

Occupational Safety and Health Standards Board

Public Meeting, Public Hearing, and
Business Meeting

September 15, 2022

Cal/EPA Building
Sierra Hearing Room
1001 I Street
Sacramento, California

AND

Via teleconference / videoconference

Occupational Safety and Health Standards Board

Meeting Agenda

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

AGENDA

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

September 15, 2022 at 10:00 a.m.

Attend the meeting in person:

Cal/EPA Building
Sierra Hearing Room
1001 I Street
Sacramento, CA 95814

Attend the meeting via Video-conference:

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

Attend the meeting via Teleconference:

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

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

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

Public Comment Queue:

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

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

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

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

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

I. **CALL TO ORDER AND INTRODUCTIONS**

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

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

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

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

A. PUBLIC COMMENT

B. ADJOURNMENT OF THE PUBLIC MEETING

III. **PUBLIC HEARING**

A. EXPLANATION OF PROCEDURES

B. PROPOSED SAFETY ORDERS (Revisions, Additions, Deletions)

1. **TITLE 8:**

GENERAL INDUSTRY SAFETY ORDERS

New sections 3205, 3205.1, 3205.2, and 3205.3

[COVID-19 Prevention – Non-Emergency Regulation](#)

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

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

A. PROPOSED VARIANCE DECISIONS FOR ADOPTION

1. [Consent Calendar](#)

B. REPORTS

1. Division Update
2. Legislative Update
3. Executive Officer's Report

C. NEW BUSINESS

1. Future Agenda Items

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

D. CLOSED SESSION

Matters on Appeal

1. 22-V-054T Operating Engineers Local 3, District 80

Matters Pending Litigation

1. Western States Petroleum Association (WSPA) v. California Occupational Safety and Health Standards Board (OSHSB), et al. United States District Court (Eastern District of California) Case No. 2:19-CV-01270
2. WSPA v. OSHSB, et al., County of Sacramento, CA Superior Court Case No. 34-2019-00260210

Personnel

E. RETURN TO OPEN SESSION

1. Report from Closed Session

F. ADJOURNMENT OF THE BUSINESS MEETING

Next Meeting: October 20, 2022
County Administration Center
Room 310
1600 Pacific Highway
San Diego, CA 92101
10:00 a.m.

CLOSED SESSION

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

PUBLIC COMMENT

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

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

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

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

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

DISABILITY ACCOMMODATION NOTICE

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

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

TRANSLATION

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

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

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

Members of the public who wish to participate in the meeting may do so via livestream on our website at <https://videobookcase.com/california/oshsb/>. The video recording and transcript of this meeting will be posted on our website as soon as practicable.

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

Occupational Safety and Health Standards Board

Public Hearing

COVID-19 Prevention

TITLE 8

GENERAL INDUSTRY SAFETY ORDERS

NEW SECTIONS 3205, 3205.1, 3205.2, AND 3205.3

COVID-19 PREVENTION

TITLE 8

GENERAL INDUSTRY SAFETY ORDERS

NEW SECTIONS 3205, 3205.1, 3205.2, AND 3205.3

COVID-19 PREVENTION

HYPERLINKS TO RULEMAKING DOCUMENTS:

[NOTICE/INFORMATIVE DIGEST](#)

[PROPOSED REGULATORY TEXT](#)

[INITIAL STATEMENT OF REASONS](#)

Money, Sarah@DIR

From: Derek Davis <DAVISDER@stancounty.com>
Sent: Friday, August 5, 2022 11:48 AM
To: DIR OSHSB
Subject: Covid Prevention Standard

CAUTION: [External Email]

This email originated from outside of our DIR organization. Do not click links or open attachments unless you recognize the sender and know the content is expected and is safe. If in doubt reach out and check with the sender by phone.

Dear OSHSB,

Please take into consideration my comments for changes to the draft Covid Prevention Regulation:

1. The definition of close contact is extremely subjective and vague please consider a scientific or objective method to determine this. There has to be a better and more efficient way for employers to quantify this.
2. In the case of an outbreak or major outbreak please allow employers to offer free testing. Current language in major outbreaks makes testing compulsory. This has caused more anger, frustration, work and time with angry unions and employees that refuse to be forced to test. I believe that when testing is offered we get a higher compliance rate. Right now employees are tired and angry and do not want to feel strongarmed by their employer.

Regards,

Derek Davis

Stanislaus County CEO/HR-Risk and Safety Unit

Phone: 209-525-5770

Email: davisder@stancounty.com

1010 10th St., Modesto, CA 95354

This communication contains legally privileged and confidential information sent solely for the use of the intended recipient, and the privilege is not waived by the receipt of this communication by an unintended and unauthorized recipient. If you are not the intended recipient of this communication you are not authorized to use it in any manner, and must either immediately destroy it or return it to the sender. Please notify the sender immediately by telephone at the Office of Stanislaus County CEO/HR Risk and Safety Unit (209-525-5770) if you received this communication in error.

From: [Vic Wu](#)
To: [DIR OSHSB](#)
Subject: TITLE 8: New Sections 3205, 3205.1, 3205.2, and 3205.3
Date: Saturday, August 13, 2022 5:35:24 PM

CAUTION: [External Email]

This email originated from outside of our DIR organization. Do not click links or open attachments unless you recognize the sender and know the content is expected and is safe. If in doubt reach out and check with the sender by phone.

I'm writing in support of the new sections proposed for Title 8 regarding COVID-19 prevention and protections. I recently started working again after two years of the pandemic and am increasingly concerned by the relaxing of protections from the CDC, local public health departments, and by the general public. The policies at my workplace have been reassuring but I fear that if my employer were to relax them that I would be at higher risk as someone with a health condition that could be exacerbated by contracting COVID-19. Please ensure California workers are as protected as possible.

Thank you,
Victoria Wu
San Jose, CA

From: [Ana Vitória Valle Costa](#)
To: [DIR OSHSB](#)
Subject: Comment on covid 19 proposed regulation
Date: Saturday, August 13, 2022 8:48:24 PM

CAUTION: [External Email]

This email originated from outside of our DIR organization. Do not click links or open attachments unless you recognize the sender and know the content is expected and is safe. If in doubt reach out and check with the sender by phone.

My comment:

Please reconsider how outbreaks are defined. The current definition, by number of cases, doesn't fit well for large employers. 3 cases in a workplace with 8 workers is certainly a workplace outbreak. 3 cases in an open office with 50000 employees, is not statistically significant, it's just due regular covid rates, not a workplace outbreak. I work in a large company with thousands of employees. I get multiple emails a week about "outbreaks". This is misleading and means we won't know/change behavior when there is an actual workplace outbreak because we've been in what's considered an outbreak since the ETS was put in place.

And statistically speaking, we will most likely be in an outbreak (with 50000+ employees and open offices) until California cases fall below 3 cases per 50000 habitants over 14 days. That's a case rate of roughly 143 cases / day in the entire state of California, which has not happened since the beginning of the pandemic and is unlikely to happen during the next decade. Based on that I don't think a set number of cases is an appropriate definition for an outbreak that fits any workplace in the state of California. Instead I suggest the definition of outbreak be based on the rate of covid in a workplace (number of infected/number of employees) preferably compared to the the rate of covid in the state (or county).



California
Nurses
Association



National
Nurses
United

OUR PATIENTS. OUR UNION. OUR VOICE.

OAKLAND
155 Grand Avenue
Suite 100
Oakland CA 94612
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fax: 510-663-1625

SACRAMENTO
Government Relations
980 9th Street
Suite 700
Sacramento CA 95814
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fax: 916-446-3880

August 26, 2022

Mr. Dave Thomas, Chair
Occupational Safety and Health Standards Board
2520 Venture Oaks Way, Suite 350
Sacramento, CA 95833
VIA ELECTRONIC MAIL TO: OSHSB@dir.ca.gov

RE: Non-Emergency Covid-19 Prevention Standards

Dear Chair Thomas and Members of the Occupational Safety and Health Standards Board;

The California Nurses Association/National Nurses United (CNA), representing more than 100,000 California registered nurses, appreciates the opportunity to submit written comments regarding the Non-Emergency Covid-19 Prevention Standards.

As nurses, CNA's members have seen more Covid-19 infections and hospitalizations as well as an increase in patients seeking care for the effects of long Covid. Now, as cases remain at high levels across many counties in California, and as we are contending with the BA.5 variant with increased transmissibility and immune evasion, and with more Omicron subvariants spreading around the world, CNA's members are especially concerned for the health and safety of our patients and our colleagues.

As you are likely aware, the Centers for Disease Control and Prevention (CDC) has been scaling back its Covid-19 recommendations and protections. Among other things, the CDC changed the metrics used to identify when community levels are high. The new metrics focus heavily on hospitalizations and intensive care unit admissions and use a significantly higher case threshold compared to the CDC's previous guidance. This change means that the CDC is now waiting for Covid-19 cases to skyrocket and hospitalizations to rise *before* recommending people take measures to protect themselves from infection. This creates a dangerous lag time between widespread transmission and implementation of prevention measures and creates a serious risk for prolonging the Covid-19 pandemic.

And we know this virus is still taking people's lives. As of August 23, 2022, nearly 100,000 Californians have died from Covid-19.¹ Every day, on average in California, Covid takes the lives of 35 people.²

Moreover, study after study indicates that long Covid poses a serious threat to public health, leading to neurodegeneration, cardiovascular disease, diabetes, and damage to other organ systems.^{3,4,5,6,7,8} Data indicates that reinfection poses an increased risk of long Covid. For example, data shared recently by a researcher studying long Covid indicates that each additional reinfection contributed a higher risk of sequelae six months after infection, as well as all-cause mortality, hospitalization, and adverse outcomes for multiple organ systems at six months after reinfection.⁹ While data indicates that Covid-19 vaccines provide protection against severe illness and death,^{10,11} and CNA strongly

¹ California Department of Public Health, "Tracking Covid-19," available at <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/Immunization/ncov2019.aspx> (Accessed August 24, 2022).

² *Id.*

³ Xie et al., "Long-term cardiovascular outcomes of COVID-19," *Nature Medicine*, February 7, 2022, <https://www.nature.com/articles/s41591-022-01689-3>.

⁴ Xie and Al-Aly, "Risks and burdens of incident diabetes in long COVID: a cohort study," *The Lancet Diabetes & Endocrinology*, March 21, 2022, [https://doi.org/10.1016/S2213-8587\(22\)00044-4](https://doi.org/10.1016/S2213-8587(22)00044-4).

⁵ Douaud et al., "SARS-CoV-2 is associated with changes in brain structure in UK Biobank," *Nature*, March 7, 2022, <https://www.nature.com/articles/s41586-022-04569-5>.

⁶ Fernández-Castañeda et al., "Mild respiratory COVID can cause multi-lineage neural cell and myelin dysregulation" *Cell*, June 12, 2022, <https://doi.org/10.1016/j.cell.2022.06.008>.

⁷ Barrett et al., "Risk for Newly Diagnosed Diabetes >30 Days After SARS-CoV-2 Infection Among Persons Aged <18 Years — United States, March 1, 2020–June 28, 2021," *MMWR*, January 14, 2022, <https://www.cdc.gov/mmwr/volumes/71/wr/mm7102e2.htm>.

⁸ Natarajan et al., "Gastrointestinal symptoms and fecal shedding of SARS-CoV-2 RNA suggest prolonged gastrointestinal infection," *Med*, April 12, 2022, <https://doi.org/10.1016/j.medj.2022.04.001>.

⁹ Al-Aly, Z., B. Bowe, and Y. Xie, "Outcomes of SARS-CoV-2 Reinfection," pre-print, Research Square, June 17, 2022, <https://assets.researchsquare.com/files/rs-1749502/v1/499445df-ebaf-4ab3-b30f-3028dff81fca.pdf?c=1655499468> (Accessed July 14, 2022).

¹⁰ Tenforde, M.W., W.H. Self, et al., "Effectiveness of mRNA Vaccination in Preventing COVID-19–Associated Invasive Mechanical Ventilation and Death — United States, March 2021–January 2022," *MMWR*, 71(12): 459-65, March 25, 2022, https://www.cdc.gov/mmwr/volumes/71/wr/mm7112e1.htm?s_cid=mm7112e1_w.

¹¹ Tenforde, M.W., M.M. Patel, et al., "Effectiveness of a Third Dose of Pfizer-BioNTech and Moderna Vaccines in Preventing COVID-19 Hospitalization Among Immunocompetent and Immunocompromised Adults — United States, August–December 2021," *MMWR*, 71(4): 118-24, Jan 28, 2022, https://www.cdc.gov/mmwr/volumes/71/wr/mm7104a2.htm?s_cid=mm7104a2_w.

encourages everyone who can to get vaccinated for Covid-19, vaccines do not, unfortunately, effectively reduce the risk of long Covid. For example, a study of more than 13 million veterans found that a Covid-19 vaccination prior to infection reduced the risk of long Covid by only 15 percent.¹²

The CDC estimates that nearly one in five American adults are experiencing long Covid.¹³ Long Covid disrupts workers' lives, requiring reduced work hours or stopping work altogether, disrupting childcare, exercise, and social activities. The only way to effectively prevent long Covid is to prevent infections.

With reinfections occurring more and more often,¹⁴ their long-term impacts should be considered when crafting occupational safety and health guidance. For all these reasons, CNA encourages the Board, as it considers the Non-Emergency Covid-19 Prevention Regulation to recognize that this virus has become much more contagious, long Covid is a real debilitating threat to workers, and vaccines do not slow transmission as we hoped they would.

It is against this backdrop—and the CDC's problematic new community levels metric described above—that we join our colleagues who have argued for the importance of exclusion pay protections which ensure that workers are not forced to make the impossible choice of going to work while sick or staying home without pay. Supplemental paid sick leave is not a substitute. Under California law, at least one in four workers is without access to the Covid-19 paid sick leave law. As a result, we strongly encourage the Board to retain exclusion pay as part of the Non-Emergency Covid-19 Prevention Regulation. And workers need protection of job status when they are excluded from work. These protections are currently contained in the Covid-19 ETS,

¹² Al-Aly, Z., B. Bowe, and Y. Xie, "Long COVID after breakthrough SARS-CoV-2 infection," *nature medicine*, May 25, 2022, <https://www.nature.com/articles/s41591-022-01840-0>.

¹³ U.S. CDC, "Nearly One in Five American Adults Who Have Had COVID-19 Still Have "Long COVID"," June 22, 2022, Available at https://www.cdc.gov/nchs/pressroom/nchs_press_releases/2022/20220622.htm (Accessed July 18, 2022).

¹⁴ The U.S. CDC does not effectively track reinfection data. Data from the U.K. indicate that approximately 25 percent of daily cases are possible reinfections. UK Health Security Agency, "Coronavirus (COVID-19) in the UK, Cases in England," Updated July 13, 2022, Available at <https://coronavirus.data.gov.uk/details/cases?areaType=nation&areaName=England> (Accessed July 18, 2022).

and we encourage the Board to include them here as well.

Thank you for your consideration of these comments.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Saskia Kim', is positioned to the left of a vertical line that serves as a separator between the signature and the typed name below.

Saskia Kim
Lead Regulatory Policy Specialist
California Nurses Association/National Nurses United

CALIFORNIA STANDARDS COMPARISON

DATE: July 12, 2022

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SOURCE OF FEDERAL OSHA STANDARD(S): 29 CFR

SCOPE: Applicable throughout state unless otherwise noted.

FEDERAL: regulation	STATE: General Industry Safety Orders	RATIONALE
No federal standard specific to COVID-19 in non-healthcare settings.	§3205. COVID-19 Prevention.	A new regulation is necessary to protect employees from COVID-19, which can cause serious illness and death.
No federal standard specific to COVID-19 in non-healthcare settings.	<p>(a) Scope.</p> <p>(1) This section shall apply until [OAL insert date two years after effective date], except for the recordkeeping subsections 3205(j)(2) through (4), which shall apply until [OAL insert date three years after effective date].</p> <p>(2) This section applies to all employees and places of employment, with the following exceptions:</p> <p>(A) Work locations with one employee who does not have contact with other persons.</p> <p>(B) Employees working from home.</p> <p>(C) Employees with occupational exposure as defined by section 5199, when covered by that section.</p> <p>(D) Employees teleworking from a location of the employee’s choice, which is not under the control of the employer.</p> <p>(3) Nothing in this section or sections 3205.1 through 3205.3 is intended to limit more protective or stringent state or local health department orders or guidance.</p>	The subsection is necessary to establish the conditions in which employers will be required to comply with the requirements of the proposed regulation.
No federal standard specific to COVID-19 in non-healthcare settings.	<p>(b) Definitions. The following definitions apply to this section and to sections 3205.1 through 3205.3.</p> <p>(1) “Close contact” means sharing the same indoor space as a COVID-19 case for a cumulative total of 15 minutes or more over a 24-hour period during the COVID-19 case’s infectious period, as defined by this section, regardless of the use of face coverings, unless close contact is defined by regulation or order of the California Department of Public Health (CDPH). If so, the CDPH definition shall apply.</p> <p>EXCEPTION: Employees have not had a close contact if they wore a respirator required by the employer and used in</p>	The subsection is necessary to clarify the application and meanings of terms used in the proposed regulation.

CALIFORNIA STANDARDS COMPARISON

SOURCE OF FEDERAL OSHA STANDARD(S): 29 CFR

SCOPE: Applicable throughout state unless otherwise noted.

	<p>compliance with section 5144, whenever they shared the same indoor airspace as the COVID-19 case for a cumulative total of 15 minutes or more over a 24-hour period during the COVID-19 case’s infectious period.</p> <p>(2) “COVID-19” (Coronavirus Disease 2019) means the disease caused by SARS-CoV-2 (severe acute respiratory syndrome coronavirus 2).</p> <p>(3) “COVID-19 case” means a person who:</p> <p>(A) Has a positive COVID-19 test; or</p> <p>(B) Has a positive COVID-19 diagnosis from a licensed health care provider; or</p> <p>(C) Is subject to a COVID-19-related order to isolate issued by a local or state health official; or</p> <p>(D) Has died due to COVID-19, in the determination of a local health department or per inclusion in the COVID-19 statistics of a county.</p> <p>(4) “COVID-19 hazard” means potentially infectious material that may contain SARS-CoV-2, the virus that causes COVID-19. Potentially infectious materials include airborne droplets, small particle aerosols, and airborne droplet nuclei, which most commonly result from a person or persons exhaling, talking or vocalizing, coughing, or sneezing, or from procedures performed on persons which may aerosolize saliva or respiratory tract fluids.</p> <p>(5) “COVID-19 symptoms” means fever of 100.4 degrees Fahrenheit or higher, chills, cough, shortness of breath or difficulty breathing, fatigue, muscle or body aches, headache, new loss of taste or smell, sore throat, congestion or runny nose, nausea or vomiting, or diarrhea, unless a licensed health care professional determines the person’s symptoms were caused by a known condition other than COVID-19.</p> <p>(6) “COVID-19 test” means a test for SARS-CoV-2 that is:</p>	
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CALIFORNIA STANDARDS COMPARISON

SOURCE OF FEDERAL OSHA STANDARD(S): 29 CFR

SCOPE: Applicable throughout state unless otherwise noted.

	<p>(A) Cleared, approved, or authorized, including in an Emergency Use Authorization (EUA), by the United States Food and Drug Administration (FDA) to detect current infection with the SARS-CoV-2 virus (e.g., a viral test); and</p> <p>(B) Administered in accordance with the authorized instructions.</p> <p>(C) To meet the return to work criteria set forth in subsection 3205(c)(5), a COVID-19 test may be both self-administered and self-read only if another means of independent verification of the results can be provided (e.g., a time-stamped photograph of the results).</p> <p>(7) "Exposed group" means all employees at a work location, working area, or a common area at work, within employer-provided transportation covered by section 3205.3, or residing within housing covered by section 3205.2, where an employee COVID-19 case was present at any time during the infectious period. A common area at work includes bathrooms, walkways, hallways, aisles, break or eating areas, and waiting areas. The following exceptions apply:</p> <p>(A) For the purpose of determining the exposed group, a place where persons momentarily pass through while everyone is wearing face coverings, without congregating, is not a work location, working area, or a common area at work.</p> <p>(B) If the COVID-19 case was part of a distinct group of employees who are not present at the workplace at the same time as other employees, for instance a work crew or shift that does not overlap with another work crew or shift, only employees within that distinct group are part of the exposed group.</p> <p>(C) If the COVID-19 case visited a work location, working area, or a common area at work for less than 15 minutes during the infectious period, and the COVID-19 case was wearing a face covering during the entire visit, other people at the work</p>	
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CALIFORNIA STANDARDS COMPARISON

DATE: July 12, 2022

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SOURCE OF FEDERAL OSHA STANDARD(S): 29 CFR

SCOPE: Applicable throughout state unless otherwise noted.

	<p>location, working area, or common area are not part of the exposed group.</p> <p>NOTE: An exposed group may include the employees of more than one employer. See Labor Code sections 6303 and 6304.1.</p> <p>(8) "Face covering" means a surgical mask, a medical procedure mask, a respirator worn voluntarily, or a tightly woven fabric or non-woven material of at least two layers that completely covers the nose and mouth and is secured to the head with ties, ear loops, or elastic bands that go behind the head. If gaiters are worn, they shall have two layers of fabric or be folded to make two layers. A face covering is a solid piece of material without slits, visible holes, or punctures, and must fit snugly over the nose, mouth, and chin with no large gaps on the outside of the face. A face covering does not include a scarf, ski mask, balaclava, bandana, turtleneck, collar, or single layer of fabric.</p> <p>This definition includes clear face coverings or cloth face coverings with a clear plastic panel that otherwise meet this definition and which may be used to facilitate communication with people who are deaf or hard-of-hearing or others who need to see a speaker's mouth or facial expressions to understand speech or sign language respectively.</p> <p>(9) "Infectious period" means the following time period, unless otherwise defined by CDPH regulation or order, in which case the CDPH definition shall apply:</p> <p>(A) For COVID-19 cases who develop COVID-19 symptoms, from two days before the date of symptom onset until:</p> <p>(1) Ten days have passed after symptoms first appeared, or through day five if testing negative on day five or later; and</p> <p>(2) Twenty-four hours have passed with no fever, without the use of fever-reducing medications, and symptoms have improved.</p>	
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CALIFORNIA STANDARDS COMPARISON

DATE: July 12, 2022

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SOURCE OF FEDERAL OSHA STANDARD(S): 29 CFR

SCOPE: Applicable throughout state unless otherwise noted.

	<p>(B) For COVID-19 cases who never develop COVID-19 symptoms, from two days before the positive specimen collection date through 10 days (or through day five if testing negative on day five or later) after the date on which the specimen for their first positive test for COVID-19 was collected.</p> <p>(10) “Respirator” means a respiratory protection device approved by the National Institute for Occupational Safety and Health (NIOSH) to protect the wearer from particulate matter, such as an N95 filtering facepiece respirator.</p> <p>(11) “Returned case” means a COVID-19 case who was excluded from work but returned pursuant to subsection 3205(c)(5)(A) and did not develop any COVID-19 symptoms after returning. A person shall only be considered a returned case for 90 days after the initial onset of COVID-19 symptoms or, if the person never developed COVID-19 symptoms, for 90 days after the first positive test. If a period of other than 90 days is required by a CDPH regulation or order, that period shall apply.</p> <p>(12) “Worksite,” for the limited purposes of this section and section 3205.1, means the building, store, facility, agricultural field, or other location where a COVID-19 case was present during the infectious period. It does not apply to buildings, floors, or other locations of the employer that a COVID-19 case did not enter.</p>	
<p>No federal standard specific to COVID-19 in non-healthcare settings.</p>	<p>(c) Application of section 3203. COVID-19 is a workplace hazard and shall be addressed under section 3203, which requires employers to establish, implement, and maintain an effective Injury and Illness Prevention Program. The employer’s COVID-19 procedures shall either be addressed in the written Injury and Illness Prevention Program or maintained in a separate document.</p>	<p>The subsection is necessary to ensure that employers incorporate COVID prevention measures into their IIPP or a separate program.</p>

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<p>No federal standard specific to COVID-19 in non-healthcare settings.</p>	<p>(c)(1) An employee is potentially exposed to COVID-19 hazards when near other persons, whether or not the employee is performing an assigned work task. The employer shall treat all persons as potentially infectious, regardless of symptoms, vaccination status, or negative COVID-19 test results. COVID-19 shall be considered a hazard specific to an employee’s job assignments and job duties if those assignments and/or duties bring the employee near other persons.</p>	<p>The subsection is necessary to ensure that employers assume that all persons are potentially infectious for COVID-19 after exposure in light of the fact that many infectious persons have no symptoms of COVID-19 and some may test negative for the virus.</p>
<p>No federal standard specific to COVID-19 in non-healthcare settings.</p>	<p>(c)(2) When determining measures to prevent COVID-19 transmission and to identify and correct COVID-19 hazards, employers shall review applicable orders and guidance related to COVID-19 from the State of California and the local health department with jurisdiction over the workplace and shall treat COVID-19 as an airborne infectious disease. COVID-19 prevention controls include remote work, physical distancing, reducing the density of people indoors, moving indoor tasks outdoors, implementing separate shifts and/or break times, restricting access to the work area, and other prevention measures, in addition to the requirements of this section.</p>	<p>The subsection is necessary to ensure that employers become familiar with the information in applicable orders and guidance related to COVID-19 from the State of California and the local health department with jurisdiction over the workplace. Also, treating COVID-19 as an airborne infectious disease will direct employers to use appropriate control measures. Listing examples of COVID-19 prevention controls ensures that employers will consider these controls for their work operations.</p>
<p>No federal standard specific to COVID-19 in non-healthcare settings.</p>	<p>(c)(3) Employees shall receive training regarding COVID-19 in accordance with subsection 3203(a)(7).</p>	<p>The subsection is necessary to ensure that employees receive effective training on COVID-19 in the workplace so they understand the hazards of exposure to COVID-19 as well as the importance of control measures to minimize exposure.</p>

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<p>No federal standard specific to COVID-19 in non-healthcare settings.</p>	<p>(c)(4) The employer’s procedure to investigate COVID-19 illness at the workplace, as required by subsection 3203(a)(5), shall include the following: (A) The employer shall determine the day and time a COVID-19 case was last present and, to the extent possible, the date of the positive COVID-19 test(s) and/or diagnosis, and the date the COVID-19 case first had one or more COVID-19 symptoms, if any were experienced. (B) The employer shall effectively identify and respond to persons with COVID-19 symptoms at the workplace. Employees shall be encouraged to report COVID-19 symptoms and to stay home when ill.</p>	<p>Subsection (c)(4) is necessary to ensure employers do a thorough investigation of any COVID-19 cases in the workplace to minimize the spread of COVID-19 in the workplace; and to ensure that employees and other persons with COVID-19 symptoms are identified so that they will be treated appropriately and encouraged to stay home when ill, in order to minimize the spread of COVID-19 in the workplace.</p>
<p>No federal standard specific to COVID-19 in non-healthcare settings.</p>	<p>(c)(5) Employers shall have effective methods and/or procedures for responding to a COVID-19 case at the workplace, including the following: (A) Employers shall immediately exclude from the workplace all COVID-19 cases and employees excluded under section 3205.1. The employer shall demonstrate it has met the applicable requirements below: 1. COVID-19 cases who do not develop COVID-19 symptoms shall not return to work during the infectious period; 2. COVID-19 cases who develop COVID-19 symptoms shall not return to work during the shorter of the following: the infectious period; or through 10 days after the onset of symptoms and at least 24 hours have passed since a fever of 100.4 degrees Fahrenheit or higher has resolved without the use of fever-reducing medication. 3. Regardless of vaccination status, previous infection, or lack of COVID-19 symptoms, a COVID-19 case shall wear a face covering in the workplace until 10 days have passed since the date that COVID-19 symptoms began or, if the person did not</p>	<p>Subsection (c)(5) is necessary to prevent transmission of COVID-19 in the workplace and to ensure workers who are no longer infectious return to the workplace as soon as possible.</p>

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	<p>have COVID-19 symptoms, from the date of their first positive COVID-19 test.</p> <p>4. The requirements in subsections 3205(c)(5)(A)1. and (c)(5)(A)2. apply regardless of whether an employee has previously been excluded or other precautions were taken in response to an employee’s close contact or membership in an exposed group.</p> <p>(B) Employers shall review current CDPH guidance for persons who had close contacts, including any guidance regarding quarantine or other measures to reduce transmission. Employers shall develop, implement, and maintain effective policies to prevent transmission of COVID-19 by persons who had close contacts.</p> <p>(C) If an order to isolate, quarantine, or exclude an employee is issued by a local or state health official, the employee shall not return to work until the period of isolation or quarantine is completed or the order is lifted.</p> <p>(D) If no violations of local or state health official orders for isolation, quarantine, or exclusion would result, the Division may, upon request, allow employees to return to work on the basis that the removal of an employee would create undue risk to a community's health and safety. In such cases, the employer shall develop, implement, and maintain effective control measures to prevent transmission in the workplace including providing isolation for the employee at the workplace and, if isolation is not feasible, the use of respirators in the workplace.</p> <p>(E) Upon excluding an employee from the workplace based on COVID-19 or a close contact, the employer shall give the employee information regarding COVID-19-related benefits to which the employee may be entitled under applicable federal, state, or local laws. This includes any benefits available under legally mandated sick leave, if applicable, workers'</p>	
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	<p>compensation law, local governmental requirements, the employer's own leave policies, and leave guaranteed by contract.</p>	
<p>No federal standard specific to COVID-19 in non-healthcare settings.</p>	<p>(d) Testing of close contacts. Employers shall make COVID-19 tests available at no cost, during paid time, to all employees of the employer who had a close contact in the workplace, with the exception of returned cases as defined in subsection 3205(b)(11), and provide them with the information on benefits described in subsection 3205(c)(5)(E).</p>	<p>Subsection (c)(6) is necessary to prevent the spread of COVID-19 in the workplace when there has been a COVID-19 case present at the place of employment. Making COVID-19 testing available at no cost to employees following a potential exposure to COVID-19 in the workplace (except for certain employees who are unlikely to develop a COVID-19 illness) and providing information about benefits available to them will encourage these employees to get tested for COVID-19 and also to not report to work following a COVID-19 exposure.</p>
<p>No federal standard specific to COVID-19 in non-healthcare settings.</p>	<p>(e) Notice of COVID-19 cases. (1) The employer shall notify employees and independent contractors who had a close contact, as well as any employer with an employee who had a close contact. The notice shall be provided as soon as possible, and in no case longer than the time required to ensure that the exclusion requirements of subsection 3205(c)(5)(A) are met. (2) When Labor Code section 6409.6(a) or any successor law is in effect, the employer shall provide notice of a COVID-19 case, in a form readily understandable to employees, as required by subsections (a)(1) and (a)(4) of that section. The notice shall be</p>	<p>Subsection (e) is necessary to ensure that employees, independent contractors, and other employers are informed about potential exposure to COVID-19 during the infectious period. This is necessary to prevent the spread of COVID-19 in the workplace when there has been a COVID-19 case present at the place of employment. While this is</p>

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	<p>given to all employees, employers, and independent contractors at the worksite during the infectious period.</p> <p>(3) When Labor Code section 6409.6(a) or any successor law is in effect, the employer shall provide the notice required by Labor Code section 6409.6(a)(2) and (c) to the authorized representative, if any, of the COVID-19 case and of any employee who had a close contact. The employer shall also provide the notice required by Labor Code section 6409.6(a)(4) to the authorized representative, if any, of all employees on the premises at the same worksite as the COVID-19 case within the infectious period.</p>	<p>currently required by Labor Code section 6409.6, this subsection is needed to ensure this notice is provided in the event that Labor Code section 6409.6 is repealed.</p>
<p>No federal standard specific to COVID-19 in non-healthcare settings.</p>	<p>(f) Face coverings.</p> <p>(1) Employers shall provide face coverings and ensure they are worn by employees when required by a CDPH regulation or order. When a CDPH regulation or order requires face coverings indoors, that includes spaces within vehicles. Face coverings shall be clean, undamaged, and worn over the nose and mouth.</p> <p>(2) When employees are required to wear face coverings under this section or sections 3205.1 through 3205.3, the following exceptions apply:</p> <p>(A) When an employee is alone in a room or vehicle.</p> <p>(B) While eating or drinking at the workplace, provided employees are at least six feet apart and, if indoors, the supply of outside or filtered air has been maximized to the extent feasible.</p> <p>(C) While employees are wearing respirators required by the employer and used in compliance with section 5144.</p> <p>(D) Employees who cannot wear face coverings due to a medical or mental health condition or disability, or who are hearing-impaired or communicating with a hearing-impaired person. Such employees shall wear an effective non-restrictive</p>	<p>This subsection is necessary to ensure that face coverings are provided to employees by employers and worn by employees, including employees within vehicles, when a CDPH regulation or order requires it, with certain exceptions. This is necessary to ensure that face coverings are provided and worn such that they will be effective at reducing the transmission of COVID-19 in the workplace.</p>

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	<p>alternative, such as a face shield with a drape on the bottom, if the condition or disability permits it.</p> <p>(E) During specific tasks which cannot feasibly be performed with a face covering. This exception is limited to the time period in which such tasks are actually being performed.</p> <p>(3) If an employee is not wearing a face covering pursuant to the exceptions in subsections 3205(f)(2)(D) and (f)(2)(E) the employer shall assess COVID-19 hazards and take action as necessary based on subsection 3205(c) and on section 3203.</p> <p>(4) No employer shall prevent any employee from wearing a face covering, including a respirator, when not required by this section, unless it would create a safety hazard.</p>	
<p>No federal standard specific to COVID-19 in non-healthcare settings.</p>	<p>(g) Respirators. Upon request, employers shall provide respirators for voluntary use in compliance with subsection 5144(c)(2) to all employees who are working indoors or in vehicles with more than one person. Whenever an employer makes respirators for voluntary use available, the employer shall encourage their use and shall ensure that employees are provided with a respirator of the correct size and that employees are trained how to properly wear the respirator provided; how to perform a user seal check according to the manufacturer’s instructions each time a respirator is worn; and the fact that facial hair interferes with a seal.</p>	<p>The subsection is necessary to minimize employee exposure to COVID-19 by ensuring that, upon request, respirators are provided to employees working indoors or in vehicles with more than one person; that employers encourage the use of respirators when they are provided for voluntary use by employees; that employees are provided with the correct size of respirator; and that employees receive training on basic information about their respirator and how to wear it. These requirements are necessary to prevent the spread of COVID-19 in the workplace.</p>
<p>No federal standard specific to COVID-19 in non-healthcare settings.</p>	<p>(h) Ventilation.</p>	<p>The subsection is necessary to reduce employee exposure to</p>

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	<p>(1) For indoor workplaces, employers shall review CDPH and the Division guidance regarding ventilation, including “Interim Guidance for Ventilation, Filtration, and Air Quality in Indoor Environments,” evaluate whether current ventilation is adequate to reduce the risk of transmission if a COVID-19 case enters the workplace, and where it is not adequate, implement changes as necessary. In addition to using other methods, the employer may take one or more of the following actions to improve ventilation:</p> <p>(A) Maximize the supply of outside air to the extent feasible, except when the United States Environmental Protection Agency (EPA) Air Quality Index is greater than 100 for any pollutant or if opening windows or maximizing outdoor air by other means would cause a hazard to employees, for instance from excessive heat or cold.</p> <p>(B) In buildings and structures with mechanical ventilation, filter circulated air through filters at least as protective as Minimum Efficiency Reporting Value (MERV)-13, or the highest level of filtration efficiency compatible with the existing mechanical ventilation system.</p> <p>(C) Use High Efficiency Particulate Air (HEPA) filtration units in accordance with manufacturers’ recommendations in indoor areas occupied by employees for extended periods, where ventilation is inadequate to reduce the risk of COVID-19 transmission.</p> <p>(2) Employers subject to section 5142 or 5143 shall review and comply with those sections, as applicable.</p> <p>NOTE: Section 5142 requires heating, ventilating, and air conditioning (HVAC) systems to be operated continuously during working hours, with limited exceptions.</p>	<p>COVID-19 in the workplace, and thus the risk of transmission of COVID-19 in the workplace, as increased ventilation and filtration reduce the concentration of potentially infectious material in indoor air.</p>
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	<p>(3) In vehicles, employers shall maximize the supply of outside air to the extent feasible, except when doing so would cause a hazard to employees or expose them to inclement weather.</p> <p>(4) A place of employment subject to section 3205.1 after [OAL insert effective date of this section] shall continue to comply with the ventilation requirements of subsection 3205.1(f) even after the outbreak has passed and section 3205.1 is no longer applicable.</p>	
<p>No federal standard specific to COVID-19 in non-healthcare settings.</p>	<p>(i) Aerosolizing procedures. For employees in work settings that are exempt from section 5199 in accordance with the conditions in subsections 5199(a)(2)(A) or (a)(2)(B), who are exposed to procedures that may aerosolize potentially infectious material such as saliva or respiratory tract fluids, employers shall evaluate the need for respiratory protection to prevent COVID-19 transmission under section 5144 and shall comply with that section.</p> <p>NOTE: Examples of work covered by subsection 3205(i) include, but are not limited to, certain dental procedures and outpatient medical specialties not covered by section 5199.</p>	<p>This subsection is necessary because when employees are exposed to procedures that may aerosolize potentially infectious material such as saliva or respiratory tract fluids, a respirator worn in accordance with the requirements of section 5144 may be needed to provide adequate respiratory protection. This requirement will reduce the transmission of COVID-19 in the workplace.</p>
<p>No federal standard specific to COVID-19 in non-healthcare settings.</p>	<p>(j) Reporting and recordkeeping.</p> <p>(1) The employer shall report information about COVID-19 cases and outbreaks at the worksite to the local health department whenever required by law, and shall provide any related information requested by the local health department. The employer shall report all information to the local health department as required by Labor Code section 6409.6.</p> <p>NOTE: In some circumstances, cases may constitute a COVID-19 outbreak as defined by Labor Code section 6409.6 even when they do not trigger the application of title 8, section 3205.1.</p>	<p>This subsection is necessary to ensure that important information about COVID-19 cases in the workplace is maintained and reported to the local health department, to be used in the event that further surveillance or investigation is needed. This will reduce the transmission of COVID-19 in the workplace.</p>

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	<p>(2) The employer shall keep a record of and track all COVID-19 cases with the employee's name, contact information, occupation, location where the employee worked, the date of the last day at the workplace, and the date of the positive COVID-19 test and/or COVID-19 diagnosis. The employer shall also keep a record of persons who had a close contact, including their names, contact information, and the date upon which they were provided notice of the close contact. These records shall be retained for two years beyond the period in which the record is necessary to meet the requirements of this section or sections 3205.1 through 3205.3.</p> <p>(3) Employers shall retain the notices required by subsection 3205(e) in accordance with Labor Code section 6409.6(k) or any successor law.</p> <p>(4) Personal identifying information of COVID-19 cases or persons with COVID-19 symptoms, and any employee medical records required by this section or by sections 3205.1 through 3205.3, shall be kept confidential unless disclosure is required or permitted by law. Unredacted information on COVID-19 cases shall be provided to the local health department with jurisdiction over the workplace, CDPH, the Division, and NIOSH immediately upon request, and when required by law.</p>	
<p>No federal standard specific to COVID-19 in non-healthcare settings.</p>	<p>(k) Orders. Pursuant to title 8, section 332.3, the Division may require an employer to take additional actions to protect employees against COVID-19 hazards through the issuance of an Order to Take Special Action.</p>	<p>This subsection is necessary to establish that additional measures may be required by the Division to reduce the transmission of COVID-19 at the workplace.</p>
<p>No federal standard specific to COVID-19 in non-healthcare settings.</p>	<p>§ 3205.1. COVID-19 Outbreaks.</p>	<p>This section is necessary to require that additional measures be taken when there is a COVID-19 outbreak in the workplace.</p>

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<p>No federal standard specific to COVID-19 in non-healthcare settings.</p>	<p>(a) Scope. This section applies until [OAL insert date two years after effective date]. (1) This section applies to a workplace covered by section 3205 if three or more employee COVID-19 cases within an exposed group, as defined by subsection 3205(b)(7), visited the worksite during their infectious period at any time during a 14-day period, unless a California Department of Public Health (CDPH) regulation or order defines outbreak using a different number of COVID-19 cases and/or a different time period, in which case this section applies when the number of cases at the worksite constitutes an outbreak under CDPH’s definition. (2) This section shall apply until there are no new COVID-19 cases detected in the exposed group for a 14-day period.</p>	<p>The subsection is necessary to inform the employer which workplaces must comply with this section.</p>
<p>No federal standard specific to COVID-19 in non-healthcare settings.</p>	<p>(b) COVID-19 testing. (1) Immediately upon being covered by this section, the employer shall make COVID-19 testing available at no cost to its employees within the exposed group, regardless of vaccination status, during employees’ paid time, except for returned cases and employees who were not present at the workplace during the relevant 14-day period(s) under subsection 3205.1(a). (2) Employer shall then make testing available on a weekly basis to all employees in the exposed group who remain at the workplace. (3) Employees who had close contacts shall have a negative COVID-19 test taken within three to five days after the close contact or shall be excluded and follow the return to work requirements of subsection 3205(c)(5) starting from the date of the last known close contact.</p>	<p>The subsection is necessary to have workers tested for COVID-19 because many cases are asymptomatic.</p>
<p>No federal standard specific to COVID-19 in non-healthcare settings.</p>	<p>(c) Face coverings. Employees in the exposed group, regardless of vaccination status, shall wear face coverings when indoors,</p>	<p>The subsection is necessary to prevent the spread of COVID-19</p>

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	or when outdoors and less than six feet from another person, unless one of the exceptions in subsection 3205(f)(2) applies.	during outbreaks through the use of face coverings.
No federal standard specific to COVID-19 in non-healthcare settings.	(d) Respirators. Employers shall notify employees of their right to request and receive a respirator for voluntary use under subsection 3205(g).	The subsection is necessary to remind employees of their right to request a respirator for voluntary use.
No federal standard specific to COVID-19 in non-healthcare settings.	(e) COVID-19 investigation, review, and hazard correction. The employer shall immediately perform a review of potentially relevant COVID-19 policies, procedures, and controls and implement changes as needed to prevent further spread of COVID-19. The investigation, review, and changes shall be documented and shall include: (1) Investigation of new or unabated COVID-19 hazards including the employer's leave policies and practices and whether employees are discouraged from remaining home when sick; the employer's COVID-19 testing policies; insufficient supply of outdoor air to indoor workplaces; insufficient air filtration; and insufficient physical distancing. (2) The review shall be updated every 30 days that this section continues to apply, in response to new information or to new or previously unrecognized COVID-19 hazards, or when otherwise necessary. (3) Any changes implemented to reduce the transmission of COVID-19 based on the investigation and review, which may include: moving indoor tasks outdoors or having them performed remotely; increasing the outdoor air supply when work is done indoors; improving air filtration; increasing physical distancing to the extent feasible; requiring respiratory protection in compliance with section 5144; and other applicable controls.	The subsection is necessary to ensure COVID-19 hazards are investigated, procedures and policies are reviewed, and hazards are corrected to prevent spread of the disease.
No federal standard specific to COVID-19 in non-healthcare settings.	(f) Ventilation. In buildings or structures with mechanical ventilation, employers shall filter recirculated air with	The subsection is necessary to reduce the risk of COVID-19

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	<p>Minimum Efficiency Reporting Value (MERV)-13 or higher efficiency filters if compatible with the ventilation system. If MERV-13 or higher filters are not compatible with the ventilation system, employers shall use filters with the highest compatible filtering efficiency. The employer shall use High Efficiency Particulate Air (HEPA) air filtration units in accordance with manufacturers’ recommendations in indoor areas occupied by employees for extended periods, where ventilation is inadequate to reduce the risk of COVID-19 transmission.</p>	<p>transmission by ensuring employers filter air that is recirculated, and use air filtration units or cleaning systems if they would reduce the risk of transmission.</p>
<p>No federal standard specific to COVID-19 in non-healthcare settings.</p>	<p>(g) Major outbreaks. If 20 or more employee COVID-19 cases in an exposed group, as defined by subsection 3205(b)(7), visited the worksite during their infectious period within a 30-day period, the employer shall do the following while section 3205.1 applies:</p> <p>(1) The COVID-19 testing described in subsection 3205.1(b) shall be required of all employees in the exposed group, regardless of vaccination status, twice a week or more frequently if recommended by the local health department with jurisdiction over the workplace. Employees in the exposed group shall be tested or shall be excluded and follow the return to work requirements of subsection 3205(c)(5).</p> <p>(2) The employer shall report the outbreak to the Division. This subsection does not limit the employer’s obligation to report employee deaths, serious injuries, or serious illnesses when required by subsection 342(a).</p> <p>(3) The employer shall provide respirators for voluntary use in compliance with subsection 5144(c)(2) to employees in the exposed group, shall encourage their use, and shall train employees provided respirators for voluntary use, as set forth in subsection 3205(g).</p>	<p>This section is needed to ensure that employers take additional steps to prevent transmission of COVID-19 when there is a major outbreak in their workplace.</p>

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	<p>(4) Any employees in the exposed group who are not wearing respirators required by the employer and used in compliance with section 5144 shall be separated from other persons by at least six feet, except where an employer can demonstrate that at least six feet of separation is not feasible, and except for momentary exposure while persons are in movement. Methods of physical distancing include: telework or other remote work arrangements; reducing the number of persons in an area at one time, including visitors; visual cues such as signs and floor markings to indicate where employees and others should be located or their direction and path of travel; staggered arrival, departure, work, and break times; and adjusted work processes or procedures, such as reducing production speed, to allow greater distance between employees. When it is not feasible to maintain a distance of at least six feet, individuals shall be as far apart as feasible.</p>	
<p>No federal standard specific to COVID-19 in non-healthcare settings.</p>	<p>§ 3205.2. COVID-19 Prevention in Employer-Provided Housing.</p>	<p>The section is necessary to prevent the spread of COVID-19 in employer-provided housing.</p>
<p>No federal standard specific to COVID-19 in non-healthcare settings.</p>	<p>(a) Scope. Until [OAL to insert date two years after effective date], this section applies to employer-provided housing. Employer-provided housing is any place or area of land, any portion of any housing accommodation, or property upon which a housing accommodation is located, consisting of: living quarters, dwelling, boardinghouse, tent, bunkhouse, maintenance-of-way car, mobile home, manufactured home, recreational vehicle, travel trailer, or other housing accommodations. Employer-provided housing includes a “labor camp” as that term is used in title 8 of the California Code of Regulations or other regulations or codes. The employer-provided housing may be maintained in one or more</p>	<p>The subsection is necessary to inform employers of what housing is covered by the regulation.</p>

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	<p>buildings or one or more sites, including hotels and motels, and the premises upon which they are situated, or the area set aside and provided for parking of mobile homes or camping. Employer-provided housing is housing that is arranged for or provided by an employer, other person, or entity to workers, and in some cases to workers and persons in their households, in connection with the workers' employment, whether or not rent or fees are paid or collected.</p> <p>The following exceptions apply:</p> <p>(1) This section does not apply to housing provided for the purpose of emergency response, including firefighting, rescue, and evacuation, and support activities directly aiding response such as utilities, communications, and medical operations, if:</p> <p>(A) The employer is a government entity; or</p> <p>(B) The housing is provided temporarily by a private employer and is necessary to conduct the emergency response operations.</p> <p>(2) This section does not apply to housing in which all residents maintained a household together prior to residing in employer-provided housing, such as family members.</p> <p>(3) This section does not apply to employees with occupational exposure as defined by section 5199, when covered by that section.</p> <p>(4) This section does not apply to employer-provided housing used exclusively to house COVID-19 cases or where a housing unit houses one employee.</p>	
<p>No federal standard specific to COVID-19 in non-healthcare settings.</p>	<p>(b) Assignment of housing units. To the extent feasible, employers shall assign employee housing to cohorts that travel and work together, separate from other workers. To the extent</p>	<p>The subsection is necessary to ensure housing assignments are made in a manner which lessens</p>

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	feasible, residents who usually maintain a household together shall be housed in a single housing unit without other persons.	the likelihood of widespread COVID-19 transmission.
No federal standard specific to COVID-19 in non-healthcare settings.	(c) Ventilation. In housing units, employers shall maximize the quantity and supply of outdoor air and increase filtration efficiency to the highest level compatible with the existing ventilation system. If there is not a Minimum Efficiency Reporting Value (MERV-13) or higher filter in use, portable or mounted High Efficiency Particulate Air (HEPA) filtration units shall be used, to the extent feasible, in all sleeping areas.	The subsection is necessary to ensure that adequate ventilation is provided and air filtration is used to the extent feasible to prevent the spread of COVID-19.
No federal standard specific to COVID-19 in non-healthcare settings.	(d) Face coverings. Employers shall provide face coverings to all residents and provide information to residents on when they should be used in accordance with state or local health department orders or guidance.	The subsection is necessary to ensure residents can use face masks.
No federal standard specific to COVID-19 in non-healthcare settings.	(e) Reporting symptoms. The employer shall encourage residents to report COVID-19 symptoms to the employer.	The subsection is necessary to screen employees for COVID-19 symptoms.
No federal standard specific to COVID-19 in non-healthcare settings.	(f) COVID-19 testing. The employer shall establish, implement, and maintain effective policies and procedures for COVID-19 testing of residents who had a close contact or COVID-19 symptoms. These policies and procedures shall be communicated to the residents.	The subsection is necessary to ensure testing of exposed residents and residents with symptoms.
No federal standard specific to COVID-19 in non-healthcare settings.	(g) COVID-19 cases and close contacts. (1) Employers shall effectively isolate COVID-19 cases from all residents who are not COVID-19 cases, for the period established by subsection 3205(c)(5)(A). Effective isolation shall include housing COVID-19 cases only with other COVID-19 cases, and providing COVID-19 case residents with a sleeping area and bathroom that is not shared by non-COVID-19 case residents. (2) Employers shall effectively quarantine residents who have had a close contact from all other residents, for the time period required by subsection 3205(c)(5)(B). Effective	The subsection is necessary to ensure that COVID-19 cases and exposed persons are isolated or quarantined to prevent further spread of COVID-19.

CALIFORNIA STANDARDS COMPARISON

DATE: July 12, 2022

Page 21 of 22

SOURCE OF FEDERAL OSHA STANDARD(S): 29 CFR

SCOPE: Applicable throughout state unless otherwise noted.

	quarantine shall include providing residents who had a close contact with a private bathroom and sleeping area.	
No federal standard specific to COVID-19 in non-healthcare settings.	§ 3205.3. COVID-19 Prevention in Employer-Provided Transportation.	The section is necessary to establish requirements to prevent the spread of COVID-19 in employer provided transportation.
No federal standard specific to COVID-19 in non-healthcare settings.	(a) Scope. Until [OAL insert date two years after effective date], this section applies to employer-provided motor vehicle transportation to and from work, during the course and scope of employment, which is provided, arranged for, or secured by an employer regardless of the travel distance or duration involved, with the following exceptions: (1) Employees alone in a vehicle, employees taking public transportation, or vehicles in which the driver and all passengers are from the same household outside of work, not subject to section 3205.2. (2) Employer-provided transportation necessary for emergency response, including firefighting, rescue, and evacuation, and support activities directly aiding response such as utilities, communications, and medical operations. (3) Employees with occupational exposure as defined by section 5199, when covered by that section.	This subsection is necessary to inform employers of which modes of transportation are covered by the regulation.
No federal standard specific to COVID-19 in non-healthcare settings.	(b) Employers shall comply with the requirements of section 3205 within a vehicle and shall respond to a COVID-19 case within the vehicle in accordance with the requirements of that section.	The subsection is necessary to minimize employees' exposure to COVID-19 hazards in employer-provided motor vehicle transportation, because being in a vehicle with another person represents a condition in which airborne transmission of COVID-19 may occur.

CALIFORNIA STANDARDS COMPARISON

DATE: July 12, 2022

Page 22 of 22

SOURCE OF FEDERAL OSHA STANDARD(S): 29 CFR

SCOPE: Applicable throughout state unless otherwise noted.

<p>No federal standard specific to COVID-19 in non-healthcare settings.</p>	<p>(c) Assignment of transportation. To the extent feasible, employers shall assign transportation such that cohorts travel and work together, separate from other workers. To the extent feasible, employees who usually maintain a household together shall travel together.</p>	<p>The subsection is necessary to prioritize transportation in a manner that minimizes widespread transmission of COVID-19.</p>
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FEBRUARY 11-12 AND 16, 2021
ADVISORY COMMITTEE MEETINGS
COVID-19 PREVENTION

**HYPERLINKS FOR FEBRUARY 11-12 AND 16,
2021 ADVISORY COMMITTEE MEETINGS:**

ADVISORY COMMITTEE ROSTER

**THERE ARE NO WRITTEN MEETING MINUTES
OR TRANSCRIPTS FOR THE FEBRUARY 11-12
AND 16, 2021 ADVISORY COMMITTEE
MEETINGS. YOU MAY WATCH OR LISTEN TO
EACH OF THE MEETINGS BY GOING TO THE
FOLLOWING LINKS:**

FEBRUARY 11:

**[https://videobookcase.org/cal-
osha/2021-02-11/](https://videobookcase.org/cal-
osha/2021-02-11/)**

FEBRUARY 12:

**[https://videobookcase.org/cal-
osha/2021-02-12/](https://videobookcase.org/cal-
osha/2021-02-12/)**

FEBRUARY 16:

**[https://videobookcase.org/cal-
osha/2021-02-16/](https://videobookcase.org/cal-
osha/2021-02-16/)**

SEPTEMBER 23, 2021

ADVISORY COMMITTEE MEETING

COVID-19 PREVENTION

HYPERLINKS FOR SEPTEMBER 23, 2021
ADVISORY COMMITTEE MEETING:

[ADVISORY COMMITTEE ROSTER](#)

**THERE ARE NO WRITTEN MEETING MINUTES
OR TRANSCRIPTS FOR THE SEPTEMBER 23,
2021 ADVISORY COMMITTEE MEETING. YOU
MAY WATCH OR LISTEN TO EACH OF THE
MEETINGS BY GOING TO THE FOLLOWING
LINK:**

**[https://videobookcase.org/cal-
osha/2021-09-23/](https://videobookcase.org/cal-
osha/2021-09-23/)**

COVID-19 PREVENTION

BASIS FOR RULEMAKING

PETITION 583

PETITIONER REQUESTS TO AMEND TITLE 8 STANDARDS TO CREATE TWO NEW REGULATIONS. THE FIRST, A TEMPORARY EMERGENCY STANDARD THAT WOULD PROVIDE SPECIFIC PROTECTIONS TO CALIFORNIA EMPLOYEES WHO MAY HAVE EXPOSURE TO COVID-19, BUT WHO ARE NOT PROTECTED BY THE AEROSOL TRANSMISSIBLE DISEASES STANDARDS (SECTIONS 5199 AND 5199.1). THE SECOND STANDARD WOULD BE A PERMANENT RULEMAKING EFFORT TO PROTECT WORKERS FROM INFECTIOUS DISEASES INCLUDING NOVEL PATHOGENS (E.G. COVID-19).

ORIGINAL PETITION REQUEST

ADOPTED DECISION

**INITIAL ADOPTION OF
COVID-19 PREVENTION
EMERGENCY TEMPORARY STANDARD**

NOVEMBER 19, 2020

SIGNATURE SHEET

TEXT APPROVED BY OAL

MOVED, That the following resolution be adopted:


WHEREAS, The Occupational Safety and Health Standards Board (Board) finds that unless a regulation is adopted on an emergency basis, the COVID-19 pandemic poses a real and substantial risk of occupational exposure to harmful effects of the SARS-CoV-2 virus that causes COVID-19, and that immediate action is necessary to mitigate this risk by providing more clear direction to employers on how to safeguard employees to the extent that the nature of the work reasonably permits. The Board further adopts and makes findings set forth in the Finding of Emergency that is part of the Notice of Proposed Emergency Action prepared in this matter. Therefore, be it

RESOLVED, that based on the finding stated above, the Board finds that amendments to Title 8, California Code of Regulations, Chapter 4, Subchapter 7, New Sections 3205, 3205.1, 3205.2, 3205.3 and 3205.4 of the General Industry Safety Orders, must be adopted on an emergency basis for the immediate and continued preservation of the public health and safety in the workplace, and general welfare in the workplace; and be it further

RESOLVED by the Board, at a meeting held via teleconference and videoconference in Sacramento, California, on November 19, 2020 (in accordance with Executive Orders N-29-20 and N-33-20), that the proposed amendments of Title 8, California Code of Regulations, Chapter 4, Subchapter 7, New Sections 3205, 3205.1, 3205.2, 3205.3 and 3205.4 of the General Industry Safety Orders, appended hereto, be adopted as an emergency regulation; and be it further

RESOLVED that the Board shall file with the Office of Administrative Law a sufficient number of copies of said filing documents and a copy of the rulemaking file for use by the Office of Administrative Law.

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD



DAVE THOMAS, CHAIRMAN











Certified As A Regulation
Of the Occupational Safety
And Health Standards Board

BY: 
Christina Shupe, Executive Officer

DATED: November 19, 2020

**FIRST READOPTION OF
COVID-19 PREVENTION
EMERGENCY TEMPORARY STANDARD**

JUNE 17, 2021

SIGNATURE SHEET

TEXT APPROVED BY OAL

MOVED, That the following resolution be adopted:

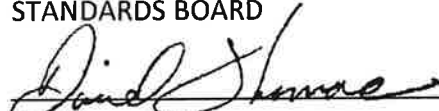
WHEREAS, The Occupational Safety and Health Standards Board (Board) finds that unless a regulation is adopted on an emergency basis, the COVID-19 pandemic poses a real and substantial risk of occupational exposure to harmful effects of the SARS-CoV-2 virus that causes COVID-19, and that immediate action is necessary to mitigate this risk by providing more clear direction to employers on how to safeguard employees to the extent that the nature of the work reasonably permits. The Board further adopts and makes findings set forth in the Finding of Emergency that is part of the Notice of Proposed Emergency Action prepared in this matter. Therefore, be it

RESOLVED, that based on the finding stated above, the Board finds that amendments to Title 8, California Code of Regulations, Chapter 4, Subchapter 7, new sections 3205, 3205.1, 3205.2, 3205.3 and 3205.4 of the General Industry Safety Orders, must be adopted on an emergency basis for the immediate and continued preservation of the public health and safety in the workplace, and general welfare in the workplace; and be it further

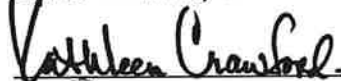
RESOLVED by the Board, at a meeting held via teleconference and videoconference in Sacramento, California, on June 17, 2021 (in accordance with Executive Orders N-29-20 and N-33-20), that the proposed amendments of Title 8, California Code of Regulations, Chapter 4, Subchapter 7, new sections 3205, 3205.1, 3205.2, 3205.3 and 3205.4 of the General Industry Safety Orders, appended hereto, be adopted as an emergency regulation; and be it further


RESOLVED that the Board shall file with the Office of Administrative Law a sufficient number of copies of said filing documents and a copy of the rulemaking file for use by the Office of Administrative Law.

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD

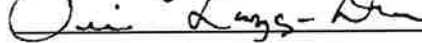


DAVE THOMAS, CHAIRMAN









Certified As A Regulation
Of the Occupational Safety
And Health Standards Board

BY: 
Christina Shupe, Executive Officer

DATED: June 17, 2021

**SECOND READOPTION OF
COVID-19 PREVENTION
EMERGENCY TEMPORARY STANDARD**

DECEMBER 16, 2021

SIGNATURE SHEET

TEXT APPROVED BY OAL

MOVED, That the following resolution be adopted:

WHEREAS, The Occupational Safety and Health Standards Board (Board) finds that unless a regulation is adopted on an emergency basis, the COVID-19 pandemic poses a real and substantial risk of occupational exposure to harmful effects of the SARS-CoV-2 virus that causes COVID-19, and that immediate action is necessary to mitigate this risk by providing more clear direction to employers on how to safeguard employees to the extent that the nature of the work reasonably permits. The Board further adopts and makes findings set forth in the Finding of Emergency that is part of the Notice of Proposed Emergency Action prepared in this matter. Therefore, be it

RESOLVED, that based on the finding stated above, the Board finds that amendments to Title 8, California Code of Regulations, Chapter 4, Subchapter 7, new sections 3205, 3205.1, 3205.2, 3205.3 and 3205.4 of the General Industry Safety Orders, must be adopted on an emergency basis for the immediate and continued preservation of the public health and safety in the workplace, and general welfare in the workplace; and be it further

RESOLVED by the Board, at a meeting held via teleconference and videoconference in Sacramento, California, on December 16, 2021 (in accordance with section 11133 of the Government Code), that the proposed amendments of Title 8, California Code of Regulations, Chapter 4, Subchapter 7, new sections 3205, 3205.1, 3205.2, 3205.3 and 3205.4 of the General Industry Safety Orders, appended hereto, be adopted as an emergency regulation; and be it further

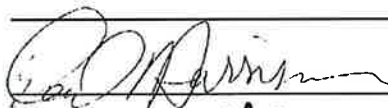
RESOLVED that the Board shall file with the Office of Administrative Law a sufficient number of copies of said filing documents and a copy of the rulemaking file for use by the Office of Administrative Law.

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD

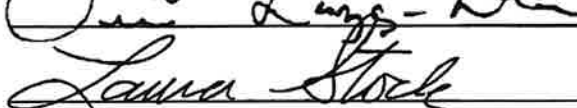


DAVE THOMAS, CHAIRMAN











Certified As A Regulation
Of the Occupational Safety
And Health Standards Board

BY: 
Christina Shupe, Executive Officer

DATED: December 16, 2021

**THIRD READOPTION OF
COVID-19 PREVENTION
EMERGENCY TEMPORARY STANDARD
APRIL 21, 2022**

SIGNATURE SHEET

TEXT APPROVED BY OAL

MOVED, That the following resolution be adopted:

WHEREAS, The Occupational Safety and Health Standards Board (Board) finds that unless a regulation is adopted on an emergency basis, the COVID-19 pandemic poses a real and substantial risk of occupational exposure to harmful effects of the SARS-CoV-2 virus that causes COVID-19, and that immediate action is necessary to mitigate this risk by providing more clear direction to employers on how to safeguard employees to the extent that the nature of the work reasonably permits. The Board further adopts and makes findings set forth in the Finding of Emergency that is part of the Notice of Proposed Emergency Action prepared in this matter. Therefore, be it

RESOLVED, that based on the finding stated above, the Board finds that amendments to Title 8, California Code of Regulations, Chapter 4, Subchapter 7, new sections 3205, 3205.1, 3205.2, 3205.3 and 3205.4 of the General Industry Safety Orders, must be adopted on an emergency basis for the immediate and continued preservation of the public health and safety in the workplace, and general welfare in the workplace; and be it further

RESOLVED by the Board, at a meeting held in Oakland, California, on April 21, 2022, that the proposed amendments of Title 8, California Code of Regulations, Chapter 4, Subchapter 7, new sections 3205, 3205.1, 3205.2, 3205.3 and 3205.4 of the General Industry Safety Orders, appended hereto, be adopted as an emergency regulation; and be it further

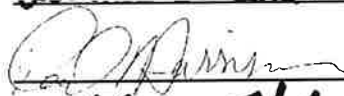
RESOLVED that the Board shall file with the Office of Administrative Law a sufficient number of copies of said filing documents and a copy of the rulemaking file for use by the Office of Administrative Law.

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD



DAVE THOMAS, CHAIRMAN



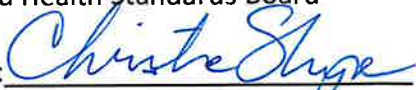








Certified As A Regulation
Of the Occupational Safety
And Health Standards Board

BY: 
Christina Shupe, Executive Officer

DATED: April 21, 2022

GOVERNOR'S EXECUTIVE ORDER

N-23-21

DECEMBER 16, 2021

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 15, 2022, MONTHLY BUSINESS MEETING
 OF THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD**

PROPOSED DECISIONS FOR BOARD CONSIDERATION, HEARD ON AUGUST 24, 2022

Docket Number	Applicant Name	Safety Order(s) at Issue	Proposed Decision Recommendation
1. 20-V-449M1	Fremont Walnut Apartments, LLC	Elevator	GRANT
2. 22-V-269	2575 Railroad Ave., L.P.	Elevator	GRANT
3. 22-V-302	Celtic Development, LLC	Elevator	GRANT
4. 22-V-303	Kaiser Foundation Health Plan, Inc.	Elevator	GRANT
5. 22-V-304	Beacon Landing, L.P.	Elevator	GRANT
6. 22-V-305	Sharp Memorial Hospital	Elevator	GRANT
7. 22-V-306	Sharp Memorial Hospital	Elevator	GRANT
8. 22-V-307	9G San Diego, LLC	Elevator	GRANT
9. 22-V-308	IQHQ RaDD I, LLC	Elevator	GRANT
10. 22-V-309	IQHQ RaDD I, LLC	Elevator	GRANT
11. 22-V-310	IQHQ RaDD I, LLC	Elevator	GRANT
12. 22-V-311	IQHQ RaDD I, LLC	Elevator	GRANT
13. 22-V-312	IQHQ RaDD I, LLC	Elevator	GRANT
14. 22-V-313	IQHQ RaDD I, LLC	Elevator	GRANT
15. 22-V-314	Palmer Ventura Properties, LP	Elevator	GRANT
16. 22-V-315	Weingart Tower, LP	Elevator	GRANT
17. 22-V-316	1208 Q Street, LLC	Elevator	GRANT
18. 22-V-317	KL2067 University, LLC	Elevator	GRANT
19. 22-V-318	Project Development Unit, County of San Mateo	Elevator	GRANT

PROPOSED DECISIONS FOR BOARD CONSIDERATION, HEARD ON AUGUST 19, 2022

Docket Number	Applicant Name	Safety Order(s) at Issue	Proposed Decision Recommendation
20. 21-V-208	Palisades Tahoe Ski Holdings, LLC	3162(a)	GRANT/DENY

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:

Fremont Walnut Apartments, LLC

OSHSB File No.: 20-V-449M1
Proposed Decision Dated: August 25, 2022

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 15, 2022

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

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

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

In the Matter of Application to Modify Permanent Variance by: <p style="text-align: center;">Fremont Walnut Apartments, LLC</p>	OSHSB File No.: 20-V-449M1 <p style="text-align: center;"><u>PROPOSED DECISION</u></p> Hearing Date: August 24, 2022
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A. The following person or entity (“Applicant”) has applied for a modification of permanent variance from provisions of the Elevator Safety Orders, found at title 8 of the California Code of Regulations, for each elevator having the specified preexisting variance location address of record:

Preexisting OSHSB File No.	Applicant Name	Preexisting Variance Address of Record
20-V-449	Fremont Walnut Apartments LLC	3515 Walnut Ave. Fremont, 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 24, 2022, 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, Justin Zoetewey, with TK Elevator, appeared on behalf of the 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, 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:

Exhibit Number	Description of Exhibit
PD-1	Application for modification of Permanent Variance
PD-2	OSHSB Notice of Hearing
PD-3	Board Staff Review of Variance Application
PD-4	Division Review of Variance Application
PD-5	Review Draft-1 Proposed Decision

Official notice is taken of the Board’s files, records, recordings and decisions concerning the Elevator Safety Order requirements from which variance shall issue. On August 24, 2022, the hearing and record closed, and the matter was taken under submission by the Hearing Officer.

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

1. The Applicant requests modification of the address of the unchanging variance location specified within Board records for each elevator the subject of previously granted Permanent Variance 20-V-449.
2. Application section 3, declared to be wholly truthful under penalty of perjury by Application signatory, states facts upon which reasonably may be based a finding that the address, specified in the records of the Board, at which Permanent Variance 20-V-449 is in effect, in fact is more completely, and correctly the different combination of addresses specified in below subsection D.5.
3. The Division has evaluated the request for modification of variance location address, finds no issue with it, and recommends that the application for modification be granted subject to the same conditions of the Decision and Order in OSHSB Permanent Variance File No. 20-V-449.
4. The Board finds the above subpart D.2 referenced declaration to be credible, uncontroverted, and consistent with available, sufficient facts, and of no bearing as to the finding of equivalent occupational health and safety upon which Grant of preexisting Permanent Variance 20-V-449 was, in part, based.
5. The Board finds the correct address by which to designate the location of each elevator the subject of Permanent Variance No. 20-V-449, to be:

3510 Beacon Ave.
Fremont, CA

E. Decision and Order:

1. Permanent Variance Application No. 20-V-449M1 is conditionally GRANTED, thereby modifying Board records, such that, without change in variance location, each elevator

being the subject of Permanent Variance Nos. 20-V-449, and 20-V-449M1, shall have the following address designation:

3510 Beacon Ave.
Fremont, CA

2. Permanent Variance No. 20-V-449, being only modified as to the subject location address specified in above Decision and Order section 1, is otherwise unchanged and remaining in full force and effect, as hereby incorporated by reference into this Decision and Order of Permanent Variance No. 20-V-449M1.

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 25, 2022



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:

Schindler 3300 with SIL-Rated Drive to
De-energize Drive Motor (Group IV)

OSHSB File No.: see grid in Item 1 of
Proposed Decision Dated: August 25, 2022

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 15, 2022

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

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

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

<p>In the Matter of Application for Permanent Variance Regarding:</p> <p>Schindler 3300 with SIL-Rated Drive to De-energize Drive Motor (Group IV)</p>	<p>OSHSB File Nos.: Per table, in Jurisdictional and Procedural Matters below</p> <p><u>PROPOSED DECISION</u></p> <p>Hearing Date: August 24, 2022</p>
--	--

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
22-V-269	2575 Railroad Ave., L.P.	2575 Railroad Ave. Pittsburg, CA	3

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 24, 2022, 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 Corporation, appeared on behalf of each Applicant; Mark Wickens and David Morris appeared on behalf of the Division of Occupational Safety and Health (“Division”), and Michael Nelmidia appeared on behalf of Board staff, in a technical advisory role apart from the Board.
5. Oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence:

Exhibit Number	Description of Exhibit
PD-1	Permanent variance applications per section A.1 table
PD-2	OSHSB Notice of Hearing
PD-3	Board Staff Reviews of Variance Application
PD-4	Division Reviews of Variance Application
PD-5	Review Draft-1 Proposed Decision

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 24, 2022, 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:

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

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

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 25, 2022


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 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:

Medical Emergency Elevator Car
Dimensions (Group IV)

OSHSB File No.: see grid in Item A of
Proposed Decision Dated: August 25, 2022

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 15, 2022

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

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

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

<p>In the Matter of Application for Permanent Variance regarding:</p> <p style="text-align: center;">Medical Emergency Elevator Car Dimensions (Group IV)</p>	<p>OSHSB File No.: See section A.1 table below</p> <p style="text-align: center;"><u>PROPOSED DECISION</u></p> <p>Hearing Date: August 24, 2022</p>
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A. Jurisdictional and Procedural Matters

- Each below listed applicant (“Applicant”) has applied for permanent variances from provisions of the Elevator Safety Orders, found at title 8 of the California Code of Regulations¹, with respect to the listed conveyance or conveyances, at the specified location:

Variance No.	Applicant Name	Variance Location Address
22-V-302	Celtic Development, LLC	1900 Mission Street San Francisco, CA
22-V-306	Sharp Memorial Hospital	Sharp Vista Hill Parking Structure 2901 Health Center Drive San Diego, CA

- This proceeding is conducted in accordance with Labor Code section 143, and section 401, et. seq. of the Board’s rules of practice and procedure.
- This hearing was held on August 24, 2022, in Sacramento, California, and 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, Dan Leacox of Leacox & Associates, and Wolter Geesink with Otis Elevator, appeared on behalf of each Applicant; Mark Wickens and David Morris appeared on behalf of the Division of Occupational Safety and Health (“Division”), and Michael Nelmidia appeared on behalf of the Board.
- Oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence:

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

Exhibit Number	Description of Exhibit
PD-1	Permanent variance applications per Section A.1 table
PD-2	OSHSB Notice of Hearing
PD-3	Board Staff Reviews of Variance Application
PD-4	Division Reviews of Variance Application
PD-5	Review Draft-1 Proposed Decision

Official notice is taken of the Board’s rulemaking records, and variance files and decisions, concerning the Elevator Safety Order standards at issue. At close of hearing on August 24, 2022, the record was closed, and the matter taken under submission by the Hearing Officer.

B. Findings of Fact and Applicable Regulations

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

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

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

...

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

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

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

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

The medical emergency service elevator shall accommodate the loading and transport of two emergency personnel, each requiring a minimum clear 21-inch (533 mm) diameter circular area and an

ambulance gurney or stretcher [minimum size 24 inches by 84 inches (610 mm by 2134 mm) with not less than 5-inch (127 mm) radius corners] in the horizontal, open position.

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

C. Conclusive Findings

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

D. Decision and Order

Each permanent variance application the subject of this proceeding is conditionally GRANTED as specified below, and to the extent, as of the date the Board adopts this Proposed Decision, each Applicant listed in the above section A.1 table shall have permanent variances from sections 3041, subdivision (e)(1)(C) and 3141.7, subdivision (b) subject of the following conditions:

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

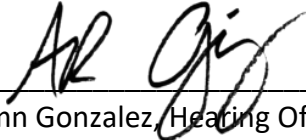
The medical emergency service elevator shall accommodate the loading and transport of two emergency personnel, each requiring a minimum clear 21-inch (533 mm) diameter circular area and an ambulance gurney or stretcher [minimum size 24 inches by 84 inches (610 mm by 2134 mm) with not less than 5-inch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

2. All medical emergency service elevator(s) shall be identified in the building construction documents in accordance with the 2019 California Building Code, section 3002.4a.
3. Dimensional drawings and other information necessary to demonstrate compliance with the conditions of this permanent variance decision shall be provided to the Division, at the time of inspection, for all medical emergency service elevator(s).

4. Any Certified Qualified Conveyance Company performing inspections, maintenance, servicing, or testing the elevators shall be provided a copy of this variance decision.
5. The Division shall be notified when the elevator is ready for inspection. The elevator shall be inspected by the Division, and all applicable requirements met, including conditions of this permanent variance, prior to a Permit to Operate the elevator being issued. The elevator shall not be placed in service prior to the Permit to Operate being issued by Division.
6. Applicant shall notify its employees and their authorized representative, of this order in the same way and to the same extent that employees and authorized representatives are to be notified of docketed permanent variance applications pursuant to sections 411.2 and 411.3.
7. This Decision and Order shall remain in effect unless duly modified or revoked upon application by Applicant, affected employee(s), the Division, or by the Board on its own motion, in accordance with then in effect administrative procedures of the Board.

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

DATED: August 25, 2022



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 Elevators Gen3 Edge/Gen2S (Group IV)

OSHSB File No.: see grid in Item A of
Proposed Decision Dated: August 25, 2022

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 15, 2022

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 Elevators Gen3 Edge/Gen2S (Group IV)	OSHSB File Nos.: See section A table below <u>PROPOSED DECISION</u> Hearing Date: August 24, 2022
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A. Subject Matter

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

Variance No.	Applicant Name	Variance Location Address	No. of Elevators
22-V-303	Kaiser Foundation Health Plan, Inc.	Medical Office Building 22750 Wildomar Trail Wildomar, CA	2
22-V-304	Beacon Landing, L.P.	319 N. Beacon Street San Pedro, CA	1
22-V-305	Sharp Memorial Hospital	Sharp Vista Hill Parking Structure 2901 Health Center Drive San Diego, CA	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

- This proceeding is conducted in accordance with Labor Code section 143, and California Code of Regulations, title 8, section 401, et. seq.
- This hearing was held on August 24, 2022, in Sacramento, California, and 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, and Wolter Geesink with Otis Elevator, appeared on behalf of each Applicant; Mark Wickens and David Morris appeared on behalf of the Division of Occupational Safety and Health (“Division”), and Michael Nelmda appeared on behalf of Board staff, in a technical advisory role apart from the Board.
4. Oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence:

Exhibit Number	Description of Exhibit
PD-1	Permanent variance applications per Section A.1 table
PD-2	OSHSB Notice of Hearing
PD-3	Board Staff Reviews of Variance Application
PD-4	Division Reviews of Variance Application
PD-5	Review Draft-1 Proposed Decision

Official notice is taken of the Board’s rulemaking records, and variance files and decisions, concerning the Elevator Safety Order standards at issue. At close of hearing on August 24, 2022, the record was closed, and the matter taken under submission by the Hearing Officer.

C. Findings and Basis:

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

1. Each Applicant intends to utilize Otis Gen3 Edge/Gen2S elevators at the locations and in the numbers stated in the above section A table.
2. The installation contracts for these elevators were or will be signed on or after May 1, 2008, making the elevators subject to the Group IV Elevator Safety Orders.
3. The Board incorporates by reference 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 Gen3 Edge/Gen2S Group IV devices that are designed, equipped, and installed in accordance with, and are otherwise consistent with, the representations made in the Otis Master File [referred to in previous proposed decisions as the “Gen2 Master File”) maintained by the Board, as that file was constituted at the time of this hearing) and are subject to the following conditions:

1. The suspension system shall comply with the following:
 - a. The coated steel belt and connections shall have factors of safety equal to those permitted for use by section 3141 [ASME A17.1-2004, section 2.20.3] on wire rope suspended elevators.
 - b. Steel coated belts that have been installed and used on another installation shall not be reused.
 - c. The coated steel belt shall be fitted with a monitoring device which has been accepted by the Division and which will automatically stop the car if the residual strength of any single belt drops below 60 percent. If the residual strength of any single belt drops below 60 percent, the device shall prevent the elevator from restarting after a normal stop at a landing.
 - d. Upon initial inspection, the readings from the monitoring device shall be documented and submitted to the Division.
 - e. A successful test of the monitoring device’s functionality shall be conducted at least once a year (the record of the annual test of the monitoring device shall be a maintenance record subject to ASME A17.1-2004, section 8.6.1.4).
 - f. The coated steel belts used shall be accepted by the Division.
2. With respect to each elevator subject to this variance, the applicant shall comply with Division Circular Letter E-10-04, the substance of which is attached hereto as Addendum 1 and incorporated herein by this reference.
3. The Applicant shall not utilize the elevator unless the manufacturer has written procedures for the installation, maintenance, inspection, and testing of the belts and monitoring device and criteria for belt replacement, and the applicant shall make those procedures and criteria available to the Division upon request.

4. The flat coated steel belts shall be provided with a metal data tag that is securely attached to one of those belts. This data tag shall bear the following flat steel coated belt data:
 - a. The width and thickness in millimeters or inches;
 - b. The manufacturer's rated breaking strength in (kN) or (lbf);
 - c. The name of the person or organization that installed the flat coated steel belts;
 - d. The month and year the flat coated steel belts were installed;
 - e. The month and year the flat coated steel belts were first shortened;
 - f. The name or trademark of the manufacturer of the flat coated steel belts; and
 - g. Lubrication information.
5. There shall be a crosshead data plate of the sort required by section 2.20.2.1, and that plate shall bear the following flat steel coated belt data:
 - a. The number of belts;
 - b. The belt width and thickness in millimeters or inches; and
 - c. The manufacturer's rated breaking strength per belt in (kN) or (lbf).
6. The opening to the hoistway shall be effectively barricaded when car top inspection, maintenance, servicing, or testing of elevator equipment in the hoistway is required. If service personnel must leave the area for any reason, the hoistway and control room doors shall be closed.
7. If there is an inset car top railing:
 - a. Serviceable equipment shall be positioned so that mechanics and inspectors do not have to climb on railings to perform adjustment, maintenance, repairs or inspections. The applicant shall not permit anyone to stand on or climb over the car top railing.
 - b. The distance that the car top railing may be inset shall be limited to no more than 6 inches.
 - c. All exposed areas outside the car top railing shall preclude standing or placing objects or persons which may fall and shall be beveled from the mid- or top rail to the outside of the car top.

- d. The top of the beveled area and/or car top outside the railing, shall be clearly marked. The markings shall consist of alternating 4 inch diagonal red and white stripes.
- e. The applicant shall provide durable signs with lettering not less than ½ inch on a contrasting background on each inset railing; each sign shall state:

CAUTION
DO NOT STAND ON OR CLIMB OVER RAILING

- f. The Group IV requirements for car top clearances shall be maintained (car top clearances outside the railing shall be measured from the car top and not from the required bevel).
8. If the seismic reset switch does not reside in a machine room, that switch shall not reside in the elevator hoistway. The switch shall reside in the inspection and test control panel located in one upper floor hoistway door jamb or in the control space (outside the hoistway) used by the motion controller.
 9. If the inspection transfer switch required by ASME A17.1, rule 2.26.1.4.4(a) does not reside in a machine room, that switch shall not reside in the elevator hoistway. The switch shall reside in the inspection and test control panel located in one upper floor hoistway door jamb or in the control space (outside the hoistway) used by the motion controller.
 10. When the inspection and testing panel is located in the hoistway door jamb, the inspection and test control panel shall be openable only by use of a Security Group I restricted key.
 11. The elevator shall be serviced, maintained, adjusted, tested, and inspected only by Certified Competent Conveyance Mechanics who have been trained to, and are competent to, perform those tasks on the Gen3 Edge/Gen2S elevator system in accordance with the written procedures and criteria required by Condition No. 3 and in accordance with the terms of this permanent variance.
 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 25, 2022



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:

Mitsubishi Elevators (Group IV)

OSHSB File No.: See Section A.1 table of
Proposed Decision Dated: August 25, 2022

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 15, 2022

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

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

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

<p>In the Matter of Application for Permanent Variance Regarding:</p> <p style="text-align: center;">Mitsubishi Elevators (Group IV)</p>	<p>OSHSB File Nos.: See section A.1 Table</p> <p style="text-align: center;"><u>PROPOSED DECISION</u></p> <p>Hearing Date: August 24, 2022</p>
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A. Procedural Matters:

- Each below listed applicant (“Applicant”) has applied for permanent variance from provisions of the Elevator Safety Orders, found at title 8 of the California Code of Regulations, 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
22-V-307	9G San Diego, LLC	659 9th Ave San Diego, CA	3
22-V-308	IQHQ RaDD I, LLC	IQHQ RaDD Block 1A 999 N. Harbor Drive San Diego, CA	2
22-V-309	IQHQ RaDD I, LLC	IQHQ RaDD Block 2A 825 N. Harbor Drive San Diego, CA	10
22-V-310	IQHQ RaDD I, LLC	IQHQ - RaDD Block 2B 800 Pacific Coast Highway San Diego, CA	17
22-V-311	IQHQ RaDD I, LLC	IQHQ RaDD Block 3A 950 Waterfront Place San Diego, CA	7
22-V-312	IQHQ RaDD I, LLC	IQHQ RaDD Block 4A 975 Waterfront Place San Diego, CA	9

22-V-313	IQHQ RaDD I, LLC	IQHQ RaDD Block 4B 925 Waterfront Place San Diego, CA	9
22-V-314	Palmer Ventura Properties, LP	2000 E. Inland Empire Blvd. Ontario, CA	10
22-V-315	Weingart Tower, LP	555 South Crocker Street Los Angeles, CA	3

2. The safety orders at issue are set forth in the prefatory portion of the Decision and Order. This proceeding is conducted in accordance with Labor Code section 143, and California Code of Regulations, title 8, section 401, et. seq.
3. This hearing was held on August 24, 2022, 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, Matt Jaskiewicz, with Mitsubishi Electric, Elevator Division, appeared on behalf of each Applicant, Mark Wickens and David Morris appeared on behalf of the Division of Occupational Safety and Health (“Division”), and Michael Nelmda appeared on behalf of Board staff in a technical advisory role apart from the Board.
5. At the hearing, documentary and oral evidence was received, and by stipulation of all parties, documents were accepted into evidence:

Exhibit Number	Description of Exhibit
PD-1	Permanent variance applications per section A.1 table
PD-2	OSHSB Notice of Hearing
PD-3	Board Staff Reviews of Variance Application
PD-4	Division Reviews of Variance Application
PD-5	Review Draft-1 Proposed Decision

Official Notice is taken of the Board’s rulemaking records and variance decisions concerning the safety order requirements from which variance is requested. At the close of hearing on August 24, 2022, the record was closed and the matter taken under submission by the Hearing Officer.

B. Findings of Fact:

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

1. Each section A table specified Applicant intends to utilize Mitsubishi elevators at the location and in the number stated in the table in Item A. The installation contracts for these elevators were signed on or after May 1, 2008, thus making the elevators subject to the Group IV Elevator Safety Orders.
2. The Board takes official notice and incorporates herein, Subsections D.3 through D.5 of the February 20, 2014, Decision of the Board in OSHSB Permanent Variance File No. 13-V-270.
3. As reflected in the record of this matter, including Board staff Pending Application for Permanent Variance Opinion Letter as PD-3, Division evaluation as PD-4, and testimony at hearing, it is the professionally informed opinion of Board staff and Division, that grant of requested variance, subject to conditions and limitations in substantial conforming with those set out per below Decision and Order, will provide Occupational Safety and Health equivalent or superior to that provided by the safety order requirements from which variance is sought.

C. Conclusive Findings:

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

D. Decision and Order:

As of such date as the Board adopts this Proposed Decision, each Application for Permanent Variance listed in the above section A.1 table, is conditionally GRANTED to the extent each Applicant of record shall have permanent variance from California Code of Regulations, title 8, section 3141 [ASME A17.1-2004, sections 2.10.2.2 (only to the extent necessary to permit the intermediate rail to be located at a point other than halfway between the top rail and the surface on which the railing is installed), 2.10.2.4 (only to the extent necessary to permit a bevel sloping that conforms with the variance conditions) and 2.14.1.7.1 (only to the extent necessary to permit the car top railing to be inset to clear obstructions when the conveyance is elevated to perform work on the machine and/or governor). The variance applies to the location and number of elevators stated in the section A.1 table, and the variance is subject to the above limitations and following conditions:

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

CAUTION

DO NOT STAND ON OR CLIMB OVER RAILING.

**PERSONNEL ARE PROHIBITED FROM REMOVING HANDRAIL
UNLESS THE EQUIPMENT HAS BEEN SECURED FROM MOVEMENT
AND APPROVED PERSONAL FALL PROTECTION IS USED.**

6. The Group IV requirements for car top clearances shall be maintained (car top clearances outside the railing will be measured from the car top and not from the required bevel).
7. A mechanical means (e.g., locking bar mechanism) that will secure the car to the guide rail to prevent unintended movement shall be provided and used during machine and/or governor car-top work. The mechanical means (e.g., locking bar mechanism) shall have a safety factor of not less than 3.5 for the total unbalanced load.
8. An electrical switch or a lockout/tagout procedure shall be provided that will remove power from the driving machine and brake when the mechanical means (e.g., locking bar mechanism) is engaged.
9. In order to inhibit employees from working outside the car top railing, sections shall not be hinged and they shall be installed by means that will inhibit (but not necessarily

completely preclude) removal. The Applicant shall ensure that all persons performing work that requires removal of any part of the car top railing are provided with fall protection that is appropriate and suitable for the assigned work. That fall protection shall consist of a personal fall arrest system or fall restraint system that complies with California Code of Regulations, title 8, section 1670.

10. The bevel utilized by the Applicant in accordance with the variance granted from ASME A17.1-2004, section 2.10.2.4 shall slope at not less than 75 degrees from the horizontal to serve as the toe board; however, that slope may be reduced to a minimum of 40 degrees from the horizontal as may be required for sections where machine encroachment occurs.
11. If the Applicant directs or allows its employees to perform tasks on the car top, the Applicant shall develop, implement, and document a safety training program that shall provide training to Applicant employees. Components of the training shall include, but not necessarily be limited to, the following: car blocking procedures; how examination, inspection, adjustment, repair, removal and replacement of elevator components are to be performed safely, consistent with the requirements of the variance conditions; applicable provisions of the law and other sources of safety practices regarding the operation of the elevator. A copy of the training program shall be located in the control room of each elevator that is the subject of this variance, and a copy of the training program shall be attached to a copy of this variance that shall be retained in any building where an elevator subject to this variance is located. The Applicant shall not allow Certified Qualified Conveyance Company (CQCC) or other contractor personnel to work on the top of any elevator subject to this variance unless the Applicant first ascertains from the CQCC or other contractor that the personnel in question have received training equivalent to, or more extensive than, the training components referred to in this condition.
12. Any CQCC performing inspections, maintenance, servicing, or testing of the elevators shall be provided a copy of this variance decision.
13. The Division shall be notified when the elevator is ready for inspection. The elevator shall be inspected by the Division, and a Permit to Operate shall be issued before the elevator is placed in service.
14. The Applicant shall notify its employees or their authorized representative(s), or both, of this order in the same way and to the same extent that employees and authorized representatives are to be notified of docketed permanent variance applications pursuant to 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, 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 25, 2022



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 section A.1 table of
Proposed Decision Dated: August 25, 2022

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 15, 2022

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

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

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

<p>In the Matter of Application for Permanent Variance Regarding:</p> <p style="text-align: center;">TK Elevator Evolution (Group IV)</p>	<p>OSHSB File Nos.: Per Section A.1 table</p> <p style="text-align: center;"><u>PROPOSED DECISION</u></p> <p>Hearing Date: August 24, 2022</p>
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A. Procedural Matters

1. The below listed Applicants (“Applicant”) have applied for permanent variance from certain provisions of the Elevator Safety Orders, found at title 8 of the California Code of Regulations¹, with respect to a conveyance, or conveyances, in the listed quantity, at the listed location:

Variance No.	Applicant Name	Variance Location Address	No. of Elevators
22-V-316	1208 Q Street, LLC	1208 Q St. Sacramento, CA	1
22-V-317	KL2067 University, LLC	2067 University Ave. Berkeley, CA	1
22-V-318	Project Development Unit, County of San Mateo	500 County Center Redwood City, CA	5

2. These proceedings are conducted in accordance with Labor Code section 143, and section 401, et. seq.
3. This hearing was held on August 24, 2022, 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 section 426.
4. At the hearing, Justin Zoetewey, with TK Elevator, appeared on behalf of the each Applicant, Mark Wickens and David Morris appeared on behalf of the Division of Occupational Safety and Health (“Division”), and Michael Nelmidia appeared on behalf of Board staff acting in a technical advisory role apart from the Board.

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

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

Exhibit Number	Description of Exhibit
PD-1	Application(s) for Permanent Variance per section A.1 table
PD-2	OSHSB Notice of Hearing
PD-3	Board Staff Review of Variance Application
PD-4	Division Review of Variance Application
PD-5	Review Draft-1 Proposed Decision

6. Official notice is taken of the Board's files, records, recordings and decisions concerning the Elevator Safety Order requirements from which variance shall issue. On August 24, 2022, the hearing and record closed, and the matter was taken under submission by the Hearing Officer.

B. Relevant Safety Orders

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

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

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

2.20.1 Suspension Means

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

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

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

2.20.2.1 On Crosshead Data Plate.

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

- (a) the number of ropes*

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

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

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

2.20.2.2 On Rope Data Tag.

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

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

[...]

(f) whether the ropes were nonpreformed or preformed

[...]

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

2.20.3 Factor of Safety

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

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

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

where

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

S = manufacturer's rated breaking strength of one rope

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

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

2.20.4 Minimum Number and Diameter of Suspension Ropes

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

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

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

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

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

2.20.9 Suspension-Rope Fastening

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

Fastening shall be

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

(1) such fastenings conform to 2.20.9.2 and 2.20.9.3;

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

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

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

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

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

driving-machine motor and brake shall not be solely dependent on software-controlled means.

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

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

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

2.26.1.4.1 General Requirements

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

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

8.4.10.1.1 Earthquake Equipment (See Also Fig. 8.4.10.1.1)

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

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

(2) seismic zone 2 or greater:

(a) a displacement switch for each elevator

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

C. Findings

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

ASME 17.1-2013, with a continuous residual strength detection device (“RSDD”) compliant with the *San Francisco Public Works (File No. 21-V-061, et al.)* decisions.

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

D. Decision and Order

Applicant is hereby conditionally GRANTED Permanent Variance as specified below, and to the limited extent, as of the date the Board adopts this Proposed Decision, with respect to the section A specified number of TKE EVO 200 elevator(s), at the specified location, each shall conditionally hold permanent variance from the following subparts of ASME A17.1-2004, currently incorporated by reference into section 3141 of the Elevator Safety Orders:

- Car-Top Railing: 2.14.1.7.1 (Limited to the extent necessary to permit the use of an inset car-top railing)
- Suspension Means: 2.20.1, 2.20.2.1, 2.20.2.2(a), 2.20.2.2(f), 2.20.3, 2.20.4, and 2.20.9.1 (Limited to the extent necessary to permit the use of the elastomeric-coated steel belts in lieu of circular steel suspension ropes)
- Inspection transfer switch: 2.26.1.4.4(a) (Limited to the extent necessary to permit the inspection transfer switch to reside at a location other than the machine room)
- Software Reliant Means to Remove Power: 2.26.9.4 (Limited to the extent necessary to permit the exclusive use of SIL-rated software systems as a means to remove power from the driving machine motor and brake)

- SIL-Rated Circuitry to Inhibit Current Flow: 2.26.9.6.1 (Limited to the extent necessary to permit the use of SIL-rated circuitry in place of an electromechanical relay to inhibit current flow to the drive motor)
- Seismic reset switch: 8.4.10.1.1(a)(2)(b) (Limited to the extent necessary to permit the seismic reset switch to reside at a location other than the machine room)

Inset Car Top Railing (Variance Request No. 1):

- 1.0 Any and all inset car top railings shall comply with the following:
 - 1.1 Serviceable equipment shall be positioned so that mechanics and inspectors do not have to stand on or climb over the railings to perform adjustments, maintenance, repairs or inspections. The Applicant shall not permit trained elevator mechanics or elevator service personnel to stand or climb over the car top railing.
 - 1.2 The distance that the railing can be inset shall be limited to not more than six inches (6").
 - 1.3 All exposed areas of the car top outside the car top railing where the distance from the railing to the edge of the car top exceeds two inches (2"), shall be beveled with metal, at an angle of not less than 75 degrees with the horizontal, from the mid or top rail to the outside of the car top, such that no person or object can stand, sit, kneel, rest, or be placed in the exposed areas.
 - 1.4 The top surface of the beveled area and/or car top outside the railing, shall be clearly marked. The markings shall consist of alternating 4" diagonal red and white stripes.
 - 1.5 The Applicant shall provide durable signs with lettering not less than 1/2 inch on a contrasting background on each inset railing; each sign shall state:

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

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

Suspension Means (Variance Request No. 2):

- 2.0 The elevator suspension system shall comply with the following:
 - 2.1 The elastomeric coated steel belts (ECSBs) and their associated fastenings shall conform to the applicable requirements of ASME A17.1-2013, sections:

2.20.4.3 – Minimum Number of Suspension Members

2.20.3 – Factor of Safety

2.20.9 – Suspension Member Fastening

- 2.2 Additionally, ECSBs shall meet or exceed all requirements of ASME A17.6 2010, Standard for Elevator Suspension, Compensation, and Governor Systems, Part 3 Noncircular Elastomeric Coated Steel Suspension Members for Elevators.
- 2.3 The Applicant shall not utilize the elevator unless the manufacturer has written procedures for the installation, maintenance, inspection and testing of the ECSBs and fastenings and related monitoring and detection systems and criteria for ECSB replacement, and the Applicant shall make those procedures and criteria available to the Certified Competent Conveyance Mechanic (CCCM) at the location of the elevator, and to the Division of Occupational Safety and Health (Division) upon request.
- 2.4 ECSB mandatory replacement criteria shall include:
- 2.4.1. Any exposed wire, strand or cord;
 - 2.4.2. Any wire, strand or cord breaks through the elastomeric coating;
 - 2.4.3. Any evidence of rouging (steel tension element corrosion) on any part of the elastomeric coated steel suspension member;
 - 2.4.4. Any deformation in the elastomeric suspension member such as, but not limited to, kinks or bends.
- 2.5 Traction drive sheaves must have a minimum diameter of 112 mm. The maximum speed of ECSBs running on 112 mm drive sheaves shall be no greater than 6.1 m/s.
- 2.6 If any one (1) ECSB needs replacement, the complete set of suspension members on the elevator shall be replaced. Exception: If a new suspension member is damaged during installation, and prior to any contemporaneously installed ECSB having been placed into service, it is permissible to replace the individual damaged suspension member. ECSBs that have been installed on another installation shall not be re used.
- 2.7 A traction loss detection means shall be provided that conforms to the requirements of ASME A17.1-2013, section 2.20.8.1. The means shall be tested for correct function annually in accordance with ASME A17.1-2013, section 8.6.4.19.12.
- 2.8 A broken suspension member detection means shall be provided that conforms to the requirements of ASME A17.1-2013, section 2.20.8.2. The means shall be tested for correct function annually in accordance with ASME A17.1-2013, section 8.6.4.19.13(a).
- 2.9 An elevator controller integrated bend cycle monitoring system shall monitor actual

ECSB bend cycles, by means of continuously counting, and storing in nonvolatile memory, the number of trips that the ECSB makes traveling, and thereby being bent, over the elevator sheaves. The bend cycle limit monitoring means shall automatically stop the car normally at the next available landing before the bend cycle correlated residual strength of any single ECSB member drops below (60%) sixty percent of full rated strength. The monitoring means shall prevent the car from restarting. Notwithstanding any less frequent periodic testing requirement per Addendum 2 (Division Circular Letter), the bend cycle monitoring system shall be tested semiannually in accordance with the procedures required per above Conditions 2.3 and 2.4.

- 2.10 The elevator crosshead data plate shall comply with the requirements of ASME A17.1-2013, section 2.20.2.1.
- 2.11 A suspension means data tag shall be provided that complies with the requirements of ASME A17.1-2013, section 2.20.2.2.
- 2.12 Comprehensive visual inspections of the entire length of each and all installed suspension members, in conformity with above Conditions 2.3 and 2.4 specified criteria, shall be conducted and documented every six (6) months by a CCCM.
- 2.13 The Applicant shall be subject to the requirements per hereto attached, and inhere incorporated, Addendum 1, "Suspension Means Replacement Reporting Condition."
- 2.14 Records of all tests and inspections shall be maintenance records subject to ASME A17.1-2004, sections 8.6.1.2, and 8.6.1.4, respectively.
- 2.15 The subject elevators(s) shall be equipped with a TK Elevator Model 104DP001 Residual Strength Detection Device accepted by the Division on May 4, 2021 or Division accepted equivalent device.

Control and Operating Circuits

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

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

- 3.0 The SIL rated circuitry used to provide device/circuit redundancy and to inhibit electrical current flow in accordance with ASME A17.1-2004, sections 2.26.9.4 and 2.26.9.6.1 shall comply with the following:
- 3.1 The SIL rated systems and related circuits shall consist of:
 - 3.1.1. ELGO LIMAX33 RED, (aka LIMAX3R-03-050-0500-CNXTG-RJU), Safe Magnetic Absolute Shaft Information System, labeled or marked with the SIL rating (not less than SIL 3), the name or mark of the certifying organization, and the SIL

certification number (968/A 163), followed by the applicable revision number (as in 968/A 163.07/19).

- 3.1.2 Printed circuit board assembly SSOA (6300 AHE001), labeled or marked with the SIL rating (not less than SIL 3), the name or mark of the certifying organization, and the SIL certification number (968/FSP 1347), followed by the applicable revision number (as in 968/FSP 1347.00/16).
- 3.1.3 Two circuit board components (Serializer S3I and S3O), each labeled or marked with the SIL rating (not less than SIL 3), the name or mark of the certifying organization and the SIL certification number (968/A 162), followed by the applicable revision number (as in 968/A 162.04/18)
- 3.2 The software system and related circuits shall be certified for compliance with the applicable requirements of ASME A17.1-2013, section 2.26.4.3.2.
- 3.3 The access door or cover of the enclosures containing the SIL rated components shall be clearly labeled or tagged on their exterior with the statement:

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

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

Safety Orders. If the Elevator Safety Orders do not contain specific provisions for the repair of SIL rated devices, the repairs shall be made in conformance with ASME A17.1-2013, section 8.6.2.6.

- 3.10 Any space containing SIL rated circuits shall be maintained within the temperature and humidity range specified by TKE. The temperature and humidity range shall be posted on each enclosure containing SIL rated software or circuits.
- 3.11 Field software changes to the SIL rated system are not permitted. Any changes to the SIL rated system's circuitry will require recertification and all necessary updates to the documentation and diagrams required by Conditions 3.4 and 3.5 above.

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

- 4.0 Inspection Transfer switch and Seismic Reset switch placement and enclosure shall comply with the following:
 - 4.1 If the inspection transfer switch required by ASME A17.1-2004, section 2.26.1.4.4, does not reside in a machine room, that switch shall not reside in the elevator hoistway. The switch shall reside in the control/machinery room/space containing the elevator's control equipment in an enclosure secured by a lock openable by a Group 1 security key. The enclosure is to remain locked at all times when not in use.
 - 4.2 If the seismic reset switch does not reside in the machine room, that switch shall not reside in the elevator hoistway. The switch shall reside in the control/machinery room/space containing the elevator's control equipment in an enclosure secured by a lock openable by a Group 1 security key. The enclosure is to remain locked at all times when not in use.
- 5.0 The elevator shall be serviced, maintained, adjusted, tested, and inspected only by CCCM having been trained, and competent, to perform those tasks on the TKE EVO 200 elevator system in accordance with written procedures and criteria, including as required per above Conditions 2.3, and 2.4.
- 6.0 The Division shall be notified when the elevator is ready for inspection. The elevator shall be inspected by the Division, and all applicable requirements met, including conditions of this permanent variance, prior to a Permit to Operate the elevator being issued. The elevator shall not be placed in full service prior to the Permit to Operate being issued by Division.
- 7.0 The Applicant shall notify its employees or their authorized representative(s), or both, of this order in the same way and to the same extent that employees and authorized representatives are to be notified of docketed permanent variance applications pursuant to sections 411.2, and 411.3.
- 8.0 This Decision and Order shall remain in effect unless modified or revoked upon

application by the Applicant, affected employee(s), the Division, or by the Board on its own motion, in the manner prescribed for its issuance.

Pursuant to 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 25, 2022



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:

Palisades Tahoe Ski Holdings, LLC

OSHSB File No.: 21-V-208
Proposed Decision Dated:

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 15, 2022

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: Palisades Tahoe Ski Holdings, LLC	OSHSB File No: 21-V-208 <u>PROPOSED DECISION</u> Hearing Date: August 19, 2022
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A. Jurisdictional and Procedural Matters

1. On April 14, 2021, Palisades Tahoe Ski Holdings, LLC (Applicant) applied with the Occupational Safety and Health Standards Board (Board) for a permanent variance from title 8 safety orders related to the need for certain evacuation equipment and conductor personnel to be present, as well as the design for a service brake, on gondolas operated by Applicant at the listed locations: Palisades Tahoe Ski Holdings, LLC (Main Office/ Location), PO Box 2007, 1901 Chamonix Place, Olympic Valley, CA 96146, Palisades Resort, 1960 Squaw Valley Road, Olympic Valley, CA 96146, and Alpine, 2600 Alpine Meadows Road, Tahoe City, CA 96145.
2. This proceeding is conducted in accordance with Labor Code Section 143, and section 401, et. seq. of the Board’s procedural regulations.
3. A hearing was held on August 19, 2022, by Zoom videoconference, in Sacramento, California, by delegation of the Occupational Safety and Health Standards Board (Board). The Hearing Panelists are Board Members Dave Harrison and Nola Kennedy, and the Hearing Officer is Autumn Gonzalez. This proposed decision, prepared as directed by the Hearing Panel, is presented to the Board for its consideration, in accordance with section 426 of the Board’s rules of procedure.
4. Applicant was represented by Casey Blann, Senior Advisor; David Kernazitskas, Senior Safety Engineer, appeared on behalf of the Board; attorney Tyuet-Van Tran, Bobby Park, Senior Safety Engineer, and Scott Prather, Senior Safety Engineer, appeared for the Division of Occupational Safety and Health (Cal/OSHA).
5. Oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence: subject Application and First Amended Application for Permanent Variance as Exhibit PD-1, Board Staff Review of Hearing as Exhibit PD-2, Division Review of Application as PD-3, and official notice taken of the Board’s rulemaking records, and variance decisions concerning the safety order requirements from which variance is requested.

B. Applicable Regulations

1. California Code of Regulations, title 8, section 3162, subdivision (a) [ANSI B.77.1-1982, section 3.1.4.5.2] of the Passenger Tramway Safety Orders and from ANSI B.77.1-2017, section 3.1.2.6.1, Service Brake.
2. ANSI B77.1-1982, section 3.1.4.5.2 requires that gondolas having a capacity of more than six passengers have evacuation equipment located inside the gondola. Section 3.1.4.5.2(1) also requires a conductor be present on gondolas with a capacity of seven or more passengers.
3. While the gondola system resides on United States Department Agriculture Forest Service land (Forest Service), and the Forest Service and Department of Industrial Relations (DIR) have an MOU governing certain requirements on that land, including compliance with the latest ANSI B77.1 standard related to the service brake system, the MOU is outside the jurisdiction of the Board. Board regulations do not currently require compliance with ANSI B77.1-2017, section 3.1.2.6.1, Service Brake.

C. Findings of Fact

1. Applicant proposes to install a 2.5 mile long gondola system, composed of two interconnected gondolas, which will provide transit between the Palisades Tahoe and Alpine Meadows ski resorts.
2. According to Applicant, current evacuation protocols using the most current technology, equipment, and best practices provide for storage of equipment at a centralized location, rather than in the gondolas. Storage in a central location allows for equipment to be easily accessible to the trained ski patrol staff who conduct rescues, and removes the possibility of equipment being damaged, vandalized, or stolen by passengers in the gondolas.
3. The gondolas have no internal operator controls, but have automatic doors and safety features that prevent riders from being able to open the doors during normal operation. The doors have a mechanism that can be opened from outside the carrier during a rope evacuation, as well as an emergency exit system that can be activated from inside the gondola, if necessary. Unlike gondolas of the past, there is no role for an onboard conductor. Applicant's evacuation protocols involve use of highly-trained members of its ski patrol, rather than having a conductor manage emergency situations.
4. The Board has granted similar variances in the past, including East Bay Zoological Society, OSHSB File. No 17-V-069 (Aug. 2017) and Heavenly Ski Resort, OSHSB File No. 00-V-037 (Feb. 2001).

D. Conclusive Findings

1. The preponderance of the evidence establishes that the Applicant's proposals, subject to all conditions set forth in the below Decision and Order, will provide employment, and a place of employment, as safe and healthful as would prevail if the Applicant complied with the safety order requirements at issue.

E. Decision and Order

The Application for Permanent Variance of Palisades Tahoe Ski Holdings LLC, OSHSB File No. 21-V-208, is conditionally GRANTED subject to the following conditions:

1. Applicant shall establish, implement, and maintain written evacuation and rescue procedures in compliance with ANSI B77.1-1982, and title 8, section 3156 to ensure effective and timely evacuation of all passengers from the Base to Base Gondola.
2. Evacuation and rescue procedures shall include a means of effectively communicating instructions to the cabin passengers throughout the course of the evacuation.
3. In the event of an evacuation from any part of the Base to Base Gondolas, the Applicant's evacuation and rescue procedures shall be followed.
4. Applicant shall provide documented training to all tramway employees responsible for executing the evacuation and rescue procedures. Initial training shall be conducted prior commencing operation and refresher training shall occur no less frequently than annually. All training shall be documented. Documentation shall be made available to the Division upon request.
5. The use of all evacuation equipment and procedures, including a practical test at the most difficult location, shall be demonstrated to the satisfaction of the Division, at the time of the acceptance testing for final design capacity.
6. All cabin doors shall operate under electrical/mechanical safety supervision while in the terminals and be properly closed and secured prior to a cabin disembarking any load/unload area.
7. Applicant shall establish, implement, and maintain written procedures to be followed in the event a cabin door unexpectedly opens during operation. These procedures shall be incorporated as described in the August 16, 2022, memo to the Division.
8. Applicant shall provide documented training to all employees responsible for executing the procedures to address an open cabin door that opens unexpectedly.

9. Each cabin shall have instructions posted informing passengers of what to expect in the event of an interruption in operation. The posting shall include the following content:

**CAR NUMBER [Specified]
IN CASE OF EMERGENCY
OR FOR INSTRUCTIONS AND INFORMATION IN THE EVENT OF STOPPAGE
PLEASE CALL [Designated Phone number]
OCCASIONAL STOPS ARE NOT UNCOMMON**

Remain seated and clear of open doors.

10. Evacuation equipment shall be located at each terminal from which evacuation teams will stage.
11. Brake testing shall be witnessed by the Division at the time of the acceptance testing and shall be conducted at maximum load capacity for the lift.
12. The applicant shall have and maintain a documented brake testing procedure provided by the manufacturer that will facilitate effective periodic testing of each brake independently.
13. All testing shall be documented in accordance with ANSI B77.1-2017 Section 3.1.1.11.1.
14. Any individual, entity, or organization performing inspections, maintenance, servicing or testing of the tramway shall be provided a copy of this variance decision.
15. The Division shall be notified when the tramway is ready for acceptance testing for final design capacity. The Division shall witness the testing before the tramway is operated for public use.
16. The Applicant shall notify all employees, 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.
17. This Decision and Order shall remain in effect unless modified or revoked upon application by the Applicant, affected employee(s), the Division, or by the Board on its own motion, in the manner prescribed for its issuance.

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

DATED: September 8, 2022



Autumn Gonzalez, Hearing Officer

Occupational Safety and Health Standards Board

Business Meeting
Legislative Update

Legislative Update
Prepared September 6, 2022 for the September 15, 2022
Meeting of the Occupational Safety and Health Standards Board

SUMMARY OF CHANGES

AB 257 Food facilities and employment. (2021-2022) **UPDATED**

AB 1643 Department of Industrial Relations.(2021-2022) **UPDATED**

AB 1733 State bodies: open meetings. (2021-2022) **NO UPDATE**

AB 1775 Occupational safety: live events.(2021-2022) **UPDATED**

AB 1993 Employment: COVID-19 vaccination requirements.(2021-2022) **NO UPDATE**

AB 2076 Extreme Heat and Community Resilience Program: Extreme Heat Hospitalization and Death Reporting System. (2021-2022) **UPDATED**

AB 2243 Occupational safety and health standards: heat illness: wildfire smoke. (2021-2022) **UPDATED**

AB-2893 Administrative Procedure Act: standardized regulatory impact analysis: comments, updates, and format.(2021-2022) **UPDATED**

SB 189 State Government ((2021-2022) **NO UPDATE**

SB 831 Entertainment Productions: Firearms: Safety. (2021-2022) **NO UPDATE**

Legislative Update
Prepared September 6, 2022 for the September 15, 2022
Meeting of the Occupational Safety and Health Standards Board

AB 257	AB 257 Food Facilities and Employment. (2021-2022)	
	(Holden, Carrillo, Low, and Luz Rivas)	
	Date	Action
	9/5/22	Signed by Governor.
	8/29/22	Senate amendments concurred in. To Engrossing and Enrolling. (Ayes 47. Noes 19.).
	8/29/22	Assembly Rule 77 suspended.
	8/29/22	Assembly Rule 63 suspended.
	8/29/22	In Assembly. Concurrence in Senate amendments pending. May be considered on or after August 31 pursuant to Assembly Rule 77.
	8/29/22	Read third time. Passed. Ordered to the Assembly. (Ayes 21. Noes 12.).
	8/25/22	Read third time and amended. Ordered to third reading.
8/11/22	Read second time. Ordered to third reading.	
8/11/22	From committee: Do pass. (Ayes 5. Noes 2.) (August 11).	
8/4/22	Set for hearing on Aug. 11, 2022 upon adjournment of session.	
<u>Summary:</u>		
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.		
This bill would enact the Fast Food Accountability and Standards Recovery Act or FAST Recovery Act. The bill would establish, until January 1, 2029, the Fast Food Council (council) within the Department of Industrial Relations, to be composed of 10 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 sectorwide 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		

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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 100 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, subject to a petition signed by 10,000 fast food restaurant employees approving the creation of the council, as specified. 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 a process for the council to petition the board to adopt, amend, or repeal a standard.

This bill would require the council to submit a report to the Legislature, as specified, for a standard, or repeal or amendment of a standard, to become effective, and would specify that a standard, repeal, or amendment shall not take effect before October 15 of the same year. The bill would also require the council to provide information as requested by the appropriate committees of the Legislature on labor to facilitate a review of the council's performance and standards, as specified.

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. 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 applicable to fast food restaurants, as appropriate. The bill would require the council to hold meetings or hearings no less than 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, or a city with a population greater than 200,000, to establish a Local Fast Food Council, and would prescribe its powers and requirements for its composition. The bill would authorize a Local Fast Food Council to provide recommendations to the council.

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, absent a valid collective bargaining agreement, as specified, and would require that they be enforced by the commissioner, as specified, and the Division of Labor Standards Enforcement. By expanding the application of crimes associated with those

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enforcement procedures, this bill would impose a state-mandated local program. 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.

This bill would prohibit a fast food restaurant 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, as well as a presumption of unlawful discrimination and retaliation in certain circumstances.

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

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

Board staff is monitoring for potential impacts on Board operations.

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AB 1643	AB 1643 Labor and Workforce Development Agency: extreme heat: advisory committee study. (2021-2022)	
	(Rivas)	
	Date	Action
	8/31/22	Enrolled and presented to the Governor at 4 p.m.
	8/25/22	Senate amendments concurred in. To Engrossing and Enrolling. (Ayes 68. Noes 0.).
	8/25/22	Assembly Rule 77(a) suspended.
	8/24/22	In Assembly. Concurrence in Senate amendments pending. May be considered on or after August 26 pursuant to Assembly Rule 77.
	8/24/22	Read third time. Passed. Ordered to the Assembly. (Ayes 33. Noes 1.).
	8/15/22	Read second time. Ordered to third reading.
	8/11/22	Read second time and amended. Ordered returned to second reading.
8/11/22	From committee: Amend, and do pass as amended. (Ayes 5. Noes 0.) (August 11).	
8/4/22	Set for hearing on Aug. 11, 2022 upon adjournment of session.	
<u>Summary:</u>		
AB 1643, Robert Rivas. Labor and Workforce Development Agency: heat: advisory committee study.		
Existing law establishes the Labor and Workforce Development Agency under the supervision of an executive officer known as the Secretary of Labor and Workforce Development. Existing law requires the secretary to perform specified duties, including advising the Governor with respect to establishing major policy and program matters affecting each department, office, or other unit within the agency. Existing law authorizes officers or employees within the agency to exercise powers designated to them by the secretary.		
This bill would require the agency, on or before July 1, 2023, to establish an advisory committee to study and evaluate the effects of heat on California’s workers, businesses, and the economy. The bill would require the committee to meet to recommend the scope		

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	<p>of a study to the agency. The bill would require the advisory committee, in considering the effects of heat on California’s workers, businesses, and the economy, recommend a study that addresses prescribed topics relating to data collection, certain economic losses, injuries and illnesses, and methods of minimizing the effect of heat on workers. The bill would require the advisory committee to be composed of specified representatives from state agencies, labor and business entities, and academia. The bill would authorize the advisory committee to contract with academic institutions or other researchers to complete its work. The bill would require the advisory committee to issue a report of its findings to the Legislature no later than January 1, 2026. The bill would repeal these provisions on January 1, 2027.</p>
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The Board is monitoring this bill.

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Prepared September 6, 2022 for the September 15, 2022
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AB 1733	AB 1733 State Bodies: Open Meetings. (2021-2022) (Quirk)	
	Date	Action
	4/20/22	In committee: Hearing postponed by committee.
	2/18/22	Referred to Coms. on G.O. and B. & P.
	2/1/22	From printer. May be heard in committee March 3.
	1/31/22	Read first time. To print.
<p><u>Summary:</u></p> <p>AB 1733, as introduced, Quirk. State bodies: open meetings.</p> <p>Existing law, the Bagley-Keene Open Meeting Act, requires, with specified exceptions, that all meetings of a state body be open and public and all persons be permitted to attend any meeting of a state body. The act defines a “meeting” to include any congregation of a majority of the members of a state body at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the state body to which it pertains. The act authorizes teleconferenced meetings under specified circumstances, provided that at least one member of the state body is physically present at the location specified in the notice of the meeting, and all votes taken during a teleconferenced meeting are taken by rollcall. The act provides that if the state body elects to conduct a meeting or proceeding by teleconference, the state body is required to post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the rights of any party or member of the public appearing before the state body. The act requires each teleconference location to be identified in the notice and agenda of the meeting or proceeding, and each teleconference location to be accessible to the public, and the agenda to provide an opportunity for members of the public to address the state body at each teleconference location.</p> <p>Existing law requires a state body to provide notice of its meeting to any person who requests that notice in writing and to provide notice of the meeting of its internet website at least 10 days in advance of the meeting, as prescribed. Existing law exempts from the 10-day notice requirement, special meetings and emergency meetings in accordance with specified provisions. Existing law authorizes a state body to adjourn any regular, adjourned regular, special, or adjourned special meeting to a time and place specified in the order of adjournment, and authorizes a state body to similarly continue or recontinue any hearing being held, or noticed, or ordered to be held by a state body at any meeting.</p>		

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This bill would specify that a “meeting” under the act, includes a meeting held entirely by teleconference. The bill would require all open meetings to be held by teleconference, would allow for use of teleconference in closed sessions, and would remove existing provisions of the act that require each teleconference location to be identified in the notice and agenda and accessible to the public. The bill would instead require the state body to provide a means by which the public may remotely hear, or hear and observe, the meeting and may remotely address the state body via two-way audio-visual platform or two-way telephonic service, as specified, and would require information to be provided in any notice to the public indicating how the public can access the meeting remotely. The bill would require the state body to provide an opportunity for members of the public to address the state body. The bill would require the state body to provide members of the public a physical location to hear, observe, and address the state body, and would authorize the members of the state body to participate in a meeting remotely or at a designated physical meeting location, and specify that physical presence at any physical meeting location is not necessary for the member to be deemed present at the meeting. The bill would require the agenda to be posted 10 days in advance of the meeting, or as provided in accordance with the provisions applicable to a special or emergency meeting, as well as posted on the state body’s internet website and, on the day of the meeting, at any physical meeting location designated in the notice. The bill would also provide that the notice of the meeting is required to specify the means by which a meeting may be accessed by teleconference. The bill would prohibit the notice and agenda from disclosing any information regarding any remote location from which a member is participating, and require members attending a meeting from a remote location to disclose whether any other individuals 18 years of age or older are present in the room, as specified.

If a state body discovers that a means of remote participation, as defined, required by these provisions has failed during a meeting and cannot be restored, the state body would be required to end or adjourn the meeting and take specified actions to notify participants and communicate when the state body intends to reconvene the meeting and how a member of the public may hear audio of, or observe, the meeting.

This bill would remove certain notice provisions specific to advisory bodies of state boards.

Existing law prohibits a state body from requiring, as a condition to attend a meeting, a person to register the person’s name, or to provide other information, or to fulfill any condition precedent to the person’s attendance.

This bill would exclude from that prohibition an internet website or other online platform that may require identification to log into a teleconference.

Existing law limits the purposes for which a state body is authorized to call a special meeting, including, among others, consideration of disciplinary action involving a state officer or employee and consideration of license examinations and applications.

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This bill would add to those purposes deliberation on a decision to be reached in a proceeding required to be conducted pursuant to provisions governing administrative adjudicative proceedings or similar provisions of law.

Under existing law, the Department of Consumer Affairs, which is under the control of the Director of Consumer Affairs, is composed of various boards, as defined, that license and regulate various professions and vocations. Existing law requires the boards to meet at least 2 times each calendar year. Existing law requires those boards to meet at least once each calendar year in northern California and once each calendar year in southern California in order to facilitate participation by the public and its licensees.

This bill would exempt a board from the requirement to meet in northern and southern California each once a year if the board's meetings are held entirely by teleconference.

This bill would also make conforming changes.

This bill would declare the Legislature's intent, consistent with the Governor's Executive Order No. N-29-20, to improve and enhance public access to state and local agency meetings during the COVID-19 pandemic and future emergencies by allowing broader access through teleconferencing options.

This bill would declare that it is to take effect immediately as an urgency statute.

The Board is monitoring this bill.

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AB 1775	AB 1775 Occupational safety: live events. (2021-2022) (Ward)	
	Date	Action
	8/31/22	Enrolled and presented to the Governor at 4 p.m.
	8/25/22	Senate amendments concurred in. To Engrossing and Enrolling. (Ayes 63. Noes 0.).
	8/25/22	Assembly Rule 77(a) suspended.
	8/24/22	In Assembly. Concurrence in Senate amendments pending. May be considered on or after August 26 pursuant to Assembly Rule 77.
	8/24/22	Read third time. Passed. Ordered to the Assembly. (Ayes 32. Noes 8.).
	8/18/22	Read second time. Ordered to third reading.
	8/17/22	Read third time and amended. Ordered to second reading.
	8/15/22	Read second time. Ordered to third reading.
	8/11/22	Read second time and amended. Ordered returned to second reading.
8/11/22	From committee: Amend, and do pass as amended. (Ayes 5. Noes 2.) (August 11).	
8/4/22	Set for hearing on Aug. 11, 2022 upon adjournment of session.	
<u>Summary:</u>		
AB 1775, Ward. Occupational safety: live events.		
Existing law establishes the Division of Occupational Safety and Health in the Department of Industrial Relations, and charges the division with the enforcement of various laws affecting safe working conditions, including the California Occupational Safety and Health Act of 1973.		
This bill would require a contracting entity, as defined, to require an entertainment events vendor to certify for its employees and employees of its subcontractors that those individuals have complied with specified training, certification, and workforce requirements, including that employees involved in the setting up, operation, or tearing down of a live event at its		

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	<p>public events venue, as defined, have completed prescribed trainings of the United States Department of Labor’s Occupational Safety and Health Administration. The bill would require the division to enforce those provisions by issuing a citation and a notice of civil penalty, as specified, and deposit those funds in the Occupational Safety and Health Fund.</p> <p>The Board is monitoring this bill.</p>
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AB 1993	AB 1993 Employment: COVID-19 vaccination requirements. (2021-2022) (Wicks and Low)	
	Date	Action
	4/18/22	Coauthors revised.
	3/29/22	In committee: Set, first hearing. Hearing canceled at the request of author.
	3/17/22	Referred to Coms. on L. & E. and JUD.
	2/11/22	From printer. May be heard in committee March 13.
	2/10/22	Read first time. To print.
<p><u>Summary:</u></p> <p>AB 1993, as introduced, Wicks. Employment: COVID-19 vaccination requirements.</p> <p>Existing law, the California Fair Employment and Housing Act (FEHA), establishes the Department of Fair Employment and Housing within the Business, Consumer Services, and Housing Agency and sets forth its powers and duties relating to the enforcement of civil rights laws with respect to housing and employment.</p> <p>Existing federal law, the Federal Food, Drug, and Cosmetic Act, authorizes the United States Secretary of Health and Human Services to approve new drugs and products, including vaccines, for introduction into interstate commerce, and authorizes the secretary to authorize vaccines for use in an emergency upon declaring a public health emergency. On February 4, 2020, the secretary determined that there is a public health emergency and declared circumstances exist justifying the authorization of emergency use of drugs and biological products. The secretary subsequently authorized the emergency use of 3 vaccines for the prevention of COVID-19, and on August 23, 2021, the secretary approved a vaccine for the prevention of COVID-19.</p> <p>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. On March 4, 2020, the Governor declared a state of emergency relating to the COVID-19 pandemic. Pursuant to this authority, the Governor issued several executive orders requiring individuals in specified employment, health care, school, or other settings to provide proof of a COVID-19 vaccination status, unless specified exceptions are met.</p> <p>This bill would require an employer to require each person who is an employee or independent contractor, and who is eligible to receive the COVID-19 vaccine, to show proof</p>		

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to the employer, or an authorized agent thereof, that the person has been vaccinated against COVID-19. This bill would establish an exception from this vaccination requirement for a person who is ineligible to receive a COVID-19 vaccine due to a medical condition or disability or because of a sincerely held religious belief, as specified, and would require compliance with various other state and federal laws. The bill would require proof-of-vaccination status to be obtained in a manner that complies with federal and state privacy laws and not be retained by the employer, unless the person authorizes the employer to retain proof.

This bill would require, on January 1, 2023, each employer to affirm, in a form and manner provided by the department, that each employee or independent contractor complied with these provisions, and would require the employer to affirm that each new employee or independent contractor is in compliance at the time of hiring or contracting with that person. The bill would require the department to impose a penalty of an unspecified amount on an employer for any violation of these provisions.

This bill would repeal these provisions when the federal Centers for Disease Control and Prevention’s Advisory Committee on Immunization Practices determines that COVID-19 vaccinations are no longer necessary for the health and safety of individuals.

This bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

This bill would declare that its provisions are severable.

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

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AB 2076	AB 2076 Extreme Heat and Community Resilience Program: Extreme Heat Hospitalization and Death Reporting System. (2021-2022)	
	(Rivas, Garcia)	
	Date	Action
	8/11/22	In committee: Held under submission.
	8/04/22	Set for hearing on Aug. 11, 2022 upon adjournment of session.
	8/02/22	In committee: Referred to suspense file.
	6/23/22	From committee: Do pass and re-refer to Com. on APPR. (Ayes 8. Noes 0.) (June 22). Re-referred to Com. on APPR.
	6/13/22	From committee chair, with author's amendments: Amend, and re-refer to committee. Read second time, amended, and re-referred to Com. on HEALTH.
6/8/22	From committee: Do pass and re-refer to Com. on HEALTH. (Ayes 4. Noes 0.) (June 8). Re-referred to Com. on HEALTH.	
<u>Summary:</u>		
<p>AB 2076, as amended, Luz Rivas. Extreme Heat and Community Resilience Program: Extreme Heat and Health Reporting System.</p> <p>(1) Existing law establishes the Office of Planning and Research in state government in the Governor’s office. Existing law establishes the Integrated Climate Adaptation and Resiliency Program (ICARP), to be administered by the office, to coordinate regional and local efforts with state climate adaptation strategies to adapt to the impacts of climate change, as prescribed. Existing law establishes within the office an advisory council comprised of members from a range of disciplines, in order to provide scientific and technical support, and from regional and local governments and entities. Existing law requires the advisory council to support the office’s identified goals to facilitate coordination among state, regional, and local agency efforts to adapt to the impacts of climate change.</p> <p>This bill would establish the Extreme Heat and Community Resilience Program in the office, to be administered by the office through ICARP, for the purpose of coordinating state efforts and supporting local and regional efforts to prevent or mitigate the impacts of, and reduce the public health risks of, heat. The bill would require the Director of State Planning and Research to appoint a Chief Heat Officer in the office to, among other things, implement the program and establish the Interagency Heat Taskforce, as provided. office to coordinate</p>		

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with other state agencies to implement the program and update the Extreme Heat Action Plan. The bill would require the Director of State Planning and Research to appoint a Chief Heat Officer to coordinate state activities and funding to address heat and oversee the implementation of the program. The bill would require the advisory council to, among other things, advise and provide input to the office on actions to improve the effectiveness of the program. The bill would require the office, when making appointments to the advisory council, to ensure that the advisory council is comprised of members with the necessary expertise to advise on the implementation of the program. Upon appropriation by the Legislature, the bill would require the office, as part of the program, to award grants and provide technical assistance to eligible entities, as defined, that support local and regional efforts to mitigate the impacts and reduce the public health risks of heat. The bill would require the office, in the awarding of grants, to prioritize projects that serve disadvantaged or vulnerable communities, as specified, that demonstrate participation in a regional climate collaborative program, or that are a component of a comprehensive heat action plan. The bill would authorize the director to make advance payments, not to exceed 25% of the total award amount, from a grant awarded pursuant to the program. The bill would require the office, in administering the program, to review and consider climate science research and publications, as specified, and to minimize greenhouse gas emissions and electricity grid stress, avoid maladaptation, and maximize job growth and other cobenefits, as provided.

The bill would require the office to draft and adopt ~~guidelines, as provided,~~ **guidelines** for awarding grants pursuant to the program to eligible entities. The bill would require projects awarded a grant to consider, and be informed by, the most recent California Climate Change Assessment. The bill would also exempt guidelines established by the office pursuant to the program from provisions of the Administrative Procedure Act.

The bill would require the office, on or before ~~January~~ **July 1, 2024**, and every 2 years thereafter, to update the Extreme Heat Action Plan to promote comprehensive, coordinated, and effective state and local government action on heat, as provided. **The bill would require all state agencies identified in the Extreme Heat Action Plan to coordinate with the office to assist in the implementation of the plan.** The bill would also require the office to post the plan and subsequent updates on the office's internet website and to provide the plan and subsequent updates to the relevant policy and fiscal committees of the Legislature.

The bill would establish the Extreme Heat and Community Resilience Fund in the State Treasury. The bill would provide that moneys in the fund shall be available upon appropriation by the Legislature to the office for the sole purpose of implementing the program.

(2) Existing law establishes the State Department of Public Health, which is responsible for various programs relating to the health and safety of people in the state, including licensing health facilities, regulating food and drug safety, and monitoring and preventing communicable and chronic diseases.

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This bill would require the department, on or before July 1, 2024, **and** upon appropriation by the Legislature, ~~and in consultation with the Chief Heat Officer in the Office of Planning and Research,~~ to establish and maintain the Extreme Heat and Health Reporting System, a syndromic surveillance system, to receive notice and data from local health departments, clinics, emergency rooms, hospitals, and other sources on illnesses, including emergency room visits, and deaths resulting from exposure to extreme heat, as specified. The bill would require the department to publish the data on its internet website as near to real-time as possible, including data identifying neighborhoods and subgroups in need of priority interventions, and to publish on its internet website an annual report on heat illness and deaths that includes findings regarding individual and community and neighborhood risk factors. The bill would require all personal information obtained or maintained by the system to be confidential, the system and this information to be exempt from disclosure except as provided, and only deidentified aggregate patient or other consumer data to be included in the data and annual report published on the department’s internet website.

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 is monitoring this bill for impacts on the Standards Board.

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AB 2243	AB 2243 Occupational safety and health standards: heat illness: wildfire smoke. (2021-2022)	
	(Garcia, Rivas)	
	Date	Action
	8/30/22	Senate amendments concurred in. To Engrossing and Enrolling. (Ayes 52. Noes 19.).
	8/30/22	In Assembly. Concurrence in Senate amendments pending.
	8/29/22	Read third time. Passed. Ordered to the Assembly. (Ayes 30. Noes 9.).
	8/25/22	Read third time and amended. Ordered to third reading.
	8/15/22	Read second time. Ordered to third reading.
	8/11/22	Read second time and amended. Ordered returned to second reading.
	8/11/22	From committee: Amend, and do pass as amended. (Ayes 5. Noes 1.) (August 11).
8/4/22	Set for hearing on Aug. 11, 2022 upon adjournment of session.	
<u>Summary:</u>		
<p>AB 2243, Eduardo Garcia. Occupational safety and health standards: heat illness: wildfire smoke.</p> <p>Existing law grants the Division of Occupational Safety and Health, which is within the Department of Industrial Relations, jurisdiction over all employment and places of employment, with the power necessary to enforce and administer all occupational health and safety laws and standards. The Occupational Safety and Health Standards Board, an independent entity within the department, has the exclusive authority to adopt occupational safety and health standards within the state. Existing law, the California Occupational Safety and Health Act of 1973 (OSHA), requires employers to comply with certain safety and health standards, as specified, and charges the division with enforcement of the act. Under OSHA, certain knowing, negligent, or willful violations of safety and health standards are punishable as a misdemeanor. The existing Maria Isabel Vasquez Jimenez heat illness standard provides for the prevention of heat-related illness of employees in outdoor places of employment, as prescribed. There is also an existing standard for workplace protection from wildfire smoke.</p>		

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	<p>This bill would require the division, before December 1, 2025, to submit to the standards board a rulemaking proposal to consider revising the heat illness standard and wildfire smoke standard. The bill would require the division, in preparing the proposed regulations, to consider revising the heat illness standard to require employers to distribute copies of the Heat Illness Prevention Plan, as provided. The bill would similarly require a rulemaking proposal to consider revising the wildfire smoke standard, with regard to farmworkers, to reduce the existing air quality index threshold for PM2.5 particulate matter at which control by respiratory protective equipment becomes mandatory for farmworkers. The bill would require the standards board to review the proposed changes and consider adopting revised standards on or before December 31, 2025. The bill would further require the division to consider regulations, or revising existing regulations, relating to protections related to acclimatization to higher temperatures, as provided.</p>
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Board staff are monitoring this legislation to determine if regulatory action by the Board is called for.

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AB 2893	AB 2893 Administrative Procedure Act: standardized regulatory impact analysis: comments, updates, and format.(2021-2022) <p style="text-align: center;">(Daly)</p>	
	Date	Action
	08/11/22	In committee: Held under submission.
	08/02/22	In committee: Referred to suspense file.
	06/29/22	From committee: Do pass and re-refer to Com. on APPR with recommendation: To Consent Calendar. (Ayes 13. Noes 0.) (June 28). Re-referred to Com. on APPR.
06/08/22	Referred to Com. on G.O.	
	<p><u>Summary:</u></p> <p>AB 2893, as amended, Daly. Administrative Procedure Act: standardized regulatory impact analysis: comments. comments, updates, and format.</p> <p>Existing law, the Administrative Procedure Act, among other things, <i>prohibits a state agency from issuing, utilizing, enforcing, or attempting to enforce any guideline, standard of general application, or other rule, among other things, that is a regulation, as defined, unless it has been adopted as a regulation and filed with the Secretary of State. The act requires every agency subject to the act to submit to the Office of Administrative Law a notice of proposed action and make available to the public a copy of an initial statement of reasons, among other things. The act</i> requires each state agency proposing to adopt, amend, or repeal a major regulation on or after November 1, 2013, to prepare a standardized regulatory impact analysis, as described. Existing <i>described, as part of the initial statement of reasons.</i></p> <p><i>Existing</i> law requires each state agency that has prepared that analysis to submit the analysis to the Department of Finance. Existing law authorizes the state agency to update its analysis to reflect any comments received from the department.</p> <p>This bill would, instead, require the state agency to update its analysis to reflect any comments received from the department, as described above. <i>The bill would also require, if the proposed major regulation is updated following the department’s comments, the state agency to take public comment for 30 additional days each time the regulation is updated and the state agency to update its analysis and submit the analysis to the department for comment, as described.</i></p>	

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	<p><i>The act requires the notice of proposed action to include, among other things, a statement of the results of an economic impact assessment or the analysis, as applicable, a summary of any of the department's comments, and the agency's response to those comments.</i></p> <p><i>This bill would require the department to adopt, by November 1, 2024, and in consultation with the office and other state agencies, regulations for communicating the results of the standardized regulatory impact analysis in a standardized format, as described.</i></p> <p>Board staff are monitoring this legislation to determine if regulatory action by the Board is called for.</p>
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SB 189	SB 189 State Government. (2021-2022) (Section 20)	
	Date	Action
	6/30/22	Chaptered by Secretary of State. Chapter 48, Statutes of 2022.
	6/30/22	Approved by the Governor.
	6/30/22	Enrolled and presented to the Governor at 12 p.m.
	6/29/22	Assembly amendments concurred in. (Ayes 28. Noes 7.) Ordered to engrossing and enrolling.
	6/29/22	In Senate. Concurrence in Assembly amendments pending.
	6/29/22	Read third time. Passed. Ordered to the Senate.
	6/28/22	Read second time. Ordered to third reading.
	6/27/22	Ordered to second reading.
	6/27/22	Withdrawn from committee.
	6/27/22	Assembly Rule 96 suspended.
	6/26/22	From committee with author's amendments. Read second time and amended. Re-referred to Com. on BUDGET.
<p><u>Summary:</u></p> <p>SB 189, Committee on Budget and Fiscal Review. State Government.</p> <p>(20) Existing law, the Bagley-Keene Open Meeting Act, requires, with specified exceptions, that all meetings of a state body be open and public and all persons be permitted to attend any meeting of a state body. The act requires at least one member of the state body to be physically present at the location specified in the notice of the meeting.</p> <p>Existing law authorizes teleconferencing subject to specified criteria, including, among others, that agendas be posted at all teleconference locations and that each teleconference location be identified in the notice and agenda of the meeting or proceeding and be accessible to the public, and that members of the public be able to address the state body directly at each teleconference location.</p>		

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This bill, until July 1, 2023, would authorize, subject to specified notice and accessibility requirements, a state body to hold public meetings through teleconferencing and to make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the state body. With respect to a state body holding a public meeting pursuant to these provisions, the bill would suspend certain requirements of existing law, including the requirements that each teleconference location be accessible to the public and that members of the public be able to address the state body at each teleconference location. Under the bill, a state body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically would satisfy any requirement that the state body allow members of the public to attend the meeting and offer public comment. The bill would require that each state body that holds a meeting through teleconferencing provide notice of the meeting, and post the agenda, as provided. The bill would urge state bodies utilizing these teleconferencing procedures to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to otherwise applicable provisions, as provided.

This bill would repeal those provisions as of July 1, 2023.

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SB 831 Motion picture productions: set safety: firearms: ammunition. (2021-2022)

(Cortese)

Date	Action
5/19/22	May 19 hearing: Held in committee and under submission.
5/17/22	Set for hearing May 19.
5/16/22	May 16 hearing: Placed on APPR suspense file.
5/6/22	Set for hearing May 16.

Summary:

SB 831, as amended, Cortese. Motion picture productions: set safety: firearms: ammunition..

SB 831

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

This bill would require a motion picture production employer to hire a qualified set safety supervisor for all motion picture productions to perform ~~an overall risk assessment~~ **a risk assessment, as specified**, to be completed prior to the first day of production **on a feature, an episode of a series, or a program**, and to be on set daily to ensure cast and crew are not engaged in or exposed to an environment or activity that puts workers' health and safety at risk. The bill would allow the use of a ~~firearm, a functioning firearm-like device,~~ **firearm** and blank ammunition containing gunpowder or other explosive charge on motion picture productions only for specified purposes and under specified safety conditions. The bill would require a qualified armorer, property master, or designee handling a firearm in the course of *the* motion picture production to have **a specified state permit, to have** completed certain training in ~~firearms~~ **firearms**, and to have a specified ~~permit~~ **federal document** for the possession and custody of the firearm. The bill would require an employer to document

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and report to certain entities any incident involving a firearm or blank ammunition that occurs during a film or television production, as prescribed.

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

This bill would require the division to enforce its provisions and, before July 1, 2023, to propose to the standards board, for its review and adoption on or before January 1, 2024, a standard that protects the health and safety of motion picture production employees with regard to the storage, handling, and use of ~~firearms, firearm-like projectile devices,~~ *firearms* and blanks on set and for use of ammunition. The bill would require the division, in the development of the proposed safety standard, to consider and incorporate, to the extent feasible and consistent with the bill, the provisions of specified joint industry-labor safety bulletins. *The bill would also require the division to consider certain other safety standards as it determines to be relevant.* The bill would establish civil penalties for specified violations. The bill would define terms for its purposes.

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

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Business Meeting Executive Officer's Report