conjunction with a steel governor rope with a diameter of 6 mm (0.25 in.), 6-strand construction, and a factor of safety of 8 or greater, will provide safety, and workplace safety and health equivalent or superior to that of the ASME A17.1-2004, Section 2.18.7.4. Division also correctly notes Applicant's proposed governor sheave pitch diameter, and reduced diameter governor rope installation is similar to installations for which a permanent variance has been previously conditionally granted. (e.g. OSHSB File No. 19-V-076)

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

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

Positions of Division, and Board Staff:

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

D. Conclusive Findings**:**

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

E. Decision and Order**:**

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

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

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

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

accessible and secure space shared with the motion controller outside the hoistway: Section 8.4.10.1.1.

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

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

Further Conditions and Limitations:

1. The elevator suspension system shall comply to the following:

    1.1. The suspension traction media (STM) members and their associated fastenings shall conform to the applicable requirements of ASME A17.1-2013, sections:

    - 2.20.4.3 – Minimum Number of Suspension Members
    - 2.20.3 – Factor of Safety
    - 2.20.9 – Suspension Member Fastening

    1.1.1 Additionally, STMs shall meet or exceed all requirements of ASME 17.6-2010, Standard for Elevator Suspension, Compensation, and Governor Systems, Part 3 Noncircular Elastomeric Coated Steel Suspension Members for Elevators.

    1.2. The Applicant shall not utilize the elevator unless the manufacturer has written procedures for the installation, maintenance, inspection and testing of the STM members and fastenings and related monitoring and detection systems and criteria for STM replacement, and the Applicant shall make those procedures and criteria available to the Certified Competent Conveyance Mechanic (CCCM) at the location of the elevator, and to the Division of Occupational Safety and Health (Division) upon request.

    1.3. STM member mandatory replacement criteria shall include:

    1.3.1 Any exposed wire, strand or cord;

    1.3.2 Any wire, strand or cord breaks through the elastomeric coating;

1.3.3 Any evidence of rouging (steel tension element corrosion) on any part of the elastomeric coated steel suspension member;

1.3.4 Any deformation in the elastomeric suspension member such as, but not limited to, kinks or bends.

1.4. Traction drive sheaves must have a minimum diameter of 72 mm. The maximum speed of STM members running on 72 mm, 87 mm and 125 mm drive sheaves shall be no greater than 2.5 m/s, 6.0 m/s and 8.0 m/s respectively.

1.5. If any one STM member needs replacement, the complete set of suspension members on the elevator shall be replaced. Exception: If a new suspension member is damaged during installation, and prior to any contemporaneously installed STM having been placed into service, it is permissible to replace the individual damaged suspension member. STM members that have been installed on another installation shall not be re-used.

1.6. A traction loss detection means shall be provided that conforms to the requirements of ASME A17.1-2013, Section 2.20.8.1. The means shall be tested for correct function annually in accordance with ASME A17.1-2013, section 8.6.4.19.12.

1.7. A broken suspension member detection means shall be provided that conforms to the requirements of ASME A17.1-2013, Section 2.20.8.2. The means shall be tested for correct function annually in accordance with ASME A17.1-2013, section 8.6.4.19.13(a).

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

1.9. Each elevator shall be provided with a device that electronically detects a reduction in residual strength of each STM member. The device shall be in compliance with Division Circular Letter E-10-04, a copy of which is attached hereto as Addendum 1, and incorporated herein by reference.

1.10. The elevator crosshead data plate shall comply with the requirements of ASME A17.1-2013, Section 2.20.2.1.

1.11. A suspension means data tag shall be provided that complies with the requirements of ASME A17.1-2013, Section 2.20.2.2.

1.12. Comprehensive visual inspections of the entire length of each and all installed suspension members, in conformity with above Conditions 1.2 and 1.3 specified criteria, shall be conducted and documented every six months by a CCCM.

1.13. The Applicant shall be subject to the requirements per hereto attached, and inhere incorporated, Addendum 2, "Suspension Means Replacement Reporting Condition."

1.14. Records of all tests and inspections shall be maintenance records subject to ASME A17.1-2004, Sections 8.6.1.2, and 8.6.1.4, respectively.

2. Inspection Transfer switch and Seismic Reset switch placement and enclosure shall comply with the following:

2.1. If the inspection transfer switch required by ASME A17.1-2004, Rule 2.26.1.4.4, does not reside in a machine room, that switch shall not reside in the elevator hoistway. The switch shall reside in the control/machinery room/space containing the elevator's control equipment in an enclosure secured by a lock openable by a Group 1 security key. The enclosure is to remain locked at all times when not in use.

2.2. If the seismic reset switch does not reside in the machine room, that switch shall not reside in the elevator hoistway. The switch shall reside in the control/machinery room/space containing the elevator's control equipment in an enclosure secured by a lock openable by a Group 1 security key. The enclosure is to remain locked at all times when not in use.

3. Any and all inset car top railing shall comply with the following:

3.1. Serviceable equipment shall be positioned so that mechanics and inspectors do not have to stand on or climb over the railings to perform adjustments, maintenance, repairs or inspections. The Applicant shall not permit anyone to stand or climb over the car top railing.

3.2. The distance that the railing can be inset shall be limited to not more than 6 inches.

3.3. All exposed areas of the car top outside the car top railing where the distance from the railing to the edge of the car top exceeds 2 inches, shall be beveled with metal, at an angle of not less than 75 degrees with the horizontal, from the mid or top rail to the outside of the car top, such that no person or object can stand, sit, kneel, rest, or be placed in the exposed areas.

3.4. The top surface of the beveled area and/or car top outside the railing, shall be clearly marked. The markings shall consist of alternating 4 inch diagonal red and white stripes.

3.5. The applicant shall provide durable signs with lettering not less than 1/2 inch on a contrasting background on each inset railing; each sign shall state:

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

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

4. The elevator shall be serviced, maintained, adjusted, tested, and inspected only by CCCM having been trained, and competent, to perform those tasks on the Schindler Model 3300 elevator system in accordance with written procedures and criteria, including as required per above Conditions 1.2, and 1.3.

5. The speed governor rope and sheaves shall comply with the following:

5.1. The governor shall be used in conjunction with a steel 6 mm (0.25 in.) diameter governor rope with 6-strand, regular lay construction.

5.2. The governor rope shall have a factor of safety of 8 or greater as related to the strength necessary to activate the safety.

5.3. The governor sheaves shall have a pitch diameter of not less than 200 mm (7.87 in.).

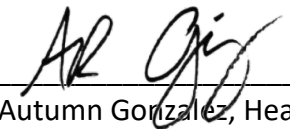
6. The Division shall be notified when the elevator is ready for inspection. The elevator shall be inspected by the Division, and all applicable requirements met, including conditions of this permanent variance, prior to a Permit to Operate the elevator being issued. The elevator shall not be placed in service prior to the Permit to Operate being issued by Division.

7. The Applicant shall notify its employees or their authorized representative(s), or both, of this order in the same way and to the same extent that employees and authorized representatives are to be notified of docketed permanent variance applications pursuant to California Code of Regulations, Title 8, Sections 411.2, and 411.3.

8. This Decision and Order shall remain in effect unless modified or revoked upon application by the Applicant, affected employee(s), the Division, or by the Board on its own motion, in procedural accordance with Title 8, Sections 411, et. seq.

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

Dated: August 31, 2021



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 Elevator (Group IV) Gen2(O) and/or Gen2L Alterations	OSHSB File No.: See Section A.1 table in Proposed Decision Dated: August 31, 2021 DECISION

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

_____
DAVID THOMAS, Chairman

_____
BARBARA BURGEL, Member

_____
KATHLEEN CRAWFORD, Member

_____
DAVID HARRISON, Member

_____
NOLA KENNEDY, Member

_____
CHRIS LASZCZ-DAVIS, Member

_____
LAURA STOCK, Member

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Date of Adoption: September 16, 2021

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

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

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

In the Matter of Application for Permanent Variance Regarding: Otis Elevator (Group IV) Gen2(O) and/or Gen2L Alterations	OSHSB File Nos.: See Section A.1 table below PROPOSED DECISION Hearing Date: August 25, 2021

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[1], or applied to modify such variances, with respect to a conveyance, or conveyances, in the listed quantity, at the listed location:

Variance No.	Applicant Name	Variance Location Address	No. of Elevators
21-V-216	The Regents of the University of California	UCSF Mission Center Building (MCB) 1855 Folsom St. San Francisco, CA	2

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

B. Jurisdiction:

This proceeding is conducted in accordance with Labor Code Section 143, and section 401, et. seq.

C. Procedural:

1. This hearing was held on August 25, 2021, in Sacramento, California, via teleconference, 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 title 8, California Code of Regulations.

2. At the hearing, Dan Leacox of Leacox & Associates, appeared on behalf of each Applicant; Kevin Wright appeared on behalf of IUEC Local 8; Mark Wickens and David Morris appeared on behalf of the Division of Occupational Safety and Health ("Division"); and Michael Nelmida appeared on behalf of Board staff in a technical advisory role apart from the Board.

3. Oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence: each permanent variance application per Section A.1 table as Exhibit PD-1; Notice of Hearing as Exhibit PD-2; each respective Board staff Pending Application Memorandum as PD-3; Division evaluation as PD-4; Review Draft 1 Proposed Decision as PD-5; and official notice taken of the Board's rulemaking records and variance decisions concerning the safety order requirements from which variance is requested. At close of hearing on August 25, 2021, the record closed, and the matter was taken under submission by the Hearing Officer.

D. Findings and Basis:

1. Each Applicant intends to alter elevators at the locations, and in the numbers, stated in the Section A.1 table such that each elevator becomes (or incorporates features of) an Otis Gen2(O) and/or Otis Gen2L elevator.

2. The belts and connections that each Applicant intends to install are the same as are used on new Otis Gen2(O)/Gen2L installations.

3. The alterations will be performed after May 1, 2008, and the contracts for the alterations were or will be signed on or after May 1, 2008, making those alterations subject to the Group IV Elevator Safety Orders.

4. The Board incorporates by reference the findings stated in: (a) Items 3 through 5.c, 5.e, and 5.f of the "Findings of Fact" section of the Proposed Decision adopted by the Board on February 19, 2009, regarding OSHSB File No. 08-V-247; (b) Item D.3 of the Proposed Decision adopted by the Board on July 16, 2009, regarding OSHSB File No. 09-V-042; (c) Item D.4 of the Proposed Decision adopted by the Board on September 16, 2010, regarding OSHSB File No. 10-V-029; and (d) Items D.4, D.5, and D.7 of the proposed decision adopted by the Board on July 18, 2013, regarding OSHSB File No. 12-V-146.

E. Conclusive Findings:

The above stated procedural prerequisites, legal authority, and factual findings, as further supported by the documentary record and hearing testimony in this matter, provide a substantive and reasonable basis of conclusion that: (1) Each Applicant has complied with

the statutory and regulatory requirements that must be met before an application for permanent variance may be conditionally granted, and (2) a preponderance of the evidence establishes that each Applicants proposal, subject to all conditions and limitations set forth in the below Decision and Order, will provide equivalent safety and health to that which would prevail upon full compliance with the requirements of the Elevator Safety Orders from which variance is being sought.

F. Decision and Order:

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

- Sections 8.7.1.1(b), 8.7.2.21.1, and 8.7.2.25.1(c) (to the extent necessary to permit variance from the ASME A17.1-2004 provisions listed in the next bullet point);

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

- Sections 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, 2.20.9.5.4, (only to the extent necessary to permit the use of Otis Gen2 flat coated steel suspension belts [the belts proposed for use on these Gen2(O) and/or Gen2L elevators] in lieu of conventional steel suspension ropes),

- Sections 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

- Sections 8.4.10.1.1(a)(2)(b) (only to the extent necessary to allow the seismic reset switch to reside at a location other than a machine room, if, in fact, it does not reside in the machine room)].

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

1. Each elevator subject to this variance shall comply with all applicable Group IV Elevator Safety Orders and with all ASME provisions made applicable by those Group IV Elevator Safety Orders, except those from which variances are granted, as set forth in the prefatory portion of this Decision and Order.

2. The elevator suspension system shall comply with the following:

    a. The coated steel belt shall have a factor of safety at least equal to the factor of safety that ASME A17.1-2004, Section 2.20.3 would require for wire ropes if the elevator were suspended by wire ropes rather than the coated steel belt.

    b. Steel coated belts that have been installed and used on another installation shall not be reused.

    c. The coated steel belt shall be fitted with a monitoring device which has been accepted by the Division and which will automatically stop the car if the residual strength of any single belt drops below 60 percent. If the residual strength of any single belt drops below 60 percent, the device shall prevent the elevator from restarting after a normal stop at a landing.

    d. Upon initial inspection, the readings from the monitoring device shall be documented and submitted to the Division.

    e. A successful test of the monitoring device's functionality shall be conducted at least once a year (the record of the annual test of the monitoring device shall be a maintenance record subject to ASME A17.1-2004, Section 8.6.1.4).

    f. The coated steel belts used shall be accepted by the Division.

    g. The installation of belts and connections shall be in conformance with the manufacturer's specifications, which shall be provided to the Division.

3. With respect to each elevator subject to this variance, the applicant shall comply with Division Circular Letter E-10-04, a copy of which is attached hereto as Addendum 1 and incorporated herein by this reference.

4. The Applicant shall not utilize the elevator unless the manufacturer has written procedures for the installation, maintenance, inspection, and testing of the belts and monitoring device, and criteria for belt replacement, and the Applicant shall make those procedures and criteria available to the Division upon request.

5. The flat coated steel belts shall be provided with a metal data tag that is securely attached to one of those belts. This data tag shall bear the following flat steel coated belt data:

    a. The width and thickness in millimeters or inches;
    b. The manufacturer's rated breaking strength in (kN) or (lbf);
    c. The name of the person who or organization that installed the flat coated steel belts;
    d. The month and year the flat coated steel belts were installed;
    e. The month and year the flat coated steel belts were first shortened;
    f. The name or trademark of the manufacturer of the flat coated steel belts; and
    g. Lubrication information.

6. There shall be a crosshead data plate of the sort required by Section 2.20.2.1, and that plate shall bear the following flat steel coated belt data:

    a. The number of belts;
    b. The belt width and thickness in millimeters or inches; and
    c. The manufacturer's rated breaking strength per belt in (kN) or (lbf).

7. If the seismic reset switch does not reside in a machine room, that switch shall not reside in the elevator hoistway. The switch shall reside in the inspection and test control panel located in one upper floor hoistway door jamb or in the control space (outside the hoistway) used by the motion controller.

8. If the inspection transfer switch required by ASME A17.1, rule 2.26.1.4.4(a) does not reside in a machine room, that switch shall not reside in the elevator hoistway. The switch shall reside in the inspection and test control panel located in one upper floor hoistway door jamb or in the control space (outside the hoistway) used by the motion controller.

9. When the inspection and test control panel is located in the hoistway door jamb, the inspection and test control panels shall be openable only by use of a Security Group I restricted key.

10. The opening to the hoistway shall be effectively barricaded when car top inspection, maintenance, servicing, or testing of elevator equipment in the hoistway is required. If service personnel must leave the area for any reason, the hoistway and control room doors shall be closed.

11. If there is an inset car top railing:

    a. Serviceable equipment shall be positioned so that mechanics and inspectors do not have to climb on railings to perform adjustment, maintenance, repairs, or inspections. The applicant shall not permit anyone to stand on or climb over the car top railing.

    b. The distance that the car top railing may be inset from the car top perimeter shall be limited to no more than 6 inches.

    c. All exposed areas of the car top outside the car top railing shall preclude standing or placing objects or persons which may fall and shall be beveled from the mid- or top rail to the outside of the car top.

    d. The top of the beveled area and/or the car top outside the railing shall be clearly marked. The markings shall consist of alternating 4 inch diagonal red and white stripes.

    e. The Applicant shall provide durable signs with lettering not less than ½ inch on a contrasting background on each inset railing; each sign shall state:

    CAUTION
    DO NOT STAND ON OR CLIMB OVER RAILING

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

12. Each elevator shall be serviced, maintained, adjusted, tested, and inspected by Certified Competent Conveyance Mechanics who have been trained, and are competent, to perform those tasks on the Gen2(O) and/or Gen2L elevator system the Applicant proposes to use, in accordance with the written procedures and criteria required by Condition No. 4 and all other terms and conditions of this permanent variance.

13. Any Certified Qualified Conveyance Company performing inspections, maintenance, servicing, or testing of the elevators shall be provided a copy of this variance decision.

14. The Division shall be notified when the elevator is ready for inspection. No elevator shall be placed in service prior to it being inspected and issued a Permit to Operate by the Division

15. Each Applicant shall be subject to the suspension means replacement reporting condition stated in Addendum 2; that condition is incorporated herein by this reference.

16. Each Applicant shall notify its employees or their authorized representative(s), or both, of this order in the same way that the Applicant was required to notify them of the application for permanent variance per sections 411.2 and 411.3.

17. This Decision and Order shall remain in effect unless modified or revoked upon application by the Applicant, affected employee(s), the Division of Occupational Safety and Health, or by the Board on its own motion, in accordance with the Board's procedural regulations.

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

Dated: August 31, 2021

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: Schindler Model 6400 Elevators (Group IV, STM Alteration)	OSHSB File No.: See Section A.1 Table in Proposed Decision Dated: August 31, 2021 DECISION

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

_____
DAVID THOMAS, Chairman

_____
BARBARA BURGEL, Member

_____
KATHLEEN CRAWFORD, Member

_____
DAVID HARRISON, Member

_____
NOLA KENNEDY, Member

_____
CHRIS LASZCZ-DAVIS, Member

_____
LAURA STOCK, Member

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Date of Adoption: September 16, 2021

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

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

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

In the Matter of Application for Permanent Variance by: Schindler Model 6400 Elevators (Group IV, STM Alteration)	OSHSB File Nos. See Section A.1 Table below PROPOSED DECISION Hearing Date: August 25, 2021

A. Subject Matter:

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

Variance No.	Applicant Name	Variance Location Address	No. of Elevators
21-V-228	Coronado Shores Condominium Association No.9	1820 Avenida Del Mundo Ave. Coronado, CA	2

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

B. Process and Procedure:

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

2. The installation contract for the subject elevators was signed after May 1, 2008. Therefore, the subject elevators fall within the scope of the Elevator Safety Orders (ESO) Group IV Section 3141, and as incorporated by reference therein, ASME A17.1-2004.

3. This hearing was held on August 25, 2021, in Sacramento, California, via teleconference, by Occupational Safety and Health Standards Board ("Board") assigned 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.

4. At the hearing, Jennifer Linares with Schindler Elevator Corporation, appeared on behalf of the each Applicant; Kevin Wright appeared on behalf of IUEC Local 8; Mark Wickens and David Morris appeared on behalf of the Division of Occupational Safety and Health

("Division"), and Michael Nelmida appeared on behalf of Board staff, in a technical advisory role apart from the Board.

5. Oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence: each respective permanent variance applications per Section A table as Exhibit PD-1, Notice of Hearing as Exhibit PD-2, Board staff Pending Application Memorandum as PD-3, Division Review of Application as PD-4, Review Draft 1 Proposed Decision as PD-5, and official notice taken of the Board's rulemaking records, and variance decisions concerning the safety order requirements from which variance is requested. At close of hearing on August 25, 2021, the record was closed, and the matter taken under submission by the Hearing Officer.

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

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

   - Section 2.20.1—Wire rope suspension means;
   - Section 2.20.2.1—Crosshead data plate;
   - Subsection 2.20.2.2(a)—Wire rope data tag;
   - Subsection 2.20.2.2(f)—ID of steel wire rope as preformed or nonpreformed;
   - Section 2.20.3—Wire rope safety factor;
   - Section 2.20.4—Number and diameter of wire ropes;
   - Section 2.20.9.3.4—Wire rope end connections;
   - Section 2.20.9.5—Wire rope sockets;

2. ASME A17.1-2004, Section 2.20.1 states in relevant part:

   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.

3. ASME A17.1-2004, Section 2.20.2.1 states in relevant part:

   2.20.2.1 On Crosshead Data Plate. The crosshead data plate required by 2.16.3 shall bear the following wire-rope data:

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

4. ASME A17.1-2004, Section 2.20.2.2 state in relevant part:

   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 non preformed or preformed

5. ASME A17.1-2004, Section 2.20.3 states:

   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 = S x 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

6. ASME A17.1-2004, Section 2.20.4 states:

   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.*

7. ASME A17.1-2004, Section 2.20.9.3.4 states:

   2.20.9.3.4. Cast or forged steel rope sockets, shackle rods, and their connections shall be made of unwelded steel, having an elongation of not less than 20% in a gauge length of 50 mm (2 in.), when measured in accordance with ASTM E8, and conforming to ASTM A 668, Class B for forged steel, and ASTM A 27, Grade 60/30 for cast steel, and shall be stress relieved. Steels of greater strength shall be permitted, provided they have an elongation of not less than 20% in a length of 50 mm (2 in.).

8. ASME A17.1-2004, Section 2.20.9.5.4 states:

   2.20.9.5.4. When the rope has been seated in the wedge socket by the load on the rope, the wedge shall be visible, and at least two wire-rope retaining clips shall be provided to attach the termination side to the load-carrying side of the rope (see Fig. 2.20.9.5). The first clip shall be placed a maximum of 4 times the rope diameter above the socket, and the second clip shall be located within 8 times the rope diameter above the first clip. The purpose of the two clips is to retain the wedge and prevent the rope from slipping in the socket should the load on the rope be removed for any reason. The clips shall be designed and installed so that they do not distort or damage the rope in any manner.

9. A central intent of these code requirements is to ensure that the material used for suspending an elevator car is steel wire rope. Steel wire rope has long been the only accepted method for suspending elevators due to its ability to be visually examined and its proven robust construction. The steel wire rope and attachment specifications contained in the current Elevator Safety Orders are not uniformly suitable for application to the proposed non-circular elastomeric coated steel belt suspension due to its dissimilar construction and fastening to that of wire rope.

10. Applicant proposes to utilize an engineered belt-type suspension product that arranges steel tension members horizontally in an elastomeric coating using specifically designed fastenings for attachment. This suspension product is provided by Schindler Elevator Corporation and is designated as “Suspension Traction Media” (STM). This suspension product has been the subject of previous permanent variance proceedings in which the Board did find equivalent safety would prevail upon grant of permanent variance subject to conditions and limitations in substantial conformity with those presently set out in the below Decision and Order (e.g. OSHSB File Nos. 15-V-349; 18-V-143).

11. Applicant asserts that the use of the STM product, along with the following conditions, will provide equivalent safety:

    - The STM's will be maintained in accordance with the Schindler 6400 Maintenance Control Program (MCP), Chapter 4, Special Procedures – Suspension Traction Media.
    - A "traction loss monitoring" system complying with ASME A17.1-2016 will be provided.
    - A means to detect a broken STM will be provided that will cause the elevator to automatically stop at the next available landing on detection of a parted STM.
    - A means to count the number of STM bending cycles to estimate through correlation the remaining residual strength of the STMs.
    - A means to monitor the actual residual strength of the STMs in accordance with the Division issued Circular Letter E-10-04, will be provided.
    - Visual inspections of STM conducted semiannually, per MCP (Application attachment 7E & 7F).

12. Attached to each respective Application are documentation of laboratory testing and third party certification attesting to the suitability of the STM product for use as an elevator suspension means. The Application also contains the statement: *"The STM meets or exceeds 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."* ASME A17.6 is a model standard for elevator suspension means, including non-circular elastomeric coated steel belts such as the Schindler STM product. However, it does bear noting that it is not a standard referenced or incorporated into the current Title 8, Elevator Safety Orders.

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

13. Per hereby entered stipulation offered at hearing by Applicant, Division, and Board staff, concerning preexisting Board records, including decisions in matters of permanent variance from Elevator Safety Order requirements (see above B.4), the Board takes Official Notice and expressly incorporates herein by reference, OSHSB File No. 15-V-349, Decision and Order adopted November 17, 2016, Section D.5—D.51 findings, and therein entered record upon which it was based.

Positions of Division, and Board Staff:

14. It is the concurrent well informed opinion of Division, its Elevator Unit staff, and Board staff, that grant to Applicant of permanent variance, subject to conditions and limitations in full accord with those specified per the below Decision and Order, will provide for elevator safety, and occupational safety and health, equivalent or superior to that of the Elevator Safety Order requirements from which variance is being sought.

D. Basis of Decision:

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

E. Decision and Order:

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

Suspension Members—to the limited extent variance is necessary to provide for below conditionally specified use of noncircular elastomeric-coated steel suspension members, concomitant components, and configurations, permanent variance is granted from the following Title 8, Section 3141 incorporated sections and subsections of ASME A17.1-2004:

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

- Section 2.20.9.5—Wire rope sockets;

Further Conditions and Limitations of Permanent Variance:

1. The elevator suspension system shall comply with the following:

1.1. The suspension traction media (STM) members and their associated fastenings shall conform to the applicable requirements of ASME A17.1-2013, sections:

- Section 2.20.4.3 – Minimum Number of Suspension Members
- Section 2.20.3 – Factor of Safety
- Section 2.20.9 – Suspension Member Fastening

1.1.1 Additionally, the subject STMs 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.

1.2. The Applicant shall not utilize the elevator unless the manufacturer has provided written procedures for the installation, maintenance, inspection and testing of the STM members and fastenings and related monitoring and detection systems and criteria for STM replacement, and the Applicant shall make those procedures and criteria available to the Certified Competent Conveyance Mechanic (CCCM) at the location of the elevator, and to the Division of Occupational Safety and Health (Division) upon request.

1.3. STM member mandatory replacement criteria shall include:

1.3.1 Any exposed wire, strand or cord;

1.3.2 Any wire, strand or cord breaks through the elastomeric coating;

1.3.3 Any evidence of rouging (steel tension element corrosion) on any part of the elastomeric coated steel suspension member;

1.3.4 Any deformation in the elastomeric suspension member such as, but not limited to, kinks or bends.

1.4. Traction drive sheaves must have a minimum diameter of 72 mm. The maximum speed of STM members running on 72 mm, 87 mm and 125 mm drive sheaves shall be no greater than 2.5 m/s, 6.0 m/s and 8.0 m/s respectively.

1.5. If any one STM member needs replacement, the complete set of suspension members on the elevator shall be replaced. Exception: If a new suspension

member is damaged during installation, and prior to any contemporaneously installed STM having been placed into service, it is permissible to replace the individual damaged suspension member. STM members that have been installed on another installation shall not be re-used.

1.6. A traction loss detection means shall be provided that conforms to the requirements of ASME A17.1-2013, section 2.20.8.1. The means shall be tested for correct function annually in accordance with ASME A17.1-2013, section 8.6.4.19.12.

1.7. A broken suspension member detection means shall be provided that conforms to the requirements of ASME A17.1-2013, section 2.20.8.2. The means shall be tested for correct function annually in accordance with ASME A17.1-2013, section 8.6.4.19.13(a).

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

1.9. The elevator shall be provided with a device that electronically detects a reduction in residual strength of each STM member. The device shall be in compliance with Division Circular Letter E-10-04, a copy of which is attached hereto as Addendum 1, and incorporated herein by reference.

1.10. The elevator crosshead data plate shall comply with the requirements of ASME A17.1-2013, Section 2.20.2.1.

1.11. A suspension means data tag shall be provided that complies with the requirements of ASME A17.1-2013, Section 2.20.2.2.

1.12. Comprehensive visual inspections of the entire length of each and all installed suspension members, in conformity with above Conditions 1.2 and 1.3 specified criteria, shall be conducted and documented every six months by a CCCM.

1.13. The Applicant shall be subject to the requirements per hereto attached, and inhere incorporated, Addendum 2, "Suspension Means Replacement Reporting Condition."

1.14. Records of all tests and inspections shall be maintenance records subject to ASME A17.1-2004, Sections 8.6.1.2 and 8.6.1.4, respectively.

2. The elevator shall be serviced, maintained, adjusted, tested, and inspected only by CCCM having been trained, and competent, to perform those tasks on the Schindler Model 6400 elevator system in accordance with written procedures and criteria, including as required per above Conditions 1.2, and 1.3.

3. 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.

4. The Applicant shall notify its employees or their authorized representative(s), or both, of this order in the same way and to the same extent that employees and authorized representatives are to be notified of docketed permanent variance applications pursuant to California Code of Regulations, Title 8, Sections 411.2 and 411.3.

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

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

Dated: August 31, 2021

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: Schindler Model 5500 Elevators (Group IV)	OSHSB File No.: See Section A.1 Table in Proposed Decision Dated: August 31, 2021 DECISION

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

_____
DAVID THOMAS, Chairman

_____
BARBARA BURGEL, Member

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KATHLEEN CRAWFORD, Member

_____
DAVID HARRISON, Member

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NOLA KENNEDY, Member

_____
CHRIS LASZCZ-DAVIS, Member

_____
LAURA STOCK, Member

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Date of Adoption: September 16, 2021

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

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

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

In the Matter of Application for Permanent Variance regarding: Schindler Model 5500 Elevators (Group IV)	OSHSB File Nos. See Section A.1 Table below PROPOSED DECISION Hearing Date: August 25, 2021

A. Subject Matter:

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

Variance No.	Applicant Name	Variance Location Address	No. of Elevators
21-V-236	161 South San Antonio LLC	161 S. San Antonio Road Los Altos, CA	1

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

B. Process and Procedure:

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

2. The installation contract for the subject elevators was signed after May 1, 2008. Therefore, the subject elevators fall within the scope of the Elevator Safety Orders (ESO) Group IV Section 3141, and as incorporated by reference therein, ASME A17.1-2004.

3. This hearing was held on August 25, 2021, in Sacramento, California, via teleconference, by Occupational Safety and Health Standards Board ("Board") assigned 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.

4. At the hearing, Jennifer Linares with Schindler Elevator Corporation, appeared on behalf of each Applicant; Kevin Wright appeared on behalf of IUEC Local 8;

Mark Wickens and David Morris appeared on behalf of the Division of Occupational Safety and Health ("Division"), and Michael Nelmida appeared on behalf of Board staff, in a technical advisory role apart from the Board.

5. Oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence: each respective permanent variance applications per Section A table as Exhibit PD-1, Notice of Hearing as Exhibit PD-2, Board staff Pending Application Memorandum as PD-3, Division Review of Application as PD-4, Review Draft 1 Proposed Decision as PD-5, and official notice taken of the Board's rulemaking records, and variance decisions concerning the safety order requirements from which variance is requested. At close of hearing on August 25, 2021, the record was closed, and the matter taken under submission by the Hearing Officer.

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

Requested Suspension Means Related Variance:

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

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

Requested Car Top Railing Inset Variance:

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

Section 2.14.1.7.1—Top of Car Perimeter Railing Placement

Requested Seismic Reset Switch Placement Variance:

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

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

Requested Transfer Switch Placement Variance:

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

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

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

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

Positions of Division, and Board Staff:

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

D. Basis of Decision:

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

E. Decision and Order:

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

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

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

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

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

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

Further Conditions and Limitations:

1. The elevator suspension system shall comply with the following:

1.1. The suspension traction media (STM) members and their associated fastenings shall conform to the applicable requirements of ASME A17.1-2013, sections:

- 2.20.4.3 – Minimum Number of Suspension Members
- 2.20.3 – Factor of Safety
- 2.20.9 – Suspension Member Fastening

1.2. Additionally, STMs shall meet or exceed all requirements of ASME 17.6-2010 Standard for Elevator Suspension, Compensation, and Governor Systems, Part 3 Noncircular Elastomeric Coated Steel Suspension Members for Elevators.

1.3. The Applicant shall not utilize the elevator unless the manufacturer has written procedures for the installation, maintenance, inspection and testing of the STM members and fastenings and related monitoring and detection systems and criteria for STM replacement, and the Applicant shall make those procedures and criteria available to the Certified Competent Conveyance Mechanic (CCCM) at the location of the elevator, and to the Division of Occupational Safety and Health (Division) upon request.

1.4. STM member mandatory replacement criteria shall include:

1.4.1 Any exposed wire, strand or cord;

1.4.2 Any wire, strand or cord breaks through the elastomeric coating;

1.4.3 Any evidence of rouging (steel tension element corrosion) on any part of the elastomeric coated steel suspension member;

1.4.4 Any deformation in the elastomeric suspension member such as, but not limited to, kinks or bends.

1.5. Traction drive sheaves must have a minimum diameter of 72 mm. The maximum speed of STM members running on 72 mm, 87 mm and 125 mm drive sheaves shall be no greater than 2.5 m/s, 6.0 m/s and 8.0 m/s respectively.

1.6. If any one STM member needs replacement, the complete set of suspension members on the elevator shall be replaced. Exception: If a new suspension member is damaged during installation, and prior to any contemporaneously installed STM having been placed into service, it is permissible to replace the individual damaged suspension member. STM members that have been installed on another installation shall not be re-used.

1.7. A traction loss detection means shall be provided that conforms to the requirements of ASME A17.1-2013, section 2.20.8.1. The means shall be tested for correct function annually in accordance with ASME A17.1-2013, section 8.6.4.19.12.

1.8. A broken suspension member detection means shall be provided that conforms to the requirements of ASME A17.1-2013, section 2.20.8.2. The means shall be tested for correct function annually in accordance with ASME A17.1-2013, section 8.6.4.19.13(a).

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

1.10. Each elevator shall be provided with a device that electronically detects a reduction in residual strength of each STM member. The device shall be in compliance with Division Circular Letter E-10-04, a copy of which is attached hereto as Addendum 1, and incorporated herein by reference.

1.11. The elevator crosshead data plate shall comply with the requirements of ASME A17.1-2013, Section 2.20.2.1.

1.12. A suspension means data tag shall be provided that complies with the requirements of ASME A17.1-2013, Section 2.20.2.2.

1.13. Comprehensive visual inspections of the entire length of each and all installed suspension members, in conformity with above Conditions 1.2 and 1.3 specified criteria, shall be conducted and documented every six months by a CCCM.

1.14. The Applicant shall be subject to the requirements per hereto attached, and inhere incorporated, Addendum 2, "Suspension Means Replacement Reporting Condition."

1.15. Records of all tests and inspections shall be maintenance records subject to ASME A17.1-2004, Sections 8.6.1.2 and 8.6.1.4, respectively.

2. Inspection Transfer switch and Seismic Reset switch placement and enclosure shall comply with the following:

2.1. If the inspection transfer switch required by ASME A17.1-2004, Rule 2.26.1.4.4 does not reside in a machine room, that switch shall not reside in the elevator hoistway. The switch shall reside in the control/machinery room/space containing the elevator's control equipment in an enclosure secured by a lock openable by a Group 1 security key. The enclosure is to remain locked at all times when not in use.

2.2. If the seismic reset switch does not reside in the machine room, that switch shall not reside in the elevator hoistway. The switch shall reside in the control/machinery room/space containing the elevator's control equipment in an enclosure secured by a lock openable by a Group 1 security key. The enclosure is to remain locked at all times when not in use.

3. Any and all inset car top railing shall comply with the following:

3.1. Serviceable equipment shall be positioned so that mechanics and inspectors do not have to stand on or climb over the railings to perform adjustments, maintenance, repairs or inspections. The Applicant shall not permit anyone to stand or climb over the car top railing.

3.2. The distance that the railing can be inset shall be limited to not more than 12 inches.

3.3. All exposed areas of the car top outside the car top railing where the distance from the railing to the edge of the car top exceeds 2 inches, shall be beveled with metal, at an angle of not less than 75 degrees with the horizontal, from the mid or top rail to the outside of the car top, such that no person or object can stand, sit, kneel, rest, or be placed in the exposed areas.

3.4. The top surface of the beveled area and/or car top outside the railing, shall be clearly marked. The markings shall consist of alternating 4 inch diagonal red and white stripes.

3.5. The applicant shall provide durable signs with lettering not less than 1/2 inch on a contrasting background on each inset railing; each sign shall state:

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

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

4. The elevator shall be serviced, maintained, adjusted, tested, and inspected only by CCCM having been trained, and competent, to perform those tasks on the Schindler Model 5500 elevator system in accordance with written procedures and criteria, including as required per above Conditions 1.2, and 1.3.

5. The Division shall be notified when the elevator is ready for inspection. The elevator shall be inspected by the Division, and all applicable requirements met, including conditions of this permanent variance, prior to a Permit to Operate the elevator being issued. The elevator shall not be placed in service prior to the Permit to Operate being issued by Division.

6. The Applicant shall notify its employees or their authorized representative(s), or both, of this order in the same way and to the same extent that employees and authorized representatives are to be notified of docketed permanent variance applications pursuant to California Code of Regulations, Title 8, Sections 411.2 and 411.3.

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

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

Dated: August 31, 2021

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: SC 1729 Abbot Kinney LLC	OSHSB File No.: 21-V-240 Proposed Decision Dated: August 31, 2021 DECISION

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

_____
DAVID THOMAS, Chairman

_____
BARBARA BURGEL, Member

_____
KATHLEEN CRAWFORD, Member

_____
DAVID HARRISON, Member

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NOLA KENNEDY, Member

_____
CHRIS LASZCZ-DAVIS, Member

_____
LAURA STOCK, Member

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Date of Adoption: September 16, 2021

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

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

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

In the Matter of Application for Permanent Variance by: SC 1729 Abbot Kinney LLC	OSHSB File No.: 21-V-240 Proposed Decision Hearing Date: August 25, 2021

A. Procedural Matters

1. SC 1729 Abbot Kinney 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:

   1729 Abbot Kinney Blvd.
   Venice, CA

2. The safety orders at issue are stated in the prefatory part of the Decision and Order. This proceeding is conducted in accordance with Labor Code Section 143, and California Code of Regulations, Title 8, Section 401, et. seq.

3. This hearing was held on August 25, 2021, in Sacramento, California via teleconference, by delegation of 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 California Code of Regulations, Title 8, Section 426.

4. At the hearing, Brian Coffman with Dock Pros, Inc., appeared on behalf of Applicant; Mark Wickens and David Morris appeared on behalf of the Division of Occupational Safety and Health ("Division"); and Michael Nelmida appeared on behalf of Board staff acting in a technical advisory role apart from the Board.

5. At the hearing, oral evidence was received and by stipulation of all parties, documents were accepted into evidence: subject Application for Permanent Variance as Exhibit PD-1, Notice of Hearing in this matter as PD-2, Board staff Pending Application Memorandum as PD-3, Division Review of Application as PD-4, Review-Draft-1 Proposed Decision as PD-5; and official notice taken of the Board's rulemaking records and variance decisions concerning the safety order requirements from which variance has been requested. On August 25, 2021, 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 permanent variance file records of sworn testimony, findings and decisions in OSHSB File No. 15-V-297, the Board finds the following:

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

   1729 Abbot Kinney Blvd.
   Venice, CA

2. Applicant requests variance solely from Title 8, Section 3142(a) and Section 3142.1.

3. The subject vertical lift is proposed to be a Savaria Model V-1504, with a vertical travel range of approximately 168 inches. That range of travel exceeds the 12 foot maximum vertical rise allowed by ASME A18.1-2003, Section 2.7.1—the State of California standard in force at the time of this Decision.

4. The Division's evaluation in this Matter, states that the more recent consensus code ASME A18.1-2005 allows for vertical platform lifts to have a travel not exceeding 14 feet (168 in.).

5. Permanent variances regarding the extended travel of vertical platform lifts, of similar configuration to that of the subject proposed model, have been previously granted. (e.g. OSHSB File Nos. 13-V-260, 15-V-097, 15-V-297, 17-V-198)

6. It is the well informed professional opinion of Board staff and Division (per Exhibits PD-3, and PD-4, respectively) that equivalent safety will be achieved upon grant of presently requested permanent variance, subject to conditions materially equivalent to those imposed by Board adopted Decision and Order, In Matters of Application for Permanent Variance Nos. 15-V-297, and 18-V-069. Board Staff concurs with Division (per Exhibit PD-3) in recommending such conditional grant.

7. With respect to the equivalence or superior of safety, conditions and limitations of the below Decision and Order are in material conformity with those of previously issued Permanent Variance Nos. 15-V-297, and 18-V-069.

C. Conclusive Findings

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

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

D. Decision and Order

The Application for Permanent Variance of SC 1729 Abbot Kinney LLC, OSHSB File No. 21-V-240, is conditionally GRANTED to the limited extent, upon the Board's adoption of this Proposed Decision, SC 1729 Abbot Kinney LLC, shall have permanent variance from California Code of Regulations, Title 8, Sections 3142(a) and 3142.1 incorporated ASME A18.1-2003, Section 2.7.1, inasmuch as each restricts the vertical rise of a wheelchair lift to a maximum of 12 feet, with respect to one (1) Savaria Model V-1504 Vertical Platform Lift, to be located at:

1729 Abbot Kinney Blvd.
Venice, CA

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

1. This lift may travel up to 168 inches, unless the manufacturer's instructions provide for a lesser vertical travel limit, or lesser total elevation change, in which case, travel shall be limited to the lesser limit or elevation change.

2. The wheelchair lift shall be installed and operated in accordance with the manufacturer's instructions, unless the provisions of this variance or applicable provisions of the law provide or require otherwise.

3. Durable signs with lettering not less than 5/16 inch on a contrasting background shall be permanently and conspicuously posted inside the car and at all landings indicating that the lift is for the exclusive use of persons with physical impairments and that the lift is not to be used to transport material or equipment. The use of the lift shall be limited in accordance with these signs.

4. A maintenance contract shall be executed between the owner/operator and a Certified Qualified Conveyance Company (CQCC). The contract shall stipulate that the routine preventive maintenance required by Section 3094.5(a)(1) shall be performed at least quarterly and shall include but not be limited to:

(a) Platform driving means examination;

(b) Platform examination;

(c) Suspension means examination;

(d) Platform alignment;

(e) Vibration examination;

(f) Door/gate electrical; and

(g) Mechanical lock examination.

5. The lift shall be tested annually for proper operation under rated load conditions. The Division's Elevator Unit District Office shall be provided written notification in advance of the test, and the test shall include a check of car or platform safety device.

6. The lift shall be shut down immediately if the lift experiences unusual noise and vibration, and the Applicant shall notify the CQCC immediately. The lift shall only be restarted by the CQCC.

7. The Applicant shall notify the CQCC if the lift shuts down for any reason. The lift shall only be restarted by the CQCC.

8. Service logs including, but not limited to, the device shutdown(s) shall be kept in the maintenance office and shall be available to the Division. The shutdown information shall contain the date of the shutdown, cause of the shutdown, and the action taken to correct the shutdown.

9. The Applicant shall provide training on the safe operation of the lift in accordance with Section 3203. Such training shall be conducted annually for all employees using or who will be assisting others in using the lift. The Applicant shall notify the Division in writing that training has been conducted. A copy of the training manual (used for the subject training), and documentation identifying the trainer and attendees shall be maintained for at least 1 year and provided to the Division upon request.

10. Any CQCC performing inspections, maintenance, servicing or testing of the elevators shall be provided a copy of this variance decision.

11. The Division shall be notified when the lift is ready for inspection, and the lift shall be inspected by the Division and a Permit to Operate shall be issued before the lift is put into service.

12. The Applicant shall notify its employees or their authorized representative(s), or both, of this order in the same way and to the same extent that employees and authorized representatives are to be notified of docketed permanent variance applications pursuant to California Code of Regulations, Title 8, Sections 411.2 and 411.3.

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

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

Dated: August 31, 2021

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: Otis Elevator Controller Alteration (Group IV)	OSHSB File No.: See Section A.1 Table in Proposed Decision Dated: August 31, 2021 DECISION

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

_____
DAVID THOMAS, Chairman

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BARBARA BURGEL, Member

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KATHLEEN CRAWFORD, Member

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DAVID HARRISON, Member

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NOLA KENNEDY, Member

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CHRIS LASZCZ-DAVIS, Member

_____
LAURA STOCK, Member

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Date of Adoption: September 16, 2021

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

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

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

In the Matter of Application for Permanent Variance Regarding: Otis Elevator Controller Alteration (Group IV)	OSHSB File Nos.: See Section A.1 table below PROPOSED DECISION Hearing Date: August 25, 2021

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, with respect to the listed conveyance or conveyances, in the specified quantity, at the specified location:

Variance No.	Applicant Name	Variance Location Address	No. of Elevators
21-V-256	101 Second Street, Inc.	101 2nd Street San Francisco, CA	4

2. The safety orders at issue is California Code of Regulations, Title 8, Elevator Safety Order (ESO), Section 3141, incorporated ASME A17.1-2004, Section 2.26.9.4.

B. Procedural

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

2. This hearing was held on August 25, 2021, in Sacramento, California, via teleconference, 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.

3. At the hearing, Dan Leacox of Leacox & Associates, appeared on behalf of the each applicant; Kevin Wright appeared on behalf of IUEC Local 8; Mark Wickens and David Morris appeared on behalf of the Division of Occupational Safety and Health ("Division"), and Michael Nelmida appeared on behalf of Board staff, in a technical advisory role apart from the Board.

4. Oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence: each respective permanent variance applications per Section A table as Exhibit PD-1, Notice of Hearing as Exhibit PD-2, Board staff Review of Application as PD-3, Division Review of Application as PD-4, Review Draft 1 Proposed Decision as PD-5, and official notice taken of the Board's rulemaking records, and variance files and decisions, concerning the Elevator Safety Order standards at issue. At close of hearing on August 25, 2021, the record was closed, and the matter taken under submission by the Hearing Officer.

C. Findings of Fact

1. Respecting, and for the purpose of alteration to, each above Section A.1 table listed conveyance at the specified variance locations, in the specified quantities, each Section A.1 table listed Applicant has applied for a permanent variance from California Code of Regulations, Title 8, Section 3141 incorporated ASME A17.1-2004, Section 2.26.9.4, requirements (per Section 8.7.2.27.4(a)).

2. ASME A17.1-2004, Section 2.26.9.4, states:

> *"**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."*

3. A principal intent of this code requirement is to avoid hazards that would be created by the failure of critical elevator safety circuits. Toward this purpose, use of software as the sole method of controlling such critical elevator safety circuits is prohibited.

4. Each Applicant proposes the use of a SIL rated software system and circuits consisting of three computer control boards that communicate on a Control Area Network (CAN) to monitor elevator safety devices and perform certain safety functions. Elevator electrical protective devices (EPDs) and other control devices are connected to these control boards. Software specifically designed for this SIL system would continuously monitor these devices and performs certain elevator safety functions. The design of this SIL rated software system and its related circuits includes a redundant (software) means to remove the power from the driving machine motor and brake under certain conditions.

5. The proposed Otis E2 elevator control system is to interface with a software system and related circuits having a certain Safety Integrity Level (SIL) rating, to monitor, process, and execute certain safety functions of the elevator, in a manner and configuration noncompliant with California ESO incorporated ASME A17.1-2004, Section 2.26.9.4, preclusion of safety system redundancy solely dependent upon a software controlled means.

6. The Applicant contends that the proposed SIL rated software system and its circuits conform to the relevant newer ASME A17.1 provisions—namely ASME A17.1-2013, Section 2.26.9.3.2.

7. ASME A17.1-2013, Section 2.26.9.3.2, states:

> ***"2.26.9.3.2*** *Methods used to satisfy 2.26.9.3.1 using software systems are permitted, provided that (a) a non-software-controlled means is also used to remove power from the driving-machine motor and brake, or (b) the software system and related circuits are listed/certified to a SIL rating that is in accordance with the applicable requirements of IEC 61508-2 and IEC 61508-3. This software system and its related circuits shall have a SIL of not less than the highest SIL value of the safety function(s) in Table 2.26.4.3.2 used in the circuit. The software system and related circuits shall be identifiable on wiring diagrams (see 8.6.1.6.3) with part identification, SIL, and certification identification information that shall be in accordance with the certifying organization's requirements."*

8. The Division has performed a safety analyzes of the proposed SIL rated software system and its related circuits, and determined the proposed system to be in conformity with relevant requirements of ASME A17.1-2013, Section 2.26.9.3.2, addressing safety issues associated with the proposed use of such a software system.

9. The equivalence of ASME A17.1-2013, Section 2.26.9.3.2, compliant control systems of the proposed type, with the safety of ASME A17.1-2004, Section 2.26.9.4, systems controlling the same critical safety functions, has been the subject of previous Division analyses, and Board decisions, concerning Otis Skyrise Elevators. In each of these prior matters, it was the recommendation of Division, with concurrence of Board engineering staff, and conclusion of the Board, that the type of ASME A17.1-2013, Section 2.26.9.3.2, compliant control system (as proposed in the present matter), subject to conditions in material conformity with those of the present Decision and Order, would provide for safety equivalent of superior to that of a ASME A17.1-2004, Section 2.26.9.4, compliant control system.

10. As provided per Title 8, Section 424.1, and as stipulated by the parties (see above Section B.4) The Board takes Official Notice of its decision, and respective Division and Board staff review of application, in the matters of OSHSB Permanent Variance File Nos. 14-V-090, 17-V-064, and 18-V-303. The permanent variances conditionally issued in the afore cited matters, exemplify numerous such previously issued variances providing for utilization of ASME A17.1-2013, Section 2.26.9.3.2, compliant control systems of the type presently proposed—absent known diminution in passenger or worker safety to date.

11. As to additional foundational evidence and findings concerning the essential safety rating and its indicative nomenclature to be labeled or marked on the subject software system and related circuits, as specified in the below Decision and Order, the Board also takes Official Notice of its Decision, and therein referenced exhibits, in OSHSB Permanent Variance File No. 15-V-397M1.

12. Both by way of its written evaluation (Exhibit PD-4), and statements at hearing, Division has taken the position that each Applicant's proposal for permanent variance and means of safety equivalence, subject to conditions in material conformity with those found in the below Decision and Order, will provide safety equivalent to the Title 8 standards from which permanent variance is sought. Further, by way of written evaluation (Exhibit PD-3), and statements at hearing, Board staff concurs with Division in recommending that such conditional grant will provide for safety equivalence.

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 modification of permanent variance may be conditionally granted, and

(2) a preponderance of the evidence establishes that Applicant's proposal, as below revised and subject to all conditions and limitations set forth in the below Decision and Order, will provide equivalent safety and health to that which would prevail upon full compliance with the requirements of California Code of Regulation, Title 8, Elevator Safety Orders from which modified variance is being sought.

E. Decision and Order

Upon adoption of this Decision and Order by the Board, each above Section A.1 table listed Applicant, with respect to the corresponding listed number of conveyances and variance location, is conditionally Granted permanent variance from California Code of Regulations, Title 8, Elevator Safety Order (ESO), Section 3141, incorporated ASME A17.1-2004, Section 2.26.9.4, as per Section 8.7.2.27.4(a), subject to all below enumerated limitations and conditions:

1. The SIL rated software system and its related circuits shall comply with the following:

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

   b. 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.

   c. The access doors or covers of the enclosures containing the SIL rated components shall be clearly labeled or tagged on their exteriors with the statement:

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

   d. Unique maintenance procedures or methods required for the inspection, tests and replacement of the SIL rated circuits shall be developed and a copy maintained in the elevator machine room. The procedures or methods shall include clear color photographs of each SIL rated component, with notations indicating part identification and location installed.

   e. Wiring diagrams that include part identification, SIL, and certification information, shall be maintained in the elevator machine room.

   f. A successful test of the SIL rated software system and its related 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.

   g. Alterations to the SIL rated software system and its related 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.

   h. Replacement of the SIL rated software system or its related 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.

   i. Repairs to the SIL rated software system and its related 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.

j. Any space containing SIL rated software or circuits shall be maintained within the temperature and humidity range specified by Otis Elevator Company. The temperature and humidity range shall be posted on each enclosure containing SIL rated software or circuits.

k. Field software changes are not permitted. Any changes to the TUV certified SIL rated software will require updated documentation and recertification.

2. 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 elevator system (including SIL 3-rated devices) in accordance with the written procedures and criteria required by Condition D.1(d), and other terms of this permanent variance.

3. Any Certified Qualified Conveyance Company performing inspections, maintenance, servicing, or testing of the elevators shall be provided a copy of this variance decision.

4. 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.

5. The Applicant shall notify its employees or their authorized representative(s), or both, of this order in the same way and to the same extent that employees and authorized representatives are to be notified of docketed permanent variance applications pursuant to California Code of Regulations, Title 8, Sections 411.2 and 411.3.

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

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

Dated: August 31, 2021

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:

Otis Radar Sleepmode Escalators

OSHSB File No.: See Section A.1 Table in Proposed Decision Dated: August 31, 2021

DECISION

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

_____
DAVID THOMAS, Chairman

_____
BARBARA BURGEL, Member

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KATHLEEN CRAWFORD, Member

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DAVID HARRISON, Member

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NOLA KENNEDY, Member

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CHRIS LASZCZ-DAVIS, Member

_____
LAURA STOCK, Member

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Date of Adoption: September 16, 2021

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

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

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

In the Matter of Application for Permanent Variance regarding: Otis Radar Sleepmode Escalators	OSHSB File Nos. See Section A.1 Table below PROPOSED DECISION Hearing Date: August 25, 2021

A. Procedural Matters

1. Each of the following entities applied for a permanent variance from provisions of the Elevator Safety Orders, found at Title 8 of the California Code of Regulations, for the listed number of conveyances at the listed location:

Variance No.	Applicant Name	Variance Location Address	No. of Elevators
21-V-259	Los Angeles World Airports	Terminal 3 300 World Way Los Angeles	10

2. The safety orders at issue are set forth in the prefatory portion of the Decision and Order.

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

4. This hearing was held on August 25, 2021, in Sacramento, California, via teleconference, 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.

5. At the hearing, Dan Leacox of Leacox & Associates appeared on behalf of each Applicant; Kevin Wright appeared on behalf of IUEC Local 8; Mark Wickens and David Morris appeared on behalf of the Division of Occupational Safety and Health ("Division"), and Michael Nelmida appeared on behalf of Board staff, in a technical advisory role apart from the Board.

6. Documentary and oral evidence were received at the hearing, and by stipulation of all parties, documents were admitted into evidence: each respective application for

permanent variance per Section A.1 table as Exhibit PD-1, Notice of Hearing as Exhibit PD-2, Board staff Review of Application as PD-3, Division Review of Application as PD-4, Review Draft 1 Proposed Decision as PD-5, and official notice taken of the Board's rulemaking records and variance decisions concerning the safety order provisions from which variance has been requested. On August 25, 2021, the hearing and record closed, and the matter was taken under submission by the Hearing Officer.

B. Findings

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

1. Applicant seeks variance from certain California Code of Regulations, Title 8, Elevator Safety Orders, toward the stated purpose of installing new escalators that include a "sleep mode" capability that will cause the escalator to run at a reduced speed when not in use, thus resulting in conservation of electrical energy.

2. The Applicant's proposed sleep mode feature is not compliant with existing California Code of Regulation Title 8, Elevator Safety Orders, which prohibits the intentional variation of an escalator's speed after start-up.

3. In order to install escalators that include a sleep mode capability, Applicant requires a permanent variance from the provisions of California Code of Regulations, Title 8, Elevator Safety Orders, Group IV, Section 3141.11 [ASME A17.1-2004, Sections 6.1.4.1] regarding the variation of escalator speed.

4. Concerning variance in escalator speed, Code of Regulations, Title 8, Section 3141.11 [ASME A17.1-2004, Section 6.1.4.1] states:

   "6.1.4.1 Limits of Speed. The rated speed shall be not more than 0.5 m/s (100 ft/min), measured along the centerline of the steps in the direction of travel. The speed attained by an escalator after start-up shall not be intentionally varied."

5. As quoted above, an intent of Section 3141.11 is to ensure that the speed of the escalator during normal operation is kept constant to prevent passengers from losing their balance.

6. The Applicant contends that equivalent safety is achieved through use of a controller that is capable of varying the escalator drive motor speed in conjunction with dual redundant sensors strategically placed at each end of the unit to detect passenger traffic. Per the Applicant's proposed design, If one of the paired passenger detection sensors is disconnected from the control system, the control system shall, without

intentional delay, generate a fault while causing the escalator to exit the Sleep Mode and remain at the normal run speed until the reconnected sensor begins to function properly. Also per this design, when passenger traffic is detected while the escalator is in "Sleep Mode", a signal would be sent to the controller to "wake up" resulting in the escalator accelerating to normal operating speed within 1.5 seconds at a rate no greater than 1 ft/sec^2.

7. Applicant proposes using passenger traffic sensors capable of detecting passengers at a distance greater than a walking person could travel in 2 seconds, thereby causing the escalator to be running at normal speed prior to passenger boarding.

8. Applicant proposes design features such that if a passenger detected approaching the escalator opposite the motion of the escalator steps on it while it is in "sleep mode", an alarm will sound and the escalator will exit "sleep mode" and accelerate until it reaches normal operating speed at a rate no greater than 1 ft/sec^2. Applicant contends this arrangement will safely discourage passengers from entering the escalator opposite the motion of the steps while it is idling at reduced speed.

9. The Applicant proposes sensors used to detect passenger traffic being installed and arranged in a double redundant, fail-safe fashion with 2 sensors installed at each end of the escalator providing the same coverage field.

10. Applicant's proposed sensor arrangement and redundancy can be reasonably expected to provide for passenger traffic detection in the event of any single sensor failure and provide for signal comparison by the controller to detect sensor failure.

11. Applicant proposes a design in which detected failure of any one of the passenger traffic sensors, result in a disabling of "sleep mode" such that the escalator would remain at normal operating speed until all sensors have resumed normal function. In addition the proposed design would have passenger traffic sensors wired to the escalator controller in a fail-safe manner that prevents "sleep mode" activation if the sensor wiring is cut or disconnected.

12. As evidenced by written Review of Application (Exhibit PD-4), as well as statements at hearing, it is the well informed opinion of Division that the Applicant proposed "sleep mode" function meets the requirements of ASME A17.1-2010, Section 6.1.4.1.2 regarding the varying the speed of an escalator after start-up.

13. ASME A17.1-2010, Section 6.1.4.1.2 states:

> "Variation of the escalator speed after start-up shall be permitted provided the *escalator installation conforms to all of the following:*
>
> *(a) The acceleration and deceleration rates shall not exceed 0.3 m/s^2 (1.0 ft/sec^2).*
>
> *(b) The rated speed is not exceeded.*
>
> *(c) The minimum speed shall be not less than 0.05 m/s (10 ft/min).*
>
> *(d) The speed shall not automatically vary during inspection operation.*
>
> *(e) Passenger detection means shall be provided at both landings of the escalator such that*
>
> *(1) detection of any approaching passenger shall cause the escalator to accelerate to or maintain the full escalator speed conforming to 6.1.4.1.2(a) through (d)*
>
> *(2) detection of any approaching passenger shall occur sufficiently in advance of boarding to cause the escalator to attain full operating speed before a passenger walking at normal speed [1.35 m/s (270 ft/min)] reaches the combplate*
>
> *(3) passenger detection means shall remain active at the egress landing to detect any passenger approaching against the direction of escalator travel and shall cause the escalator to accelerate to full rated speed and sound the alarm (see 6.1.6.3.1) at the approaching landing before the passenger reaches the combplate*
>
> *(f) Automatic deceleration shall not occur before a period of time has elapsed since the last passenger detection that is greater than 3 times the amount of time necessary to transfer a passenger between landings.*
>
> *(g) Means shall be provided to detect failure of the passenger detection means and shall cause the escalator to operate at full rated speed only."*

14. The Applicant's proposed "sleep mode" function is similar to other installations for which a permanent variance has been granted (OSHSB File No. 14-V-129). In these previous variance decisions it was concluded that a variance was required from ASME A17.1-2004, section 6.1.6.4 regarding handrail speed monitoring. Conditions set

forth in the previous variance decisions allow for the disabling of the handrail speed monitoring device while the escalator is operating in slow speed "sleep mode."

15. Concerning handrail speed monitoring, Section 3141.11 [ASME A17.1-2004, Section 6.1.6.4] states:

> *"6.1.6.4 Handrail Speed Monitoring Device. A handrail speed monitoring device shall be provided that will cause the activation of the alarm required by 6.1.6.3.1(b) without any intentional delay, whenever the speed of either handrail deviates from the step speed by 15% or more. The device shall also cause electric power to be removed from the driving machine motor and brake when the speed deviation of 15% or more is continuous within a 2 s to 6 s range. The device shall be of the manual reset type."*

16. It is the well informed professional opinion of Division (see Exhibit PD-4), and Board staff (See Exhibit PD-3), that that the escalator "sleep mode" function design, as proposed by the Applicant, subject to certain conditions and limitations, will provide occupational safety and health equivalent or superior to the Code of Regulations, Title 8, Elevator Safety Order requirements from which variance is being sought, and recommends that the applied for permanent variance issue subject to conditions and limitations in material conformity with those incorporated into the Decision and Order below.

C. Basis of Decision

The preceding procedural elements, legal authority, and factual findings, supported by hearing testimony, and documents entered into evidence in this case, lead the Board to conclude that the 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 proposals, combined with the conditions set forth in the Decision and Order, will provide 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

Each above Section A.1 table specified Applicant is conditionally GRANTED permanent variance, at the respectively specified location, as to respectively specified number of conveyances, subject to all below enumerated conditions and limitations:

Permanent variance is granted, as conditionally limited below, from the following sections of ASME A17.1-2004 made applicable by CCR Title 8, Section 3141.11:

6.1.4.1, to allow intentionally varied speed; and
6.1.6.4, to allow the disabling of handrail speed monitoring at reduced speeds.

1. The Applicant may intentionally vary the escalator speed and install proximity sensors for traffic detection subject to the following:

   (a) The rate of acceleration and deceleration shall not exceed 0.3 m/s^2 (1 ft/sec^2) when transitioning between speeds.

   (b) Failure of a single proximity sensor including its associated circuitry, shall cause the escalator to revert to its normal operating speed at an acceleration of not more than 0.3 m/s^2 (1 ft/sec^2).

   (c) Automatic deceleration shall not occur before a period of time of not less than three times the time it takes a passenger to ride from one landing to the other at normal speed has elapsed.

   (d) Detection of any passenger shall cause the escalator to reach full speed before a passenger, walking at 4.5 ft/sec, reaches the comb plate.

   (e) The passenger detection means shall detect a person within a sufficient distance along all possible paths to the escalator that do not require climbing over barriers or escalator handrails to assure that the escalator attains full operating speed before a person walking at 4.5 ft/sec reaches the escalator comb plate. The minimum detection distance shall be calculated according to the following formula or alternatively according to Exhibit 1 (Detection Distance Sleep Mode Operation) attached hereto and incorporated herein by this reference:

   $d = (V_f - V_s) \times (V_w / a)$ *where:*

   d = *detection distance (ft)*

   V_f = *normal speed (ft/min) [not to exceed 100 ft/min]*

   V_s = *slow "sleep" speed (ft/min) [not less than 10 ft/min]*

   V_w = *passenger walking speed (4.5 ft/sec)*

   a = *acceleration/deceleration rate (ft/sec^2)[not to exceed 1 ft/sec^2]*

(f) Detection of any passenger approaching against the direction of escalator travel shall cause the escalator to reach full speed before a passenger, walking at 4.5 ft/sec, reaches the comb plate and shall cause the escalator alarm to sound. The sounding of the alarm may include a 3 to 5 second alarm or three 1 second alarm soundings.

(g) The minimum speed of the escalator shall not be less than 0.05 m/s (10 ft/min). The "Sleep Mode" functionality shall not affect the escalator inspection operation. The speed of the escalator shall not vary during Inspection Mode.

(h) There shall be two means of detecting passengers at each end of the escalator for redundancy and for detection of failure in the passenger detection means.

(i) The passenger sensors (detectors) at each end of the escalator must be verified by the control system for proper operation in the following manner:

1. If one of the paired passenger detection sensors is disconnected from the control system, the control system shall, without intentional delay, generate a fault while causing the escalator to exit the Sleep Mode and remain at the normal run speed until the reconnected sensor begins to function properly.

2. If one of the paired sensors at either end of the escalator does not trip while the other paired sensor trips, the control system shall, without intentional delay, generate a fault to indicate which sensor has faulted while causing the escalator to exit the Sleep Mode and remain at the normal run speed until the faulted sensor begins to function properly.

(j) The handrail speed monitoring device required by Section 6.1.6.4 may be disabled while the escalator is operating in the slow speed (Sleep Mode) condition.

2. The Applicant shall have the controller schematic diagrams available in the control space together with a written explanation of the operation of the controller.

3. An annual test shall be conducted by a Certified Competent Conveyance Mechanic (CCCM) employed by a Certified Qualified Conveyance Company (CQCC) which maintains and services the escalators, to demonstrate that the escalator is transitioning between "Normal Mode" and "Sleep Mode" and back in conformance with the terms of this variance. The instrumentation used shall be capable of allowing the CCCM to determine the acceleration and deceleration rates of the escalator.

4. The results of each annual test required by Condition No. 3 shall be submitted to the appropriate Elevator Unit District Office in tabular and graphic form (speed vs. time).

5. Whenever practicable, as determined by the Applicant and subject to the concurrence of Division, the variable speed system is to be installed without the installation of new bollards or other such new structures, if the bollards or other structures would impede passenger movement at the destination end of the escalator. If new bollards or other such structures of that sort are constructed in connection with the variable speed system, the Applicant will take all practicable steps to minimize the impact of same on the movement of passengers at the destination end of the escalator.

6. Any CQCC performing inspection, maintenance, servicing or testing of the escalators shall be provided a copy of the variance decision.

7. Division shall be notified when each subject conveyance is ready for inspection to determine compliance with the permanent variance pursuant to this Decision and Order. Each subject conveyance shall have been inspected by Division to determine compliance with this Decision and Order, and a Permit to Operate shall have been issued and in effect, before the conveyance is placed in service.

8. The Applicant shall notify its employees or their authorized representative(s), or both, of this order in the same way that the Applicant was required to notify them of the docketed application for permanent variance per California Code of Regulations, Title 8, Sections 411.2 and 411.3.

9. This Decision and Order shall remain in effect unless modified or revoked upon application by the Applicant, affected employee(s), Division of Occupational Safety and Health, or by the Board on its own motion, in the manner prescribed pursuant to Title 8, Chapter 3.5, Subchapter 1.

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

Dated: August 31, 2021

Autumn Gonzalez, Hearing Officer

Detection Distance Sleep Mode Operation

Accurate when applied to escalators with a rated speed of **100** ft./min.

Acceleration Rate (ft./sec.^{2})	Escalator "Sleep Mode" Speed (ft./min.)																		
	10	**15**	**20**	**25**	**30**	**35**	**40**	**45**	**50**	**55**	**60**	**65**	**70**	**75**	**80**	**85**	**90**	**95**	**100**
1.00	6.76	6.39	6.01	5.64	5.26	4.88	4.51	4.13	3.76	3.38	3.01	2.63	2.25	1.88	1.50	1.13	0.75	0.38	0.00
0.95	7.12	6.72	6.33	5.93	5.54	5.14	4.75	4.35	3.96	3.56	3.16	2.77	2.37	1.98	1.58	1.19	0.79	0.40	0.00
0.90	7.52	7.10	6.68	6.26	5.85	5.43	5.01	4.59	4.18	3.76	3.34	2.92	2.51	2.09	1.67	1.25	0.84	0.42	0.00
0.85	7.96	7.52	7.07	6.63	6.19	5.75	5.30	4.86	4.42	3.98	3.54	3.09	2.65	2.21	1.77	1.33	0.88	0.44	0.00
0.80	8.45	7.98	7.52	7.05	6.58	6.11	5.64	5.17	4.70	4.23	3.76	3.29	2.82	2.35	1.88	1.41	0.94	0.47	0.00
0.75	9.02	8.52	8.02	7.52	7.01	6.51	6.01	5.51	5.01	4.51	4.01	3.51	3.01	2.51	2.00	1.50	1.00	0.50	0.00
0.70	9.66	9.13	8.59	8.05	7.52	6.98	6.44	5.90	5.37	4.83	4.29	3.76	3.22	2.68	2.15	1.61	1.07	0.54	0.00
0.65	10.41	9.83	9.25	8.67	8.09	7.52	6.94	6.36	5.78	5.20	4.62	4.05	3.47	2.89	2.31	1.73	1.16	0.58	0.00
0.60	11.27	10.65	10.02	9.39	8.77	8.14	7.52	6.89	6.26	5.64	5.01	4.38	3.76	3.13	2.51	1.88	1.25	0.63	0.00
0.55	12.30	11.61	10.93	10.25	9.56	8.88	8.20	7.52	6.83	6.15	5.47	4.78	4.10	3.42	2.73	2.05	1.37	0.68	0.00
0.50	13.53	12.78	12.02	11.27	10.52	9.77	9.02	8.27	7.52	6.76	6.01	5.26	4.51	3.76	3.01	2.25	1.50	0.75	0.00
0.45	15.03	14.20	13.36	12.53	11.69	10.86	10.02	9.19	8.35	7.52	6.68	5.85	5.01	4.18	3.34	2.51	1.67	0.84	0.00
0.40	16.91	15.97	15.03	14.09	13.15	12.21	11.27	10.33	9.39	8.45	7.52	6.58	5.64	4.70	3.76	2.82	1.88	0.94	0.00
0.35	19.32	18.25	17.18	16.10	15.03	13.96	12.88	11.81	10.74	9.66	8.59	7.52	6.44	5.37	4.29	3.22	2.15	1.07	0.00
0.30	22.55	21.29	20.04	18.79	17.54	16.28	15.03	13.78	12.53	11.27	10.02	8.77	7.52	6.26	5.01	3.76	2.51	1.25	0.00
0.25	27.05	25.55	24.05	22.55	21.04	19.54	18.04	16.53	15.03	13.53	12.02	10.52	9.02	7.52	6.01	4.51	3.01	1.50	0.00
0.20	33.82	31.94	30.06	28.18	26.30	24.42	22.55	20.67	18.79	16.91	15.03	13.15	11.27	9.39	7.52	5.64	3.76	1.88	0.00
0.15	45.09	42.59	40.08	37.58	35.07	32.57	30.06	27.56	25.05	22.55	20.04	17.54	15.03	12.53	10.02	7.52	5.01	2.51	0.00
0.10	67.64	63.88	60.12	56.36	52.61	48.85	45.09	41.33	37.58	33.82	30.06	26.30	22.55	18.79	15.03	11.27	7.52	3.76	0.00
0.05	135.27	127.76	120.24	112.73	105.21	97.70	90.18	82.67	75.15	67.64	60.12	52.61	45.09	37.58	30.06	22.55	15.03	7.52	0.00

$$d = (V_f - V_s) \times (V_w / a)$$

d = Detection Distance (ft.)
V_f = Escalator Rated Speed (ft./min.)
V_s = Slow Speed ["Sleep Mode" Speed] (ft./min.)
V_w = Passenger Walking Speed (ft./sec.) **4.5**
a = Acceleration/Deceleration Rate (ft./sec.^{2})
1 ft./min. = **0.0167** ft./sec.

EXHIBIT 1

ATTACHMENT A:

ESCALATOR DESIGNATIONS

Escalators
T3-ES01
T3-ES02
T3-ES03
T3-ES04
T3-ES05
T3-ES06
T3-ES07
T3-ES08
T3-ES21
T3-ES22

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

In the Matter of Application for Permanent Variance regarding: KONE Monospace 500 Elevators *with Retractable Platform Guard* (Group IV)	OSHSB File No.: See Section A.1 Table in Proposed Decision Dated: August 31, 2021 DECISION

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

_____
DAVID THOMAS, Chairman

_____
BARBARA BURGEL, Member

_____
KATHLEEN CRAWFORD, Member

_____
DAVID HARRISON, Member

_____
NOLA KENNEDY, Member

_____
CHRIS LASZCZ-DAVIS, Member

_____
LAURA STOCK, Member

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Date of Adoption: September 16, 2021

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

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

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

In the Matter of Application for Permanent Variance Regarding: KONE Monospace 500 Elevators *with Retractable Platform Guard* (Group IV)	OSHSB File Nos.: See Section A.1 Table Below PROPOSED DECISION Hearing Date: August 25, 2021

A. Subject Matter:

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

Variance No.	Applicant Name	Variance Location Address	No. of Elevators
21-V-263	Le Lion Building LLC	2525 16th St. San Francisco, CA	1

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

B. Procedural:

1. This hearing was held on August 25, 2021, in Sacramento, California, via teleconference, by delegation of 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 California Code of Regulations, Title 8, Section 426.

2. At the hearing, Manish Sablok with KONE, Inc., appeared on behalf of each Applicant; Kevin Wright appeared on behalf of IUEC Local 8; Mark Wickens and David Morris appeared on behalf of the Division of Occupational Safety and Health ("Division"), and Michael Nelmida appeared on behalf of Board staff in a technical advisory capacity apart from the Board.

3. Documentary and oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence: permanent variance applications per Section A.1 table as Exhibit PD-1, Notice of Hearing as Exhibit PD-2, Board staff Pending Application Memorandum as PD-3, Division Review of Application as PD-4, Review Draft 1 Proposed Decision as PD-5, and official notice taken of the Board's rulemaking records and variance decisions concerning the safety order requirements from which variance is sought. Upon close of hearing on August 25, 2021, the record closed and the matter was taken under submission by the Hearing Officer.

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

1. Each respective Applicant intends to utilize the KONE Inc. Monospace 500 type elevator, in the quantity, at the location, specified per the above Section A.1 table.

2. The installation contract for this elevator was or will be signed on or after May 1, 2008, thus making the elevator subject to the Group IV Elevator Safety Orders.

3. Each Applicant proposes to use hoisting ropes that are 8 mm in diameter which also consist of 0.51 mm diameter outer wires, in variance from the express requirements of ASME A17.1-2004, Section 2.20.4.

4. In relevant part, ASME A17.1-2004, Section 2.20.4 states:

> *2.20.4 Minimum Number and Diameter of Suspension Ropes*
>
> *…The minimum diameter of hoisting and counterweight ropes shall be 9.5 mm (0.375 in.). Outer wires of the ropes shall be not less than 0.56 mm (0.024 in.) in diameter.*

5. An intent of the afore cited requirement of ASME A17.1-2004, Section 2.20.4, is to ensure that the number, diameter, and construction of suspension ropes are adequate to provided safely robust and durable suspension means over the course of the ropes' foreseen service life.

6. KONE has represented to Division and Board staff, having established an engineering practice for purposes of Monospace 500 elevator design, of meeting or exceeding the minimum factor of safety of 12 for 8 mm suspension members, as required in ASME A17.1-2010, Section 2.20.3—under which, given that factor of safety, supplemental broken suspension member protection is not required.

7. Also, each Applicant proposes as a further means of maintaining safety equivalence, monitoring the rope in conformity with the criteria specified within the *Inspector's Guide to 6 mm Diameter Governor and 8 mm Diameter Suspension Ropes for KONE Elevators* (per Application attachment "B", or as thereafter revised by KONE subject to Division approval).

8. In addition, each Applicant has proposed to utilize 6 mm diameter governor ropes in variance from Title 8, Section 3141, incorporated ASME A17.1-2004, Section 2.18.5.1.

9. ASME A17.1-2004, Section 2.18.5.1, specifies, in relevant part:

> *2.18.5.1 Material and Factor of Safety.*
>
> *… [Governor ropes] not less than 9.5 mm (0.375 in.) in diameter. The factor of safety of governor ropes shall be not less than 5…*

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

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

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

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

13. As noted by the Board in OSHSB File Nos. 18-V-044, and 18-V-045, Decision and Order Findings, subpart B.17 (hereby incorporated by reference), the strength of wire rope operating as an elevator's suspension means does not remain constant over its years of projected service life. With increasing usage cycles, a reduction in the cross-sectional area of the wire rope normally occurs, resulting in decreased residual strength. This characteristic is of particular relevance to the present matter because, as also noted by

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

14. The presently proposed wire rope is Wuxi Universal steel rope Co LTD. 8 mm 8x19S+8x7+PP, with a manufacturer rated breaking strength of 35.8 kN, and an outer wire diameter of less than 0.56 mm, but not less than 0.51 mm. Both Board staff and Division safety engineers have scrutinized the material and structural specifications, and performance testing data, of this particular proposed rope, and conclude it will provide for safety equivalent to ESO compliant 9.5 mm wire rope, with 0.56 mm outer wire (under conditions of use included within the below Decision and Order).

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

W = (S x N)/ f

where

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

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

S = manufacturer's rated breaking strength of one rope

f = the factor of safety from Table 2.20.3

16. ASME A17.1-2010 Sections 2.20.3 and 2.20.4 utilize the same formula, but provide for use of suspension ropes having a diameter smaller than 9.5 mm, under specified conditions, key among them being that use of ropes having a diameter of between 8 mm to 9.5 mm be engineered with a factor of safety of 12 or higher. This is a higher minimum factor of safety than that proposed by Applicant, but a minimum recommended by both Board staff and Division as a condition of variance necessary to the achieving of safety equivalence to 9.5 mm rope.

17. Board staff and Division are in accord with Applicant, in proposing as a condition of safety equivalence, that periodic physical examination of the wire ropes be performed to confirm the ropes continue to meet the criteria set out in the (Application attachment) *Inspector's Guide to 6 mm Diameter Governor and 8 mm Diameter*

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

18. The Board incorporates by reference the following findings of fact: Subsections 5 through 9, set forth in the "Findings of Fact" Section of the Proposed Decision adopted by the Board on June 18, 2010 regarding OSHSB File No. 08-V-108M1.

19. Applicant proposes to install a two-section retractable platform guard (apron) consisting of a stationary upper section guard plate and a moveable lower section guard plate. To monitor the retractable mechanism, an electrical switching system will be provided to monitor for malfunction.

20. Section 3141 [ASME A17.1-2004, Section 2.15.9.2] states, in part:

> *2.15.9.2 The guard plate shall have a straight vertical face, extending below the floor surface of the platform, conforming to one of the following:*
>
> *(a) where the elevator is required to conform to 2.19.2.2(b) the depth of the truck zone, where provided, plus 75 mm (3 in.), but in no case less than 1,220 mm (48 in.).*

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

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

> *2.4.1.5 When the car is resting on its fully compressed buffers or bumpers, no part of the car, or any equipment attached thereto or equipment traveling with the car, shall strike any part of the pit or any equipment mounted therein.*

22. An intent of this code section is to prevent any equipment attached to the elevator car from striking any part of the pit. This could damage the elevator equipment, which may result in unsafe operation or injury.

23. Per Division's Review of Application (Exhibit PD-4) Applicant's proposed platform guard is similar in all material respects to installations for which a permanent variance previously has been granted. (e.g. 18-V-010M1).

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

D. Conclusive Findings:

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

E. Decision and Order:

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

Elevator Safety Orders:

- Minimum Diameter of Suspension Ropes: 2.20.4 (Only to the extent necessary to permit the use of 8 mm [0.0315 in.] diameter suspension ropes, where the Elevator Safety Orders require a minimum diameter of 9.5 mm [0.375]);

- Platform Guard: 2.15.9.2 (Only to the extent necessary to permit the use of a two-section retractable platform guard (apron) where the depth of the pit is not sufficient enough to prevent the platform guard from contacting the floor when the car is resting on its fully compressed buffers or bumpers); and

- Bottom Car Clearances: 2.4.1.5 (Only to the extent necessary to permit the two-section retractable platform guard (apron) to contact the pit floor).

Conditions:

1. The diameter of the hoisting steel ropes shall be not less than 8 mm (0.315 in) diameter and the roping ratio shall be two to one (2:1).

2. The outer wires of the suspension ropes shall be not less than 0.51 mm (0.02 in.) in diameter.

3. The number of suspension ropes shall be not fewer than those specified per hereby incorporated Decision and Order Appendix 1 Table.

4. The ropes shall be inspected annually for wire damage (rouge, valley break etc.) in accordance with "KONE Inc. Inspector's Guide to 6 mm diameter and 8 mm diameter steel ropes for KONE Elevators" (per Application Exhibit B, or as thereafter amended by KONE subject to Division approval).

5. A rope inspection log shall be maintained and available in the elevator controller room / space at all times.

6. The elevator rated speed shall not exceed those speeds specified per the Decision and Order Appendix 1 Table.

7. The maximum suspended load shall not exceed those weights (plus 5%) specified per the Decision and Order Appendix 1 Table.

8. The opening to the hoistway shall be effectively barricaded when car top inspection, maintenance, servicing, or testing of the elevator equipment in the hoistway is required. If the service personnel must leave the area for any reason, the hoistway and control room doors shall be closed.

9. The installation shall meet the suspension wire rope factor of safety requirements of ASME A17.1-2013 Section 2.20.3.

10. The Applicant shall comply with suspension means replacement reporting condition per hereby incorporated Decision and Order Appendix 2.

11. In lieu of the straight vertical face (one-piece) platform guards (aprons) required by Section 3141 [ASME A17.1-2004, Section 2.15.9.2], a two-section retractable platform guard consisting of a stationary, upper-section guard plate and a moveable, lower-section guard plate shall be installed to conform to the following:

a. The stationary, upper-section guard plate shall have a straight vertical face, extending below the floor surface of the platform; the height shall be not less than 920 mm (36.2 in).

b. The movable, lower-section guard plate shall:

   i. Comply with ASME A17.1-2004, Section 2.15.9.3;

   ii. Be provided a rubber bumper at the center of the bottom edge of the plate to absorb the impact when the toe guard strikes the concrete pit floor;

   iii. Be provided with an electrical switch that indicates to the control system that the retractable platform guard is in its extended position (when car is away from the bottom landing), and be provided with a second electrical switch that indicates to the control system that the moveable lower section is in its retracted position (when the car is at the bottom landing), thereby overriding the first switch. Failure of either of these electrical switches or of the mechanical parts that activate these electrical switches shall cause the controller to remove power from the driving machine and brake.

c. The two-section retractable platform guard shall be provided with smooth metal guard plates of not less than 1.5 mm (0.059 in) thick steel, or material of equivalent strength and stiffness, adequately reinforced and braced to the car platform and conforming to ASME A17.1-2004, sections 2.15.9.1 and 2.15.9.4.

d. The overall height of the two-section retractable platform guard shall be not less than 1220 mm (48 in) when the moveable lower section is in the fully extended (deployed) position.

e. The elevator rated speed shall be equal to or less than 200 feet per minute.

f. The opening to the hoistway shall be effectively barricaded when car top inspection, maintenance, servicing, or testing of the elevator equipment in the hoistway is required. If the service personnel must leave the area for any reason, the hoistway and control room doors shall be closed.

12. Any Certified Qualified Conveyance Company performing inspections, maintenance, servicing or testing the elevators shall be provided a copy of this variance decision.

13. The Division shall be notified when the elevator is ready for inspection. The elevator shall be inspected by the Division and a “Permit to Operate” issued before the elevator is placed in service.

14. The Applicant shall notify its employees or their authorized representative(s), or both, of this order in the same way and to the same extent that employees and authorized representatives are to be notified of docketed permanent variance applications pursuant to California Code of Regulations, Title 8, Sections 411.2 and 411.3.

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

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

Dated: August 31, 2021

Autumn Gonzalez, Hearing Officer

Appendix 1

	Monospace 500 Suspension Ropes Appendix 1 Table			
OSHSB File No.	Elevator ID	Minimum Quantity of Ropes (per Condition 3)	Maximum Speed in Feet per Minute (per Condition 6)	Maximum Suspended Load (per Condition 7)
21-V-263	1	7	150	12,247

Appendix 2

Suspension Means Replacement Reporting Condition

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

1. A separate report for each elevator shall be submitted, in a manner acceptable to the Division, to the following address (or to such other address as the Division might specify in the future): DOSH Elevator Unit, 2 MacArthur Place, Suite 700, Santa Ana, CA 92707, Attn: Engineering Section.

2. Each such report shall contain, but not necessarily be limited to, the following information:

    a. The State-issued conveyance number, complete address, and OSHSB file number that identifies the permanent variance.

    b. The business name, complete address, telephone number, and contact person of the elevator responsible party (presumably the Applicant or the subsequent holder of this variance).

    c. The business name, complete address, telephone number, and Certified Qualified Conveyance Company (CQCC) certification number of the firm performing the replacement work.

    d. The name (as listed on certification), Certified Competent Conveyance Mechanic (CCCM) certification number, certification expiration date, and signature of each CCCM performing the replacement work.

    e. The date and time the elevator was removed from normal service for suspension replacement, the date and time the replacement work commenced, the date and time the replacement work was completed, and the date and time the elevator was returned to normal service.

    f. A detailed description of, and clear color photographs depicting, (1) all the conditions that existed in the suspension components requiring their replacement and (2) any conditions that existed to cause damage or distress to the suspension components being replaced.

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:

KONE Retractable Platform Guard

OSHSB File No.: See Section A.1 Table in Proposed Decision Dated: August 31, 2021

DECISION

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

_____
DAVID THOMAS, Chairman

_____
BARBARA BURGEL, Member

_____
KATHLEEN CRAWFORD, Member

_____
DAVID HARRISON, Member

_____
NOLA KENNEDY, Member

_____
CHRIS LASZCZ-DAVIS, Member

_____
LAURA STOCK, Member

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Date of Adoption: September 16, 2021

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

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

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

In the Matter of Application for Permanent Variance Regarding: KONE Retractable Platform Guard	OSHSB File No.: 21-V-267 PROPOSED DECISION Hearing Date: August 25, 2021

A. Procedural Matters

1. The Applicant, Campbell Union High School District, has applied for a permanent variance from provisions of the Elevator Safety Orders, found at title 8 of the California Code of Regulations.[1]

2. This hearing was held on August 25, 2021, in Sacramento, California, via teleconference, 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.

   At the hearing, Manish Sablok with KONE elevator, appeared on behalf of Applicant; Kevin Wright appeared on behalf of IUEC Local 8; Mark Wickens and David Morris appeared on behalf of the Division of Occupational Safety and Health ("Division"); and Senior Engineer Michael Nelmida appeared on behalf of Board staff, in a technical advisory role apart from the Board.

3. Documentary and oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence: permanent variance application as Exhibit PD-1, Notice of Hearing as Exhibit PD-2, Board staff Review of Application as PD-3, Division Review of Application as PD-4, Review Draft 1 Proposed Decision as PD-5, and official notice taken of the Board's rulemaking records and variance decisions concerning the Elevator Safety Order requirements from which variance is being requested. On August 25, 2021, the hearing and record closed, and the matter was taken under submission by the Hearing Officer.

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

1. Applicant requests a permanent variance from provisions of section 3141 [ASME A17.1-2004, Section 2.15.9.2(a) and 2.4.1.5] as each concerns, respectively, the minimum length of the elevator platform guard (apron) and car mounted equipment

[1] All references are to California Code of Regulations, title 8, unless otherwise specified.

striking the pit for one (1), 3,500 lb. capacity MRL passenger elevator located at 18900 Prospect Road, Saratoga, California.

2. Applicant proposes to install a two-section retractable platform guard (apron) consisting of a stationary upper section guard plate and a moveable lower section guard plate. To monitor the retractable mechanism, an electrical switching system will be provided to monitor for malfunction.

3. Section 3141 [ASME A17.1-2004, Section 2.15.9.2] states, in part:

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

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

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

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

   2.4.1.5 When the car is resting on its fully compressed buffers or bumpers, no part of the car, or any equipment attached thereto or equipment traveling with the car, shall strike any part of the pit or any equipment mounted therein.

   An intent of this code section is to prevent any equipment attached to the elevator car from striking any part of the pit. This could damage the elevator equipment, which may result in unsafe operation or injury.

5. Per Division's Review of Application (Exhibit PD-4) Applicant's proposed platform guard is similar in all material respects to installations for which a permanent variance previously has been granted. (e.g. 17-V-306M1).

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

C. <u>Conclusive Findings</u>:

The above procedural, legal, and factual matters adequately support the reasonable

conclusion that: (1) the Applicant has complied with the statutory and regulatory requirements that must be met before an application for a permanent variance, or modification such variance, may be granted, and (2) a preponderance of the evidence establishes that the Applicant's proposals, combined with the conditions set forth in the Decision and Order, will provide 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. <u>Decision and Order:</u>

The application for permanent variance, in the matter of OSHSB File No. 21-V-267, is conditionally GRANTED, issuing the Applicant permanent variance from section 3141 [ASME A17.1-2004, Section 2.4.1.5 (insofar as necessary to allow the Applicant to utilize the proposed retractable toe guard), and 2.15.9.2 (insofar as is necessary to allow the Applicant to utilize the proposed retractable toe guard), for the specific conveyances, at the specific variance location.

1. In lieu of the straight vertical face (one-piece) platform guards (aprons) required by Section 3141 [ASME A17.1-2004, Section 2.15.9.2], a two-section retractable platform guard consisting of a stationary, upper-section guard plate and a moveable, lower-section guard plate shall be installed and conform to the following:

    a. The stationary, upper-section guard plate shall have a straight vertical face, extending below the floor surface of the platform; the height shall be not less than 920 mm (36.2 in).

    b. The movable, lower-section guard plate shall:

        (i) Comply with ASME A17.1-2004, Section 2.15.9.3;

        (ii) Be provided with a rubber bumper at the center of the bottom edge of the plate to absorb the impact when the toe guard strikes the concrete pit floor;

        (iii) Be provided with an electrical switch that indicates to the control system that the retractable platform guard is in its extended position (when car is away from the bottom landing), and be provided with a second electrical switch that indicates to the control system that the moveable lower section is in its retracted position (when the car is at the bottom landing), thereby overriding the first switch. Failure of either of these electrical switches or of the mechanical parts that activate these electrical switches shall cause the controller to remove power from the driving machine and brake.

    c. The two-section retractable platform guard shall be provided with smooth metal guard plates of not less than 1.5 mm (0.059 in) thick steel, or material of

equivalent strength and stiffness, adequately reinforced and braced to the car platform and conforming to ASME A17.1-2004, sections 2.15.9.1 and 2.15.9.4.

d. The overall height of the two-section retractable platform guard shall be not less than 1220 mm (48 in) when the moveable lower section is in the fully extended (deployed) position.

e. Any Certified Qualified Conveyance Company performing inspections, maintenance, servicing, or testing of the elevators shall be provided a copy of this variance decision.

f. The elevator rated speed shall be equal to or less than 200 feet per minute.

2. The Division shall be notified when the elevator is ready for inspection to confirm conformity with above specified conditions and limitations. No elevator shall be placed in service prior to it being inspected and issued a Permit to Operate by the Division.

3. Each Applicant shall notify its employees or their authorized representative(s), or both, of this order in the same way that the Applicant was required to notify them of the application for permanent variance per sections 411.2 and 411.3.

4. 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.

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

Dated: August 31, 2021

Autumn Gonzalez, Hearing Officer

Occupational Safety and Health Standards Board

Business Meeting

Legislative Update

Legislative Update
Prepared September 3, 2021, for the September 16, 2021
Meeting of the Occupational Safety and Health Standards Board

Summary of Changes

AB-2 Regulations: legislative review: regulatory reform. (2021-2022) **No Update**

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

AB-29 State bodies: meetings. (2021-2022) **No Update**

AB-62 Income taxes: credits: costs to comply with COVID-19 regulations. (2021-2022) **No Update**

AB-73 Employment safety: agricultural workers: wildfire smoke. (2021-2022) **Update- New Language in italics**

AB 105 The Upward Mobility Act of 2021: boards and commissions: civil service: examinations: classifications. (2021-2022) **New**

AB-257 Fast food industry: working standards. (2021-2022) **No Update**

AB-420 Public health: amusement parks and COVID-19. (2021-2022) **No Update**

AB-473 California Public Records Act.(2021-2022) **Update- New Language in italics**

AB-474 California Public Records Act: conforming revisions. (2021-2022) **Update**

AB-701 Warehouse distribution centers. (2021-2022) **Update- New Language in italics**

AB-783 Surface mines: safety regulation. (2021-2022) **Update**

AB-885 Bagley-Keene Open Meeting Act: teleconferencing. (2021-2022) **No Update**

AB-893 Emergency regulations: Division of Occupational Safety and Health: State Department of Public Health. (2021-2022) **No Update**

AB-1175 Division of Occupational Safety and Health: inspections and investigations: advance notice. (2021-2022) **No Update**

AB-1291 State bodies: open meetings. (2021-2022) **No Update**

SB-321 Employment safety standards: advisory committee: household domestic services. (2021-2022) **Update- New Language in italics**

SB-410 Occupational safety and health: regulations. (2021-2022) **No Update**

AB-2

AB-2 Regulations: legislative review: regulatory reform. (2021-2022)
(Fong)

Date	Action
05/20/21	In committee: Held under submission.
05/20/21	Joint Rule 62(a), file notice suspended.
05/19/21	In committee: Set, first hearing. Referred to APPR. suspense file.
04/29/21	From committee: Do pass and re-refer to Com. on APPR. (Ayes 7. Noes 0.) (April 28). Re-referred to Com. on APPR.

Summary:

AB 2, as introduced, Fong. Regulations: legislative review: regulatory reform.

The Administrative Procedure Act governs the procedure for the adoption, amendment, or repeal of regulations by state agencies and for the review of those regulatory actions by the Office of Administrative Law. That act requires an agency, prior to submitting a proposal to adopt, amend, or repeal an administrative regulation, to determine the economic impact of that regulation, in accordance with certain procedures. The act defines a major regulation as a regulation, as specified, that will have an economic impact on California business enterprises and individuals in an amount exceeding $50,000,000, as estimated by the agency. The act requires the office to transmit a copy of a regulation to the Secretary of State for filing if the office approves the regulation or fails to act on it within 30 days. The act provides that a regulation or an order of repeal of a regulation becomes effective on a quarterly basis, as prescribed, except in specified instances.

This bill would require the office to submit to each house of the Legislature for review a copy of each major regulation that it submits to the Secretary of State. The bill would add another exception to those currently provided that specifies that a regulation does not become effective if the Legislature enacts a statute to override the regulation.

The Administrative Procedure Act requires the Office of Administrative Law and a state agency proposing to adopt, amend, or repeal a regulation to review the proposed changes for, among other things, consistency with existing state regulations.

This bill would require each state agency to, on or before January 1, 2023, review that agency's regulations, identify any regulations that are duplicative, overlapping, inconsistent, or out of date, to revise those identified regulations, as provided, and report to the

	Legislature and Governor, as specified. The bill would repeal these provisions on January 1, 2024. Board staff are monitoring this legislation to determine if regulatory action by the Board is called for.

AB-7

AB-7 Emergency ambulance employees: subsidized protective gear. (2021-2022)
(Carillo, Luz Reyes, and Lorena Gonzalez)

Date	Action
09/02/21	In Assembly. Concurrence in Senate amendments pending. May be considered on or after September 4 pursuant to Assembly Rule 77.
09/02/21	Read third time. Passed. Ordered to the Assembly. (Ayes 30. Noes 8.).
08/26/21	Read second time. Ordered to third reading.
08/26/21	From committee: Do pass. (Ayes 5. Noes 2.) (August 26).

Summary:

AB 7, as amended, Rodriguez. Emergency ambulance employees: ~~subsidized~~ *multithreat body* protective gear.

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

This bill would, upon request by an emergency ambulance employee, require an emergency ambulance provider to provide that employee with multithreat body protective gear, defined as material or equipment that is worn by an employee and is bullet, strike, slash, and stab resistant, and, for these purposes only, to be considered as part of the above-described safety devices and safeguards. The bill would require the provider, once the provider has obtained the protective gear, to make the protective gear readily available for the requesting employee to use when responding to an emergency call, and to provide training to that employee on the proper fitting and use of the protective gear, as specified. The bill would require an emergency ambulance provider to inform each emergency ambulance employee,

	upon initial employment and subsequently on an annual basis, of the employee's right to request multithreat body protective gear. By creating new duties for emergency ambulance providers, a violation of which would be a crime, the bill would impose a state-mandated local program. The bill would not apply to the state or a political subdivision of the state. The bill would require the Emergency Medical Services Authority to develop and establish standards for the protective gear provided, to develop a process of certification for the protective gear, and to develop guidelines for the above-described training, as specified. The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement. This bill would provide that no reimbursement is required by this act for a specified reason. Board staff are monitoring this legislation to determine if regulatory action by the Board is called for.

AB-29

AB-29 State bodies: meetings. (2021-2022)
(Cooper and Rubio)

Date	Action
05/20/21	In committee: Held under submission.
04/21/21	In committee: Set, first hearing. Referred to APPR. suspense file.
04/12/21	From committee: Do pass and re-refer to Com. on APPR. (Ayes 22. Noes 0.) (April 8). Re-referred to Com. on APPR.

Summary:

AB 29, as introduced, Cooper. State bodies: meetings.

Existing law, the Bagley-Keene Open Meeting Act, requires that all meetings of a state body, as defined, be open and public, and that all persons be permitted to attend any meeting of a state body, except as otherwise provided in that act. Existing law requires the state body to provide notice of its meeting, including specified information and a specific agenda of the meeting, as provided, to any person who requests that notice in writing and to make that notice available on the internet at least 10 days in advance of the meeting.

This bill would require that notice to include all writings or materials provided for the noticed meeting to a member of the state body by the staff of a state agency, board, or commission, or another member of the state body that are in connection with a matter subject to discussion or consideration at the meeting. The bill would require those writings or materials to be made available on the state body's internet website, and to any person who requests the writings or materials in writing, on the same day as the dissemination of the writings and materials to members of the state body or at least 72 hours in advance of the meeting, whichever is earlier. The bill would prohibit a state body from discussing those writings or materials, or from taking action on an item to which those writings or materials pertain, at a meeting of the state body unless the state body has complied with these provisions.

Board staff are monitoring this legislation for cost and impacts to its meeting requirments.

AB-62

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

Date	Action
03/22/21	In committee: Hearing postponed by committee.

Summary:

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

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

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

This bill would take effect immediately as a tax levy.

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

AB-73

AB-73 Employment safety: agricultural workers: wildfire smoke. (2021-2022)
(Rivas, Garcia, Gonzalez, and Kalra)

Date	Action
08/30/21	Read second time. Ordered to third reading.
08/26/21	Read second time and amended. Ordered returned to second reading.
08/26/21	From committee: Amend, and do pass as amended. (Ayes 7. Noes 0.) (August 26).

Summary:

AB 73, as amended, Robert Rivas. Health emergencies: employment safety: agricultural workers: wildfire smoke.

(1) Existing law establishes the State Department of Public Health (department) to implement various programs throughout the state relating to public health, including licensing and regulating health facilities and control of infectious diseases. Existing law requires the department and the Office of Emergency Services, in coordination with other state agencies, to, upon appropriation and as necessary, establish a personal protective equipment (PPE) stockpile. Existing law requires the department to establish guidelines for the procurement, management, and distribution of PPE, taking into account, among other things, the amount of each type of PPE that would be required for all health care workers and essential workers, as defined, in the state during a 90-day pandemic or other health emergency.

This bill would specifically include wildfire smoke events among health emergencies for these purposes. The bill would include agricultural workers, as defined, in the definition of essential workers.

Existing law also establishes the Personal Protective Equipment Advisory Committee (committee), consisting of representatives from, among other groups, an association representing skilled nursing facilities, a statewide association representing physicians, 2 representatives of labor organizations that represent health care workers, and 2 representatives of labor organizations that represent essential workers, as defined, to make recommendations to the department for the development of guidelines for the procurement, management, and distribution of PPE, as specified.

This bill would include agricultural workers within the definition of essential workers, and would require the committee to, in addition, include a representative of a labor

organization representing agricultural workers and a representative of an organization that represents agricultural employers. The bill would also require the department to report to the Legislature regarding the PPE stockpile within 6 months of the effective date of these provisions.

(2) Existing law establishes the Division of Occupational Safety and Health and the Occupational Safety and Health Standards Board within the Department of Industrial Relations and sets forth their powers and duties relating to the adoption of health and safety standards for workers. Under existing law, certain violations of a standard, order, or special order pursuant to these provisions are crimes.

Existing regulations of the division protect employees exposed to wildfire smoke and include control by respiratory protective equipment among the methods to control harmful exposure.

~~This bill would, among other things, require the division to designate wildfire smoke strike teams within the appropriate regional offices and authorize the division to deploy the teams to enforce wildfire smoke protection regulations under specified conditions with regard to agricultural workplaces and agricultural employees.~~

~~The bill would require the division, by January 1, 2023, to develop and distribute a sample template document providing prescribed air quality training and information, including, but not limited to, how to use N95 respirators safely. The bill would require employers to periodically conduct the training. The bill would, in addition, commencing January 1, 2023, require refresher training during wildfire smoke emergencies and prior to distribution of the respirators. The bill would require the template and training be consistent with regulations adopted by the board.~~

This bill would require the division to develop, periodically update, and distribute to employers training materials in English, Spanish, and pictograms for agricultural employees relating to wildfire smoke safety topics, including employee rights and access to, and use of, personal protective equipment. The bill would require the training to be provided periodically by employers and supervisors of agricultural employees, and that the frequency be established by regulations adopted by the board and based upon regional wildfire risk.

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

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

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

This bill would declare that it is to take effect immediately as an urgency statute.

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

AB-105

AB 105 The Upward Mobility Act of 2021: boards and commissions: civil service: examinations: classifications. (2021-2022)

Holden Chiu and Cooper

Date	Action
08/31/21	Read second time and amended. Ordered to third reading.
08/30/21	From committee: Amend, and do pass as amended. (Ayes 5. Noes 2.) (August 26).
08/23/21	In committee: Referred to suspense file.
07/15/21	Read second time and amended. Re-referred to Com. on APPR.
07/14/21	From committee: Amend, and do pass as amended and re-refer to Com. on APPR. (Ayes 9. Noes 2.) (July 13).

Summary:

Existing law provides that it is the policy of the State of California that the composition of state boards and commissions shall be broadly reflective of the general public, including ethnic minorities and women.

This bill would require that, on or after January 1, 2022, all state boards and commissions consisting of one or more volunteer members have at least one board member or commissioner from an underrepresented community. The bill would define the term "board member or commissioner from an underrepresented community" as an individual who self-identifies as Black, African American, Hispanic, Latino, Asian, Pacific Islander, Native American, Native Hawaiian, or Alaska ~~Native, or~~ *Native;* who self-identifies as gay, lesbian, bisexual, or ~~transgender.~~ *transgender; who is a veteran, as defined; or who has a disability, as defined.* The bill would apply these requirements only as vacancies on state boards and commissions occur.

The California Constitution establishes the State Personnel Board (board) and requires the board to, among other things, enforce the civil service statutes, prescribe probationary periods and classifications, adopt rules authorized by statute, and review disciplinary

	actions. The Constitution also requires the executive officer of the board to administer the civil service statutes under the rules of the board. Under existing law, the board is authorized to conduct audits and investigations of the personnel practices of the Department of Human Resources and appointing authorities to ensure compliance with civil service policies, procedures, and statutes. Existing law establishes the Department of Human Resources (department) and provides that, subject to the requirements of the California Constitution, it succeeds to and is vested with the duties, purposes, responsibilities, and jurisdiction exercised by the board as its designee with respect to the board's administrative and ministerial functions. This bill, among other things, would instead authorize the department, at the direction of and in conjunction with the State Personnel Board, to conduct audits and investigations of personnel practices of other departments and appointing authorities to ensure compliance with civil service policies, procedures, and statutes. The bill would require the department to oversee compliance with rules prescribed by the board consistent with a merit-based civil service system to govern appointments, classifications, examinations, probationary periods, disciplinary actions, and other matters related to the board's constitutional authority, and require the department, pursuant to a process established by the State Personnel Board, to investigate complaints filed by employees in a state department's equal employment opportunity program and personnel office, other civil service employees, applicants, and members of the public alleging violations of civil service laws and report findings to the board for adjudication. Existing law requires any state agency, board, or commission that directly or by contract collects demographic data as to the ancestry or ethnic origin of Californians to use separate collection categories and tabulations for major Asian and Pacific Islander groups, as specified. This bill would require any state agency, board, or commission that directly or by contract collects demographic data as to the ancestry or ethnic origin of Californians to use separate collection categories and tabulations for specified African American groups. The bill would distinguish between African Americans who are descendants of persons enslaved in the United States and African Americans who are not descendants of persons enslaved in the United States, as defined. Existing law requires that lists of eligible applicants for civil service positions be established as a result of free competitive examinations. Existing law, with regard to the requirements governing examinations for establishing employment lists, authorizes the department to designate an appointing power to design, announce, or administer examinations and requires the board to establish minimum qualifications for determining the fitness and qualifications of employees for each class of position. This bill would require instead that the board establish a process that includes diversity and best practices in each aspect of the design, announcement, and administration of the

examinations and, in developing qualifications for determining the fitness and qualifications of employees, create standards for statements of qualifications used as examination criteria for the State of California in determining the fitness and qualifications of employees for each class of position. The bill would also require that examinations with an oral component be video and otherwise electronically recorded and all other examination materials be maintained for each examination, as specified. The bill would also require the announcement for an examination include the core competencies, as defined, and the standard statement of qualifications, if applicable.

Existing law requires all appointing authorities of state government to establish an effective program of upward mobility for employees in low-paying occupational groups. Existing law requires each upward mobility program to include annual goals for upward mobility and a timetable for when progress will occur, and requires the department to approve the goals and timetables. Existing law authorizes an appointing authority that determines that it will be unable to achieve the goals to ask the department for a reduction in the goals, as specified.

This bill would repeal the authorization for an appointing authority to ask the department for a reduction in their annual upward mobility goals, and would instead require the appointing authority to submit a report explaining the failure to achieve the goals and what requirements are necessary to facilitate achieving the goals, as specified, and then submit the report to specified persons. The bill would, on or before July 1, 2022, require the department to develop model upward mobility goals that include race, gender, ~~and LGBTQ~~ *LGBTQ, veteran status, or physical or mental disability* as factors, and to provide a report to the Legislature outlining the department workforce analysis used to develop those model goals.

Existing law authorizes a state appointing power to take adverse action against state civil service employees for specified causes for discipline, and provides procedures for state civil service disciplinary proceedings. Existing law authorizes the board to hold hearings and make investigations concerning all matters relating to the enforcement and effect of the State Civil Service Act, as specified.

This bill would require each appointing power to provide the Department of Human Resources with a report, no later than April 1 of each year, detailing certain information regarding adverse actions against state employees, including, but not limited to, the ethnicity, race, gender identity, or sexual orientation of each employee served with an adverse action in the preceding calendar year.

Board staff are monitoring this legislation.

AB-257

AB 257 Food facilities and employment. (2021-2022)
(Gonzalez)

Date	Action
06/28/21	Ordered to inactive file at the request of Assembly Member Lorena Gonzalez.
06/28/21	Reconsideration granted.

Summary:

AB 257, as amended, Lorena Gonzalez. ~~Fast food industry: working standards.~~ Food facilities and employment.

Existing law prescribes various protections for employees and generally charges the Labor Commissioner with the enforcement of labor laws. Existing law establishes the powers and responsibilities of the Division of Occupational Safety and Health and the Division of Labor Standards and Enforcement, which are within the Department of Industrial Relations. Existing law creates the California Retail Food Code, which establishes uniform health and sanitation standards for, and provides for regulation by the State Department of Public Health of, retail food facilities, as defined, and requires local health agencies to enforce these provisions.

This bill would enact the Fast Food Accountability and Standards Recovery Act or FAST Recovery Act. The bill would establish the Fast Food Sector Council (council), to be composed of 11 members to be appointed by the Governor, the Speaker of the Assembly, and the Senate Rules Committee, and would prescribe its powers. The purpose of the council would be to establish industry-wide minimum standards on wages, working hours, and other working conditions related to the health, safety, and welfare of, and supplying the necessary cost of proper living to, fast food restaurant workers, as well as effecting interagency coordination and prompt agency responses in this regard. The bill would define the characteristics of a fast food restaurant, including that the establishment be part of a set of fast food restaurants consisting of 30 or more establishments nationally that share a common brand, or that are characterized by standardized options for decor, marketing, packaging, products, and services.

This bill would require the council to promulgate minimum fast food restaurant employment standards, including standards on wages, working conditions, and training, and to issue, amend, and repeal any other rules and regulations, as necessary to carry out its duties. Under the bill, if a conflict exists between council's standards, rules, or regulations and those issued by another state agency, the standards, rules, or regulations issued by the

council would apply to fast food restaurant workers and fast food restaurant franchisees and franchisors, and the conflicting rules or regulations of the other state agency would not have force or effect with respect to these parties. The bill would except from this application proposed standards within the jurisdiction of the Occupational Safety and Health Standards Board and would prescribe an alternate process in this regard.

This bill would require the council to conduct a full review of the adequacy of minimum fast food restaurant health, safety, and employment standards at least once every 3 years, and would empower the counsel to issue subpoenas for this purpose. The bill would require the council, following that review, to issue, amend, or repeal, or make recommendations to issue, amend, or repeal, any fast food employment, health or safety standard as appropriate. The bill would require the council to hold hearings every 6 months that would be open to the public, as specified, and would authorize the council to coordinate with and authorize local agencies to hold such meetings. The bill would authorize a county, and a city with a population greater than 200,000, to establish a Local Fast Food Sector Council, and would prescribe its powers and requirements for its composition. The bill would authorize a Local Fast Food Sector Council to provide recommendations to the council and would prescribe requirements for the state council in connections with these recommendations.

This bill would require standards for minimum wages, maximum hours of work, and other working conditions fixed by the council to be the minimum standards for fast food restaurant employees and would require that they be enforced by the Division of Labor Standards Enforcement. The bill would require the Labor Commissioner and the commissioner's deputies to take assignments of violations of standards issued by the council upon the filing of a claim in writing by an employee or an employee's authorized representative.

In addition to the above, FAST Recovery Act would require that fast food restaurant franchisor be responsible for ensuring that its franchisee comply with a variety of employment, worker, and public health and safety laws and orders, including those related to unfair business practices, ~~general liability,~~ employment discrimination, the California Retail Food Code, a range of labor regulations, emergency orders, and standards issued by the council. The bill would require that a fast food restaurant franchisor be jointly and severally liable for violations of its franchisee, as specified, and would provide that specified laws may be enforced against a fast food restaurant franchisor to the same extent that they may be enforced against a franchisee. Among other things, the bill would authorize a fast food restaurant franchisee to file an action against its franchisor for monetary or injunctive relief in connection with the terms of a franchise and the franchisee's compliance with specified laws and orders. The bill would create presumptions in this regard and would provide for joint and several liability of the franchisor if the terms of a franchise are found to be a substantial factor in causing the franchisee to be liable. The bill would prohibit a fast food restaurant ~~franchisee or fast food restaurant franchisor~~ *operator* from discharging or in any manner discriminating or retaliating against any fast food restaurant employee for

	specified reasons and would create a cause of action and right to reinstatement for employees in this ~~connection.~~ *connection, as well as a presumption of unlawful discrimination and retaliation in certain circumstances.* Existing law requires a local health officer or a local enforcement agency to notify the person in charge of the food facility, investigate conditions, and take appropriate action when a local health officer is notified of an illness that can be transmitted by food or an employee in a food facility. Existing law requires the owner or the food safety certified employee to require food employees to report to the person in charge if a food employee is diagnosed with an illness. Existing law specifies that illness, for purposes of those requirements, includes salmonella typhi and norovirus, among others. A person who violates any provision of the California Retail Food Code is guilty of a misdemeanor. This bill would additionally include COVID-19 as an illness for purposes of the above-described requirements. By increasing the duties of local officials and expanding the definition of an existing crime, this bill would impose a state-mandated local program. The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement. This bill would provide that no reimbursement is required by this act for a specified reason. Board staff are monitoring this legislation to determine if regulatory action by the Board is called for.

AB-420

AB-420 Public health: amusement parks and COVID-19. (2021-2022)
(Quirk-Silva and Valladares)

Date	Action
03/01/21	Re-referred to Com. on A.,E.,S.,T., & I.M..
02/25/21	From committee chair, with author's amendments: Amend, and re-refer to Com. on A.,E.,S.,T., & I.M. Read second time and amended.
02/25/21	Referred to Coms. on A.,E.,S.,T., & I.M. and L. & E.
02/05/21	From printer. May be heard in committee March 7.
02/04/21	Read first time. To print.

Summary:

AB 420, as introduced, Quirk-Silva. Public health: amusement parks and COVID-19.

Existing law, the California Emergency Services Act, authorizes the Governor to declare a state of emergency during conditions of disaster or extreme peril to persons or property, including epidemics. Pursuant to this authority, on March 4, 2020, the Governor declared a state of emergency relating to the novel coronavirus 2019 (COVID-19) pandemic. On August 28, 2020, the executive branch implemented a 4-tier "Blueprint for a Safer Economy," which identifies a county's COVID-19 risk level for business operations on a scale from widespread risk to minimal risk. On October 20, 2020, the State Department of Public Health and the Division of Occupational Safety and Health issued a guidance document, "COVID-19 INDUSTRY GUIDANCE: Amusement Parks and Theme Parks," which authorizes a small amusement park to operate at limited capacity when its county is in the moderate tier, and authorizes any other amusement park to operate at 25% capacity when its county is in the minimal tier.

This bill would express the intent of the Legislature that the executive branch adjust the "COVID-19 INDUSTRY GUIDANCE: Amusement Parks and Theme Parks" document and place all amusement parks, regardless of size, within the moderate risk tier, rather than the minimal risk tier. If the executive branch takes those actions, the bill would require the Department of Industrial Relations to administer a competitive grant for amusement parks to be used by amusement parks to purchase personal protective equipment for their employees. The bill would appropriate $500,000 from the General Fund for the grant program. The bill would also make related findings and declarations.

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

AB-473

AB-473 California Public Records Act.(2021-2022)
(Chau)

Date	Action
09/01/21	Senate amendments concurred in. To Engrossing and Enrolling. (Ayes 78. Noes 0.).
09/01/21	Assembly Rule 77 suspended. (Ayes 54. Noes 16.)
08/31/21	In Assembly. Concurrence in Senate amendments pending. May be considered on or after September 2 pursuant to Assembly Rule 77.
08/30/21	Read third time. Passed. Ordered to the Assembly. (Ayes 39. Noes 0.).
08/17/21	Read second time. Ordered to third reading.
08/16/21	Read third time and amended. Ordered to second reading.

Summary:

AB 473, as introduced, Chau. California Public Records Act.

The California Public Records Act requires state and local agencies to make their records available for public inspection, unless an exemption from disclosure applies.

This bill would recodify and reorganize the provisions of the act. The bill would include provisions to govern the effect of recodification and state that the bill is intended to be entirely nonsubstantive in effect. The bill would contain related legislative findings and declarations. The bill would become operative on January 1, 2023.

This bill would incorporate additional changes proposed by AB 386, AB 562, and AB 823 to be operative only if this bill and AB 386, AB 562, and AB 823 are enacted and this bill is enacted last.

Board staff are monitoring this legislation.

AB-474

AB-474 California Public Records Act: conforming revisions. (2021-2022)
(Chau)

Date	Action
09/01/21	Senate amendments concurred in. To Engrossing and Enrolling. (Ayes 78. Noes 0.).
09/01/21	Assembly Rule 77 suspended. (Ayes 54. Noes 16.)
08/31/21	In Assembly. Concurrence in Senate amendments pending. May be considered on or after September 2 pursuant to Assembly Rule 77.
08/30/21	Read third time. Passed. Ordered to the Assembly. (Ayes 39. Noes 0.).
08/17/21	Read second time. Ordered to third reading.
08/16/21	Read third time and amended. Ordered to second reading.

Summary:

AB 474, as introduced, Chau. California Public Records Act: conforming revisions.

The California Public Records Act requires state and local agencies to make their records available for public inspection, unless an exemption from disclosure applies.

This bill would enact various conforming and technical changes related to another bill, AB 473, which recodifies and reorganizes the California Public Records Act. This bill would only become operative if AB 473 is enacted and reorganizes and makes other nonsubstantive changes to the California Public Records Act that become operative on January 1, 2023. The bill would also specify that any other bill enacted by the Legislature during the 2021 calendar year that takes effect on or before January 1, 2022, and that affects a provision of this bill shall prevail over this act, except as specified. The bill would also specify that any other bill enacted by the Legislature during the 2021 calendar year that takes effect on or before January 1, 2022, and that affects a provision of this bill shall prevail over this act, except as specified.

Board staff are monitoring this legislation.

AB-701

AB-701 Warehouse distribution centers. (2021-2022)
(Gonzalez)

Date	Action
08/30/21	Read second time. Ordered to third reading.
08/26/21	Read second time and amended. Ordered returned to second reading.
08/26/21	From committee: Amend, and do pass as amended. (Ayes 5. Noes 2.) (August 26).
08/16/21	In committee: Referred to suspense file.

Summary:

AB 701, as amended, Lorena Gonzalez. Warehouse distribution centers.

This bill, among other things, would require specified employers to provide to each employee, defined as a nonexempt employee who works at a warehouse distribution center, upon hire, *or within 30 days of the effective date of these provisions,* with a written description of each quota to which the employee is subject, including the quantified number of tasks to be performed, or materials to be produced or handled, within the defined time period, and any potential adverse employment action that could result from failure to meet the quota. The bill would provide that an employee shall not be required to meet a quota that prevents compliance with meal or rest periods, *use of bathroom facilities,* or occupational health and safety laws, as specified. The bill would prohibit an employer from taking adverse action against an employee for failure to meet a quota that has not been disclosed or for failure to meet a quota that does not allow a worker to comply with meal or rest periods or occupational health and safety laws. The bill would require that any action taken by an employee to comply with occupational health and safety laws or division standards be considered time on task and productive time for the purposes of any quotas or monitoring system.

This bill would provide that if a current or former employee believes that meeting a quota caused a violation of their right to a meal or rest period or required them to violate any occupational health and safety law or standard, they have the right to request, and the employer is required to provide, a written description of each quota to which the employee is subject and a copy of the most recent 90 days of the employee's own personal work speed data. The bill would limit a former employee to one of these requests. ~~The bill would require~~

~~the Labor Commissioner, if any employee files a complaint alleging violations of these provisions, to provide each employee in the workplace with a written notice containing information regarding the employee's right to report specified violations and regarding the employer being prohibited from retaliating against an employee for reporting unsafe workplace conditions or participating in an investigation by an enforcement agency.~~ The bill would also authorize a current or former employee to bring an action for injunctive relief to obtain compliance with specified requirements, and may, upon prevailing in the action, recover costs and reasonable attorney's fees in that action.

This bill would require the Labor Commissioner to enforce these provisions by engaging in coordinated and strategic enforcement efforts with the Department of Industrial Relations, including the Division of Occupational Safety and Health and the Division of Workers' Compensation. The bill would authorize the commissioner to have access to data from the department including employer-reported injury data and enforcement actions in warehouses, the identity of uninsured employers, and employers who are committing workers' compensation fraud, wage theft, or other information relevant to the commissioner's authority, and would make other conforming changes. The bill would require the commissioner to report to the Legislature by January 1, 2023, the number of claims filed with the commissioner, data on warehouse production quotas in warehouses with annual employee injury rates above the industry average, and the number of investigations undertaken and enforcement actions initiated, per employer.

This bill would require to commissioner, if a pattern or practice of injuries or health and safety violations is found at a particular worksite or with an employer, to initiate an investigation of violations in coordination with other divisions within the Department of Industrial Relations, as needed. The bill would authorize the commissioner to adopt regulations relating to the procedures for an employee to make a complaint alleging a violation of this part.

~~(2)Under existing law, the California Occupational Safety and Health Act of 1973, the Division of Occupational Safety and Health investigates complaints that a workplace is not safe and may issue orders necessary to ensure employee safety. Under existing law, certain violations of that act or a standard, order, or special order authorized by the act are a crime. This bill would require the division, by January 1, 2023, to propose to the Occupational Safety and Health Standards Board for the board's review and adoption a standard that minimizes the risk of musculoskeletal injuries and disorders among employees working in warehouse distribution centers, as provided. Because this bill would expand the definition of an existing crime, it would impose a state-mandated local program. The bill would also require the division, when an employee files a complaint, to provide the employee with a written notice containing specified information regarding their rights.~~
~~(3)~~

	*(2)*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement. This bill would provide that no reimbursement is required by this act for a specified reason. Board staff are monitoring this legislation to determine if regulatory action by the Board is called for.

AB-783

AB 783 Surface mines: safety regulation. (2021-2022)
(Gray)

Date	Action
09/01/21	Enrolled and presented to the Governor at 4:30 p.m.
08/26/21	In Assembly. Ordered to Engrossing and Enrolling.
08/26/21	Read third time. Passed. Ordered to the Assembly. (Ayes 36. Noes 0.).
08/16/21	Read second time. Ordered to third reading.

Summary:

AB 783, as introduced, Gray. Surface mines: safety regulation.

Existing law, enforced by the Division of Occupational Safety and Health, defines and regulates mines and tunnels and distinguishes between above ground, or surface mines, and underground mines.

Existing law requires the Division of Occupational Safety and Health to issue citations if, upon inspection, an employer violates specified standards, rules, orders, or regulations. Existing law authorizes a notice to be issued in lieu of a citation if specified conditions are met. Existing law prohibits a citation or notice from being issued by the division more than 6 months after the occurrence of the violation.

This bill will specify that the division is prohibited from issuing a citation or notice to a surface mine employer more than 6 months after the occurrence of a violation. For inspections at a surface mine, the bill would require the division to provide the employer a specified notice of hazard within 72 hours after the inspection for observable conditions that may cause an injury if not addressed with reasonable promptness. The bill would prohibit the absence of identification of particular conditions in a notice, or the failure of the division to note particular conditions in a notice, from being grounds to dismiss or prevent applicable enforcement or corrective action.

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

AB-885

AB-885 Bagley-Keene Open Meeting Act: teleconferencing.(2021-2022)
(Quirk)

Date	Action
03/25/21	Re-referred to Com. on G.O.
03/24/21	From committee chair, with author's amendments: Amend, and re-refer to Com. on G.O. Read second time and amended.
02/25/21	Referred to Com. on G.O.
02/18/21	From printer. May be heard in committee March 20.
02/17/21	Read first time. To print.

Summary:

AB 885, as amended, Quirk. Bagley-Keene Open Meeting Act: teleconferencing.

The Bagley-Keene Open Meeting Act (Bagley-Keene Act), requires, with specified exceptions, that all meetings of a state body, as defined, be open and public, and all persons be permitted to attend any meeting of a state body, except as provided. The Bagley-Keene Act, among other things, requires a state body that elects to conduct a meeting or proceeding by teleconference to make the portion of the meeting that is required to be open to the public audible to the public at the location specified in the notice of the meeting. The Bagley-Keene Act requires a state body that elects to conduct a meeting or proceeding by teleconference to post agendas at all teleconference locations, identify each teleconference location in the notice and agenda of the meeting or proceeding, and requires each teleconference location to be accessible to the public. That law authorizes any meeting of a state body that is an advisory board, advisory commission, advisory committee, advisory subcommittee, or similar multimember advisory body to hold an open meeting by teleconference if the meeting complies with the requirements of the act, except as provided. Existing law requires that when a member of a multimember state advisory body participates remotely the body provide a means by which the public may remotely hear audio of the meeting or remotely observe the meeting. Existing law requires a multimember state advisory body to end or adjourn a meeting if it discovers that a required means of remote access has failed during the meeting, and, if the meeting is to adjourn and reconvene on the same day, that law requires the body to communicate, among other things, how a member of the public may hear audio of the meeting or observe the meeting.

	This bill would require a state body that elects to conduct a meeting or proceeding by teleconference to make the portion that is required to be open to the public both audibly and visually observable. The bill would require a state body that elects to conduct a meeting or proceeding by teleconference to post an agenda at the designated primary physical meeting location in the notice of the meeting where members of the public may physically attend the meeting and participate. The bill would extend the above requirements of meetings of multimember advisory bodies that are held by teleconference to meetings of all multimember state bodies. The bill would require a multimember state body to provide a means by which the public may both audibly and visually remotely observe a meeting if a member of that body participates remotely. The bill would further require any body that is to adjourn and reconvene a meeting on the same day to communicate how a member of the public may both audibly and visually observe the meeting. The bill would also make nonsubstantive changes to those provisions. Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest. This bill would make legislative findings to that effect. Board staff are monitoring this legislation for cost and impacts to its meeting requirments.

AB-893

AB-893 Emergency regulations: Division of Occupational Safety and Health: State Department of Public Health. (2021-2022)

(Davies)

Date	Action
02/25/21	Referred to Com. on A. & A.R.
02/18/21	From printer. May be heard in committee March 20.
02/17/21	Read first time. To print

Summary:

AB 893, as introduced, Davies. Emergency regulations: Division of Occupational Safety and Health: State Department of Public Health.

Existing law establishes the Occupational Safety and Health Standards Board within the Department of Industrial Relations to adopt occupational health and safety standards to protect the welfare of employees. The Division of Occupational Safety and Health enforces occupational safety and health standards and orders.

Existing law establishes the State Department of Public Health, within the California Health and Human Services Agency, and vests the department with certain duties, powers, functions, jurisdiction, and responsibilities over specified public health programs.

Existing law, the Administrative Procedure Act, governs, among other things, the procedures for the adoption, amendment, or repeal of regulations, including emergency regulations, by state agencies and for the review of those regulatory actions by the Office of Administrative Law.

This bill would require the Division of Occupational Safety and Health or the State Department of Public Health, within 14 calendar days of the release of a federal recommendation that conflicts with an emergency regulation related to COVID-19 issued by the division or the department, to review the conflicting emergency regulation and make a determination to either amend the regulation or submit a report to the Legislature on the decision not to amend the regulation, as specified. The bill would require the division or department, before determining whether to amend the emergency regulation, to provide public notice and an opportunity for public comment. The bill would repeal these provisions

	90 days after the termination of the state of emergency related to the COVID-19 pandemic declared by the Governor. This bill would declare that it is to take effect immediately as an urgency statute. Board staff are monitoring this legislation to determine if regulatory action by the Board is called for.

AB-1175

AB-1175 Division of Occupational Safety and Health: inspections and investigations: advance notice. (2021-2022)

(Aguiar-Curry)

Date	Action
03/15/21	Re-referred to Com. on L. & E.
03/11/21	From committee chair, with author's amendments: Amend, and re-refer to Com. on L. & E. Read second time and amended.
03/11/21	Referred to Com. on L. & E.
02/19/21	From printer. May be heard in committee March 21.
02/18/21	Read first time. To print.

Summary:

AB 1175, as amended, Aguiar-Curry. Division of Occupational Safety and Health: inspections and investigations: advance notice.

Existing law, the California Occupational Safety and Health Act of 1973, vests the Division of Occupational Safety and Health within the Department of Industrial Relations with the power, jurisdiction, and supervision over every employment and place of employment, which is necessary adequately to enforce and administer all laws and lawful standards and orders, or special orders requiring such employment and place of employment to be safe, and requiring the protection of the life, safety, and health of every employee in such employment or place of employment, including to inspect and investigate employments and places of employment, as prescribed. The Occupational Safety and Health Administration (OSHA), except as provided, prohibits a person or employer from being

	given advance warning of an inspection or investigation by any authorized representative of the division. OSHA authorizes the Chief of the Division of Occupational Safety and Health or an authorized representative to permit advance notice of an inspection or investigation as prescribed by the Director of Industrial Relations. OSHA prohibits the authorization of advance notice when the investigation or inspection is to be made as a result of an employee complaint, unless there is imminent danger to the health or safety of an employee or employees. OSHA makes it a crime, punishable as prescribed, for any person to give unauthorized advance notice of any inspection to be conducted. This bill would revise those advance warning provisions to prohibit any representative of the division from giving advance notice of an inspection or investigation to an employer or other person unless authorized under OSHA. The bill would authorize the chief or their authorized representatives to permit advance notice of an inspection or investigation when advance notice is necessary to ensure availability of essential personnel or access to the site, equipment, or process, as prescribed by the director. The bill would delete the prohibition on the authorization of advance notice when the investigation or inspection is to be made as a result of an employee complaint. The bill would expand the crime to apply to unauthorized advance notice of an investigation to be conducted, thereby imposing a state-mandated local program. The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement. This bill would provide that no reimbursement is required by this act for a specified reason. Board staff are monitoring this legislation.

AB-1291

AB-1291 State bodies: open meetings. (2021-2022)
(Frazier)

Date	Action
07/09/21	Chaptered by Secretary of State - Chapter 63, Statutes of 2021.
07/09/21	Approved by the Governor.

Summary:

AB 1291, as introduced, Frazier. State bodies: open meetings.

The Bagley-Keene Open Meeting Act requires that meetings of a state body be open and public and that all persons be permitted to attend, with certain exceptions. Existing law provides that, subject to certain exceptions and reasonable regulations, the state body shall provide members of the public an opportunity to directly address the state body on agenda items. Existing law authorizes the state body to limit the amount of time allotted for each member of the public to speak, but specifies that members of the public who use translators shall be given twice that allotted amount of time.

This bill would also require a state body, when it limits time for public comment, to provied at least twice the alloted time to a member of the public who utilizes translating technology to address the state body. The bill would additionally make technical, nonsubstantive changes.

Board staff are monitoring this legislation for cost and impacts to its meeting requirments.

SB-321

SB-321 Employment safety standards: household domestic services. (2021-2022) (Durazo)

Date	Action
08/30/21	Ordered to third reading.
08/30/21	Read third time and amended.
08/30/21	Read second time. Ordered to third reading.
08/26/21	From committee: Do pass. (Ayes 13. Noes 0.) (August 26).
08/19/21	August 19 set for first hearing. Placed on suspense file.

Summary:

SB 321, as amended, Durazo. Employment safety standards: *advisory committee:* household domestic services.

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. Existing law charges the Division of Occupational Safety and Health within the Department of Industrial Relations with enforcement of the act, subject to oversight by the Chief of the Division of Occupational Safety and Health (chief).

~~The~~
This bill would require the chief or a representative of the chief to convene an advisory ~~committee~~ *committee, comprised of no fewer than 13 and no more than 18 individuals, including representatives from specified groups,* to make ~~recommendations~~ *recommendations, in consultation with other specified divisions and entities,* to the department or Legislature to ~~ensure~~ *protect* the health and safety of household domestic service employees, and develop voluntary industry-specific occupational health and safety guidance for the purpose of educating household domestic service employees and employers, as specified. The bill would require the Division of Occupational Safety and Health to post the report to its internet website and submit a copy to the Legislature, as specified, no later than January 1, 2023.

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

SB-410

SB-410 Occupational safety and health: regulations. (2021-2022)
(Leyva)

Date	Action
07/08/21	Read second time. Ordered to third reading.
07/07/21	From committee: Do pass. (Ayes 9. Noes 4.) (July 7).

Summary:

SB 410, as amended, Leyva. Occupational safety and health: regulations.

Existing law establishes the Occupational Safety and Health Standards Board within the Department of Industrial Relations. Existing law authorizes the standards board to adopt, amend, or repeal occupational safety and health standards and orders, as defined, and requires the adoption of standards at least as effective as the federal standards for all issues for which federal standards have been promulgated under provisions of the federal Occupational Safety and Health Act of 1970. Existing law generally requires the adoption, amendment, or repeal of standards and orders by the standards board to comply with the rulemaking provisions of the Administrative Procedure Act (APA), but exempts from provisions of the APA relating to public participation and review of proposed regulations a standard or amendment to any standard adopted by the standards board that is substantially the same as a federal standard, including existing APA requirements, for a proposed nonmajor regulation, to prepare a prescribed economic impact assessment and, for a proposed major regulation, to prepare a standardized regulatory impact analysis in a manner prescribed by the Department of Finance.

This bill would exempt any occupational safety and health standard and order from the standardized regulatory impact analysis requirement.

The bill would also require an economic impact assessment to be prepared for the adoption, amendment, or repeal of any occupational safety and health standard and order, including for any such standard and order that is a major regulation proposed after January 1, 2022.

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

Occupational Safety and Health Standards Board

Business Meeting

Executive Officer's Report