

DEPARTMENT OF INDUSTRIAL RELATIONS
Occupational Safety and Health Standards Board
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INITIAL STATEMENT OF REASONS

CALIFORNIA CODE OF REGULATIONS

TITLE 8: Section 1630(a) of the Construction Safety Orders

Elevators for Hoisting Workers

SPECIFIC PURPOSE AND FACTUAL BASIS OF PROPOSED ACTION

This rulemaking was initiated in response to Occupational Safety and Health Standards Board (Standards Board) Petition File No. 577 submitted by Mr. Donald A. Zampa, President of the District Council of Iron Workers, and Mr. Greg McClelland, Executive Director of the Western Steel Council, dated June 7, 2019. In the Standards Board's Decision, dated June 20, 2019, the Petitioners' request was granted to the extent that Standards Board staff was directed to promptly develop a highly expedited permanent rulemaking limited in scope to clarify the definition of height as used in Section 1630, such that it is more clearly understood to require that an elevator be installed in a building or structure that will ultimately be at least 60 feet, at the time it reaches 36 feet.

Section 1630(a). Elevator for Hoisting Workers

Section 1630(a) requires that an elevator for hoisting workers is required on buildings or structures that are 60 feet or taller.

Until a May 29, 2019, Occupational Safety and Health Appeals Board (Appeals Board) Decision After Reconsideration (DAR), it was widely accepted within the construction industry that an elevator for hoisting workers (commonly referred to as a CPH – construction personnel hoist, or a CPE construction personnel elevator) is required to be installed at 36 feet when a building that, when completed, will reach a height of at least 60 feet.

The DAR, Alpha Construction Company Incorporated, 1180499, California Structural Concepts Inc. dba California Structural Concepts, 1205214, and KPRS Construction Services, Inc., 1192145, found that there was no requirement to have a CPH installed until the building has reached 60 feet in height.

The DAR changed the long-accepted enforcement of the regulation. The Division of Occupational Safety and Health (Division) has enforced, and many employers have accepted, the

requirement to have an elevator installed when the building or structure is designed to be 60 feet or more in height at the time the building or structure reaches 36 feet in height because Section 1630(d) requires the first landing be installed at 36 feet.

Two previous DAR rulings seemed to indicate that the elevator was required before the building reached 60 feet in height.

1. Anning-Johnson, Docket No. 85-R3D1-1438, April 24, 1986, stated that Title 8 Section 1630(a) and (d) need to be read together. However, that DAR was about another issue, not the interpretation to have an elevator installed before the building reached 60 feet in height.
2. Rudolph and Sletten, Docket No. 93-R1D5-1251, April 4, 1994, although also not specifically about having an elevator installed at 36 feet, did indicate that the elevator was to be installed before the building reached 60 feet. From page 3, paragraph 3, "Section 1630(d) does not depend on any minimum height. This section requires that access be provided to the upper-most lever, whether it is lower or higher than 60 feet. Section 1630(d) imposes a separate and distinct obligation on Employer to provide access, when Employer is obligated to erect a construction elevator under section 1630(a)."

The May 29, 2019, DAR is the first time the issue of having an elevator installed before the building or structure reached 60 feet in height has been ruled upon by the Appeals Board.

The Petitioners stated that the ruling is creating widespread confusion between subcontractors and general contractors in both continuing with existing construction projects and bidding on new contracts. They contend the DAR ruling is "A giant step backwards, instead of moving forward, to prevent imminent hazards to construction workers who will be working in situations where, should life-threatening injury occur, there will be no elevator access for emergency personnel to reach the injured worker or to perform an evacuation."

The purpose of this proposal is to clarify that an elevator is required to be installed at 36 feet for buildings or structures which will be 60 feet or taller when completed. The clarification of the requirement will codify a long-standing acceptance within the industry.

TECHNICAL, THEORETICAL AND/OR EMPIRICAL STUDIES, REPORTS OR DOCUMENTS RELIED ON BY THE BOARD

1. Petition No. 577 submitted by Donald A. Zampa, and Greg McClelland, received June 7, 2019.
2. Division of Occupational Safety and Health Review of Petition 577, dated June 10, 2019.
3. Occupational Safety and Health Standards Board Decision on Petition 577, dated June 20, 2019.
4. Occupational Safety and Health Appeals Board, Decision After Reconsideration, Alpha Construction Company Incorporated, 1180499, California Structural Concepts Inc. dba

California Structural Concepts, 1205214, and KPRS Construction Services, Inc., 1192145, dated May 29, 2019.

5. Occupational Safety and Health Appeals Board, Decision After Reconsideration, Anning-Johnson, Docket No. 85-R3D1-1438, dated April 24, 1986.
6. Occupational Safety and Health Appeals Board, Decision After Reconsideration, Rudolph and Sletten, Docket No. 93-R1D5-1251, dated April 4, 1998.
7. OSHA Information System data from January 2014 to June 2019.

These documents are available for review Monday through Friday from 8:00 a.m. to 4:30 p.m. at the Standards Board Office located at 2520 Venture Oaks Way, Suite 350, Sacramento, California.

PETITION

Petitioners: Donald Zampa, President of the District Council of Iron Workers of the State of California and Vicinity, and Greg McClelland, Executive Director, Western Steel Council.

File No. 577

The Board received a petition on June 7, 2019, to amend Section 1630(a) of the Construction Safety Orders contained in Title 8 of the California Code of Regulations regarding elevators for hoisting workers in buildings or structures 60 feet or greater in height and 48 feet in depth. On June 20, 2019, the Board granted the petition to the extent that Section 1630(a) be amended to clarify the definition of height as used in Section 1630, such that it is more clearly understood to require that an elevator be installed in a building or structure that will ultimately be at least 60 feet, at the time it reaches 36 feet.

A copy of the Petition, the Division's evaluation and the Board's petition decision are included as Documents Relied Upon.

ADVISORY COMMITTEE

The proposal was developed without the assistance of an advisory committee.

FIRE PREVENTION STATEMENT

This proposal does not include fire prevention or protection standards. Therefore, approval of the State Fire Marshal pursuant to Government Code Section 11359 or Health and Safety Code Section 18930(a)(9) is not required.

SPECIFIC TECHNOLOGY OR EQUIPMENT

This proposal will not mandate the use of specific technologies or equipment beyond which is already required.

ECONOMIC IMPACT ANALYSIS/ASSESSMENT

The proposed regulation change will not affect the: (1) creation or elimination of California jobs, (2) creation of new businesses or elimination of existing California businesses, or (3) expansion of existing California businesses, because this is only a clarification of a long-term understanding that an elevator is to be installed at 36 feet.

Costs are negligible when considering whether an elevator becomes operational at 36 feet or 60 feet and above.

- 1) CPH's have certain fixed costs that do not vary due to operational start height, such as:
 - a) CPH foundation cost;
 - b) CPH initial erection cost;
 - c) CPH dismantle cost;
 - d) CPH trucking cost; and
 - e) CPH gates, platforms, and communication systems cost.

- 2) When building structures are erected, the time frames for construction between 36 feet to 60 feet are short in duration:
 - a) Structural steel frame buildings will make up this difference in height in 2-3 weeks;
 - b) Concrete structures will make up this difference in height in 4-5 weeks; and
 - c) Wood frame structures will make up this difference in 4-5 weeks.

Any savings in CPH rental (which is monthly) and operator time due to this height installation differential will be insignificant when compared to other CPH advantages.

Estimated cost of elevator mast section installation and operator hourly cost from the time a building or structure reaches 36 feet to 60 feet varies with construction type and economy. Staff surveyed companies who install and build structures over 60 feet high and collected data about potential costs, which are specific to each individual project. Reports from industry indicate that a potential range of \$14,000 to \$30,000 in hard operating costs can potentially be attributed to the elevator. Between January 2014 and June 2019, DOSH cited 3 to 4 worksites per year for failure to install a CPH between 36 and 60 feet. DOSH estimates per-installation cost of \$22,000 for a typical worksite to become compliant.

3.5 employers cited annually by DOSH

\$22,000 average per-installation cost to comply (median of \$14k-\$30k in typical industry reported costs)

$3.5 \times \$22,000 = \$77,000$ total estimated industry cost

BENEFITS OF THE PROPOSED ACTION

Having the CPH operational at 36 feet economically benefits the health and welfare of California residents and worker safety in the following manner:

- a) Allows for emergency access to upper floors in a more timely manner;
- b) Allows for a safer work environment where workers are able to use the hoist rather than stairs to haul tools and equipment to upper floors;
- c) Faster labor productivity of the workforce due to not using stairs for overall access to the building from lower floors; and
- d) Allows stocking of the building without the use of additional hoisting equipment such as forklifts and cranes.

This regulation provides no identified benefit to the state's environment.

EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESSES

The Board has made an initial determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses/individuals, including the ability of California businesses to compete with businesses in other states.

For the most part, employers have already been installing an elevator at 36 feet. Staff approximates the requirement to have a CPH to have existed since 1975 in California.

Title 8 requires that an employer obtain a construction permit from the Division whenever a building or structure is to be over 36 feet in height. A permit conference is held with an employer representative and a Division representative. During the permit conference, the Division would learn whether the building or structure is designed to be 60 feet or taller and inform the employer of the requirement for a CPH. The employer's height permit is stamped with "CPH required."

Some building departments are aware of the requirement and inform employers that they must obtain a Division permit at the time the employer seeks a building permit.

Data extracted from the OSHA Information System from January 2014 to June 2019 indicated the Division issued citations for 1630(a) at 62 different jobsites and issued citations to 101 different employers. Of those, 29 employers were cited at 17 worksites when the building or structure was at least 36 feet but was not yet 60 feet high. Some employers accepted the citations, others appealed, and later settled the citations without going to hearing. Some are still under appeal.

This data implies there is understanding by employers in the affected industry that they are expected to install an elevator when a building reaches 36 feet in height.

REASONABLE ALTERNATIVES TO THE PROPOSAL AND THE BOARD'S
REASONS FOR REJECTING THOSE ALTERNATIVES

No reasonable alternatives to the proposal were identified or brought to the Board's attention.