

Occupational Safety and Health Standards Board

Public Meeting and Business Meeting

April 15, 2021

Via teleconference / videoconference

Board Meeting Packet

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.

April 15, 2021 at 10:00 a.m.
TELECONFERENCE AGENDA

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

PLEASE NOTE: In accordance with [Executive Order N-29-20](#), and [Executive Order N-33-20](#), the April Board Meeting will be conducted via teleconference.

Attend the meeting via Video-conference:

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

Attend the meeting via Teleconference:

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

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

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

Public Comment Queue:

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

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

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

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

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

I. **CALL TO ORDER AND INTRODUCTIONS**

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

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

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

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

A. PUBLIC COMMENT

B. ADJOURNMENT OF THE PUBLIC MEETING

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

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

A. PROPOSED SAFETY ORDER FOR ADOPTION

1. **TITLE 8:** **GENERAL INDUSTRY SAFETY ORDERS**
Sections 6051, 6056 and 6057
Commercial and Technical Diving Operations

B. PROPOSED VARIANCE DECISIONS FOR ADOPTION

1. [Consent Calendar](#)

C. REPORTS

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

D. NEW BUSINESS

1. Future Agenda Items

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

E. CLOSED SESSION

1. Western States Petroleum Association (WSPA) v. California Occupational Safety and Health Standards Board (OSHSB), et al. United States District Court (Eastern District of California) Case No. 2:19-CV-01270
2. WSPA v. OSHSB, et al., County of Sacramento, CA Superior Court Case No. 34-2019-00260210
3. National Retail Federation, et. al., v OSHSB, et. al., County of San Francisco, CA Superior Court Case No. CGC-20-588367
4. Western Growers Association, California Farm Bureau Federation, et. al. v OSHSB, et al., County of San Francisco, CA Superior Court Case No. CPF-21-517344
5. Personnel

F. RETURN TO OPEN SESSION

1. Report from Closed Session

G. ADJOURNMENT OF THE BUSINESS MEETING

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

CLOSED SESSION

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

PUBLIC COMMENT

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

DISABILITY ACCOMMODATION NOTICE

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

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

TRANSLATION

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

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

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

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

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

Occupational Safety and Health Standards Board

Meeting Notice

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



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

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

PUBLIC MEETING: On **April 15, 2021**, at 10:00 a.m. via the following:

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

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

BUSINESS MEETING: On **April 15, 2021**, at 10:00 a.m. via the following:

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

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

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

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

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD

DAVE THOMAS, Chairman

Occupational Safety and Health Standards Board

Business Meeting

Occupational Safety and Health Standards Board

Business Meeting Standards for Adoption

Commercial and Technical Diving Operations

**TITLE 8
GENERAL INDUSTRY SAFETY ORDERS**

ARTICLE 152, SECTIONS 6051, 6056 AND 6057

COMMERCIAL AND TECHNICAL DIVING OPERATIONS

HYPERLINKS TO RULEMAKING DOCUMENTS:

TEXT FOR BOARD CONSIDERATION

FINAL STATEMENT OF REASONS

INITIAL STATEMENT OF REASONS

**15-DAY NOTICE OF PROPOSED MODIFICATIONS
(WITH SUMMARY AND RESPONSE TO
WRITTEN AND ORAL COMMENTS)**

Comments Received
in Response to the
15-Day Notice

Occupational Safety and Health Standards Board
2520 Venture Oaks Way, Suite 350
Sacramento, CA 95833
916-274-5743
oshsb@dir.ca.gov

October 22nd, 2020

To Members of the Standards Board,

My name is Andrew Solomon and I am one of the industry stakeholders who submitted both written, and oral comments in February. To reiterate from my previous written comments, I have over a decade of experience in the occupational diving field. In that time I have worked for three of the largest aquarium dive programs in California. Currently, I am the Diving Safety Officer and Boating Safety Officer for the California Science Center in Los Angeles. On behalf of my institution, and California zoo and aquarium dive programs as a whole, I want to thank the Standards Board for taking our comments into consideration throughout this entire process. I am writing to address this notice of proposed modifications to subsection 6056(a)(2)(B), which are being considered as a result of our public comments and Board staff consideration. In addition, I would like to address the Board's response to written comments from Ms. Rose, Area Director for OSHA.

The first topic I would like to comment on is the proposed modification to subsection 6056(a)(2)(B). The purpose of all regulations within the General Industry Safety Orders is to provide a safe environment in places of employment, which is a fundamental prerequisite in controlling injuries. In comparing the terms "effective communication" and "continuous visual contact", I do not believe an assertion could be made that "effective communication" is less effective than the federal term "continuous visual contact", strictly based on to the fact that the terms are not identical. As mentioned under Item 2 of the Summary and Response to Written and Oral Comments, there are instances where one term could prove more protective than the other. The importance of subsection 6056(a)(2)(B) undoubtedly lies within the intent of the requirement, being that the companion SCUBA diver is "able to render immediate assistance in case of an emergency". Plainly including the intent of this requirement will remove any ambiguity or vagueness created by the term "continuous visual contact", thus creating conditions that are safer, more protective, and measurable in regards to their effectiveness. I support the proposed modification to subsection 6056(a)(2)(B), and I ask the Standards Board to adopt it.

The second topic I would like to address is the Board's response to written comments from Ms. Rose, and her specific statements that "Technical Diving" and "hookah diving" are not commensurate with the federal standard. The Board makes a very important and valid point, that the proposed definition for technical diving in Article 152 is intended to fill a void that exists in federal regulations between traditional construction commercial diving and scientific diving. Under a plain reading of the commercial diving definition, as well as its regulatory history, the standard focuses on the hazards faced by divers performing tasks such as burning, welding, using explosives, and the manipulation of heavy objects. These hazards simply do not exist in specialized environments defined by the technical diving definition. The California Science Center dive program conducts over 5,000 dives annually in these specialized environments of zoo and

aquarium exhibits. The dives we engage in adhere to the standards of Article 152, including use of the hookah mode of diving, and have done so safely over the last decade. The use of hookah in many of the smaller zoo and aquarium exhibits is the safest and most effective mode of diving. As the Board pointed out in their response, the decision recently published by the Fifth Circuit Court of Appeals states “there is evidence that adding the additional safety equipment required under the Commercial Diving Operations standard could make the divers and animals *less safe* in the Aquarium environment”. Additionally, the added equipment can prevent the diver from being rescued efficiently in the event of a diving related emergency. The California Science Center’s impeccable diving safety record, as well as the Fifth Circuit Court of Appeals recent decision, exemplifies the importance and clear need for both technical diving and hookah diving, and that the proposed regulations for technical divers are at least as effective as the Commercial Diving Operations regulations.

In conclusion, I ask the Standards Board to adopt this proposed modification, and approve the full text of proposed regulations. If you have any questions please feel free to contact me using the information provided below. Thank you for your time consideration.

Sincerely,



Andrew Solomon – Diving Safety Officer/Boating Safety Officer
California Science Center Foundation
700 Exposition Park Drive
Los Angeles, CA 90037
213-744-2051
asolomon@californiasciencecenter.org



October 14, 2020

Christina Shupe
Executive Officer
Occupational Safety and Health Standards Board
2520 Venture Oaks Way, Suite 350
Sacramento, CA 95833

Ms. Shupe:

On October 2, 2020, the Occupational Safety and Health Standards Board (OSHSB) issued a 15-day notice of proposed modifications of Title 8, Sections 6051, 6056, and 6057 General Industry Safety Orders that apply to Commercial Diving Operations. We understand that after this comment period and the comments are assessed, the Stage II documentation will be prepared, and the proposed regulations will go in front of the OSHSB for adoption. OSHA provided our opinion on February 4, 2020 and detailed sections that are not as effective as the current federal standard. We have summarized these areas of concern below. If California does not address these concerns and adopts this proposed regulation as written, as per the [OSHA State Plan Policies and Procedures Manual](#), you will be asked to correct or clarify the regulation.

§6051. Definitions.

Film and TV Diving. Underwater operations associated with the production of feature films, television, natural history visuals, corporate videos, and photographic stills, which are not an integral part of an on-going construction, demolition, or maintenance job.

Technical Diving. Diving other than scientific or commercial diving, which requires technical expertise and is not an integral part of an on-going construction, demolition, repair, maintenance, shipbuilding, shipbreaking, or ship repair job. Such activities include, but are not limited to, making or performing observations, measurements, and adjustments, film and TV diving, and zoo and aquarium exhibit diving.

Zoo and Aquarium Exhibit Diving. Diving performed inside zoo and aquarium exhibits and holding tanks for the purpose of science, education, or animal care, which requires technical expertise and is not an integral part of an on-going construction, demolition, or maintenance job.

Federal OSHA does not recognize these three definitions of diving.

§6056. Basic Operation Procedures.

(a) SCUBA Diving (Compressed Air and Mixed Gas).

(1) Limits:

(C) SCUBA diving shall not be conducted against currents exceeding one (1) knot unless line-tended.

EXCEPTION to 6056(a)(1)(C): Technical divers performing film and TV diving operations in controlled environments can artificially increase currents above one (1) knot provided the artificial current can be reduced to one (1) knot or less in case of an emergency and the dive team is trained to work in such conditions.

Federal OSHA does not recognize technical diving; therefore, there should not be any exemption to the standard which makes it not as effective as the current federal standard.

§6056. Basic Operation Procedures.

(a) SCUBA Diving (Compressed Air and Mixed Gas).

(1) Limits:

(D) SCUBA diving shall not be conducted in enclosed or physically confining spaces unless line-tended.

EXCEPTION to 6056(a)(1)(D): Technical divers performing film and TV diving operations in controlled environments can work in enclosed or physically confined spaces without being line-tended provided the dive team is trained to respond to an emergency in such conditions.

Federal OSHA does not recognize technical diving; therefore, there should not be any exemption to the standard which makes it not as effective as the current federal standard.

§6056. Basic Operation Procedures.

(a) SCUBA Diving (Compressed Air and Mixed Gas).

(1) Limits:

(2) Procedures.

(B) A diver shall be line-tended from the surface or accompanied by another SCUBA diver in the water where they shall remain in effective communication with each other **and be able to render immediate assistance in case of an emergency** throughout the diving operation.

Federal OSHA finds this language ALAEA.

§6056. Basic Operation Procedures.

(a) SCUBA Diving (Compressed Air and Mixed Gas).

(2) Procedures.

EXCEPTION to 6056(a)(2): Technical divers shall be deemed to be in compliance with subsection 6056(a)(2) provided the employer complies with either (A) or (B).

Federal OSHA does not recognize technical diving; therefore, there should not be any exemption to the standard which makes it not as effective as the current federal standard.

§6056. Basic Operation Procedures.

(a) SCUBA Diving (Compressed Air and Mixed Gas).

(2) Procedures.

(5) Hookah.

(A) Hookah diving shall be permissible only during technical diving operations.

Federal OSHA does not recognize technical diving; therefore, there should not be any related standards which makes it not as effective as the current federal standard.

As always, please reach out to me with any questions.

Sincerely,

Amber Rose

Amber Rose, CIH
Area Director



Monterey Bay Aquarium

886 CANNERY ROW
MONTEREY, CA 93940
831.648.4800

Dear California Occupational Safety and Health Standards Board,

As one of the largest stakeholders of Technical Diving in the state of California, the Monterey Bay Aquarium fully supports the adoption of the amendment to General Industry Safety Order Sections 6051, 6056, and 6057, as well as the modification to 6056(a)(2)(B).

With the state's adoption of the Federal Regulations for Commercial Diving 29 CFR 1910 Subpart T in 2017, this amendment will protect the unique and progressive dive standards that the Cal OSHA regulations (Article 152) have provided for Technical Diving for the past 40 years.

Modification to 6056(a)(2)(B):

A diver shall be line-tended from the surface or accompanied by another SCUBA diver in the water where they shall remain in effective communication with each other and be able to render immediate assistance in case of an emergency throughout the diving operation.

The Monterey Bay Aquarium fully supports the modification to 6056(a)(2)(B). The California zoo and aquarium industry as a whole acknowledges and applauds the modification's intent to clarify the role of the standby / buddy diver and feels this modification shall make Technical Diving regulations safer for the divers in the water.

Comments concerning the addition to the rulemaking file of the following document relied upon:

United States Court of Appeals, Fifth Circuit. *Houston Aquarium, Inc. v. Occupational Safety and Health Review Commission; Eugene Scalia, Secretary, U.S. Department of Labor*. No. 19-60245. Document: 00515490818. Filed July 15, 2020
<http://www.ca5.uscourts.gov/opinions/pub/19/19-60245-CV0.pdf>.

The Monterey Bay Aquarium, as well as the entire California zoo and aquarium industry, fully supports the Standards Board reliance upon the Court of Appeals Fifth Circuit ruling No. 19-60245 to move the amendment to General Industry Safety Order Sections 6051,



Monterey Bay Aquarium

886 CANNERY ROW
MONTEREY, CA 93940
831.648.4800

6056, and 6057 into law. The Court's ruling clearly supports what the California zoo and aquarium industry has been arguing since 2017; that the Federal Regulations (29 CFR 1910 Subpart T) were intended for traditional commercial diving involving heavy construction, maintenance, and shipyard work and not shallow cleaning dives conducted inside zoo and aquarium exhibits and associated holding tanks.

More importantly, the court's ruling clearly validated that when creating Article 152, California understood this to be true of 29 CFR 1910 Subpart T, and thus created Technical Diving to bridge the gap between traditional commercial diving and scientific diving activities. Technical Diving regulations were appropriate and necessary in 1980 and are even more appropriate and necessary in 2020 (and beyond) as the California zoo and aquarium industry continues to grow.

In closing, the Monterey Bay Aquarium fully supports and encourages the Standards Board to approve this amendment. Without the approval of this amendment the dive operations for your largest stakeholders, the zoo and aquarium industry, will fundamentally change and become less safe for our employees, while adding undue financial cost and hardship with no added safety benefit.

We strongly encourage you to vote "Yes" for this amendment, in support of the entire California based zoo and aquarium industry.

Thank you.

A handwritten signature in black ink, appearing to read "George Z. Peterson".

George Z. Peterson

Director of Dive Programs/Diving Control Board Chair
P 831-648-4821 M 831-917-4815 F 831-887-3814



Monterey Bay Aquarium

886 Cannery Row, Monterey, CA 93940

www.montereybayaquarium.org

Our mission is to inspire conservation of the ocean.

October 20, 2020

Members of the California OSHA Board:

As one of the largest stakeholders of Technical Diving in the state of California, the Aquarium of the Pacific fully supports the adoption of the amendment to General Industry Safety Order Sections 6051, 6056, and 6057, as well as the modification to 6056(a)(2)(B). With the state's adoption of the Federal Regulations for Commercial Diving (29 CFR 1910 Subpart T) in 2017, this amendment will protect the dive regulations that Cal OSHA (Article 152) has provided for Technical Diving for the past 40 years.

Modification to 6056(a)(2)(B):

A diver shall be line-tended from the surface or accompanied by another Scuba diver in the water where they shall remain in effective communication with each other and be able to render immediate assistance in case of an emergency throughout the diving operation.

The Aquarium of the Pacific fully supports the modification to 6056(a)(2)(B). The California zoo and aquarium industry as a whole acknowledges and applauds the modification's intent to clarify the role of the standby / buddy diver and feels this modification shall make Technical Diving regulations safer for the divers in the water.

Comments concerning the addition to the rulemaking file of the following document relied upon:

United States Court of Appeals, Fifth Circuit. Houston Aquarium, Inc. v. Occupational Safety and Health Review Commission; Eugene Scalia, Secretary, U.S. Department of Labor. No. 19-60245. Document: 00515490818. Filed July 15, 2020
<http://www.ca5.uscourts.gov/opinions/pub/19/19-60245-CV0.pdf>

The Aquarium of the Pacific, as well as the entire California zoo and aquarium industry, fully support the State OSHA Board's reliance upon the Court of Appeals Fifth Circuit ruling No. 19-60245 to move the amendment to General Industry Safety Order Sections 6051, 6056, and 6057 into law. The Court's ruling clearly supports what the California zoo and aquarium industry has been arguing since 2017, that the Federal Regulations (29 CFR 1910 Subpart T) were intended for commercial diving operations involving heavy construction, oil field work, maintenance, and shipyard work. Shallow, clear water, cleaning dives conducted inside zoo and aquarium exhibits and holding tanks were never intended to be included in the Federal Commercial Diving regulations. More importantly, the Court's ruling clearly validated that

when writing Article 152, California understood this to be true of 29 CFR 1910 Subpart T as well, and thus created Technical Diving to bridge the gap between commercial diving and scientific diving. Technical diving regulations were not only valid and necessary in 1980, they are valid and necessary even more so in 2020 as our state's industries continue to grow.

In closing, the Aquarium of the Pacific fully supports and encourages the State OSHA Board to approve this amendment. Without the approval of this amendment the dive operations for your largest stakeholders, the zoo and aquarium industry, will fundamentally change and become less safe for our employees and much more costly for the institutions with no added safety benefit. We encourage you to vote "Yes" for this amendment.

Thank you.

Paul Dimeo

A handwritten signature in black ink, appearing to read "Paul Dimeo", with a stylized flourish at the end.

Dive Safety Officer
Aquarium of the Pacific

MOVED, That the following resolution be adopted:

WHEREAS, On January 3, 2020, the Occupational Safety and Health Standards Board, pursuant to Government Code Section 11346.4, fixed the time and place for a Public Hearing to consider the revisions to Title 8, General Industry Safety Orders, Sections 6051, 6056 and 6057, Commercial and Technical Diving Operations.

WHEREAS, Such Public Hearing was held in Rancho Cordova, California, on February 20, 2020, and there are now before the Occupational Safety and Health Standards Board the proposed revisions to Title 8, General Industry Safety Orders, Sections 6051, 6056 and 6057, Commercial and Technical Diving Operations; therefore, be it

RESOLVED By the Occupational Safety and Health Standards Board in regular meeting held via teleconference and videoconference in Sacramento, California, on April 15, 2021, that the proposed revisions to Title 8, General Industry Safety Orders, Sections 6051, 6056 and 6057, Commercial and Technical Diving Operations, be adopted.

RESOLVED That the Occupational Safety and Health Standards 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 15, 2021

Occupational Safety and Health Standards Board

Business Meeting

Proposed Variance Decisions

**CONSENT CALENDAR—PROPOSED VARIANCE DECISIONS
 APRIL 15, 2021, MONTHLY BUSINESS MEETING
 OF THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD**

A. MCREF EAST VILLAGE, LLC — HEARD MARCH 24, 2021

OSHSB FILE NUMBER	APPLICANT NAME	SAFETY ORDERS	PROPOSED DECISION
19-V-149	MCREF East Village, LLC	Elevator	GRANT

B. S.S. HERITAGE INN OF LAKE FOREST, LLC — HEARD MARCH 24, 2021

OSHSB FILE NUMBER	APPLICANT NAME	SAFETY ORDERS	PROPOSED DECISION
19-V-331M1	S.S. Heritage Inn of Lake Forest, LLC	Elevator	GRANT

C. CITY OF NEWARK — HEARD MARCH 24, 2021

OSHSB FILE NUMBER	APPLICANT NAME	SAFETY ORDERS	PROPOSED DECISION
20-V-118M1	City of Newark	Elevator	GRANT

D. THYSSENKRUPP ELEVATORS EVO 200 — HEARD MARCH 16, 2021

OSHSB FILE NUMBER	APPLICANT NAME	SAFETY ORDERS	PROPOSED DECISION
20-V-129	Tailored Properties – MA & Tailored Properties –MA II, LLC	Elevator	GRANT
20-V-140	Taraval and 33rd Ave, LLC	Elevator	GRANT
20-V-477	AC Lofts Sub, LLC	Elevator	GRANT
20-V-478	584 14th St., LLC	Elevator	GRANT
20-V-479	CA Ventures	Elevator	GRANT
20-V-480	Pinnacle International Development, Inc.	Elevator	GRANT
20-V-481	Locust Equities, LLC	Elevator	GRANT

20-V-482	Patton Tower, LLC	Elevator	GRANT
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E. SCHINDLER 3300 WITH SIL-RATED DRIVE TO DE-ENERGIZE DRIVE MOTOR (GROUP IV) — HEARD MARCH 24, 2021

OSHSB FILE NUMBER	APPLICANT NAME	SAFETY ORDERS	PROPOSED DECISION
20-V-348	860 E & A LLC	Elevator	GRANT
20-V-349	South Santa Fe Housing Associates, LP	Elevator	GRANT
20-V-352	Sweetzer Investments, LLC	Elevator	GRANT
20-V-355	8811 Sepulveda, L.P.	Elevator	GRANT
20-V-356	707 S. Berendo St., LLC	Elevator	GRANT
20-V-373	Jordan Downs 2B, LP	Elevator	GRANT
20-V-374	667 Wilton LLC	Elevator	GRANT
20-V-375	3617 Venice Blvd LLC	Elevator	GRANT
20-V-376	317 Delaware LLC	Elevator	GRANT
20-V-377	1100 WT Investors, LLC	Elevator	GRANT
20-V-378	Pacifica Seaward LP	Elevator	GRANT
20-V-411	Best Westside Properties, LLC	Elevator	GRANT
20-V-415	Los Feliz Investors, LLC	Elevator	GRANT
20-V-417	Pacific Plaza Premier Holdings, LLC	Elevator	GRANT
20-V-425	4460 Inglewood, LLC	Elevator	GRANT
20-V-426	1319 Orange LLC	Elevator	GRANT
20-V-432	The Kavli Foundation	Elevator	GRANT
20-V-443	Costanoan LLC	Elevator	GRANT
20-V-444	Wonderful Real Estate Development, LLC	Elevator	GRANT

20-V-445	Comstock Realty Partners	Elevator	GRANT
20-V-470	Fairfield Kittridge LLC	Elevator	GRANT
20-V-475	Buddy Silvercreek LLC	Elevator	GRANT
20-V-520	Frogtown Fund LLC	Elevator	GRANT
21-V-006	West County Health Centers Inc.	Elevator	GRANT
21-V-007	City and County of San Francisco, Department of Public Health	Elevator	GRANT
21-V-012	NAM Hospitality, LLC	Elevator	GRANT
21-V-013	The Rector, Wardens and Vestrymen of Saint Peter's Parish, In Del Mar California	Elevator	GRANT
21-V-014	San Leandro Parrott, L.P.	Elevator	GRANT
21-V-019	Ingraham Apartments, L.P.	Elevator	GRANT
21-V-020	Lancaster 20th Street West LP	Elevator	GRANT
21-V-021	Ulric Street Housing Associates, L.P.	Elevator	GRANT
21-V-022	Fairfax Cap Investments, LLC	Elevator	GRANT
21-V-024	Buddha Properties LLC	Elevator	GRANT

F. 556 SC PARTNERS LLC — HEARD MARCH 24, 2021

OSHSB FILE NUMBER	APPLICANT NAME	SAFETY ORDERS	PROPOSED DECISION
20-V-410M1	556 SC Partners LLC	Elevator	GRANT

G. KONE MONOSPACE 500 ELEVATORS (GROUP IV) — HEARD MARCH 24, 2021

OSHSB FILE NUMBER	APPLICANT NAME	SAFETY ORDERS	PROPOSED DECISION
20-V-547	Alta Buena Vista Owner, LLC	Elevator	GRANT
21-V-017	David Pourbaba	Elevator	GRANT

21-V-029	Boston Court Partners LLC	Elevator	GRANT
21-V-030	ARE/CAL-SD Region No. 62, LLC	Elevator	GRANT
21-V-031	Waikiki Property LLC	Elevator	GRANT

H. SCHINDLER MODEL 3300 ELEVATORS WITH VARIANT GOV. ROPES & SHEAVES (GROUP IV) — HEARD MARCH 24, 2021

OSHSB FILE NUMBER	APPLICANT NAME	SAFETY ORDERS	PROPOSED DECISION
21-V-008	Westfield DDC, Inc.	Elevator	GRANT
21-V-015	Prologis Logistics Services Incorporated	Elevator	GRANT
21-V-025	Toll Brothers, Inc.	Elevator	GRANT

I. OTIS GEN2S ELEVATORS (GROUP IV) — HEARD MARCH 24, 2021

OSHSB FILE NUMBER	APPLICANT NAME	SAFETY ORDERS	PROPOSED DECISION
21-V-009	Colorado 77, LLC	Elevator	GRANT
21-V-010	Life Illuminated LLC	Elevator	GRANT
21-V-011	San Juan Unified School District	Elevator	GRANT
21-V-026	Ocotillo LA 9001SMB, LLC	Elevator	GRANT
21-V-027	PATH Villas South Gate, LP	Elevator	GRANT
21-V-028	SJECCD	Elevator	GRANT
21-V-032	Seefried Industrial Properties	Elevator	GRANT
21-V-033	1717 University Associates LLC	Elevator	GRANT
21-V-034	17422 Derian Irvine LLC	Elevator	GRANT
21-V-035	Brooklyn Basin Associates III, L.P.	Elevator	GRANT
21-V-036	Atlas V Marengo LLC	Elevator	GRANT
21-V-037	FC Pier 70 Building 12, LP	Elevator	GRANT

21-V-038	Fedora Bliss, LLC	Elevator	GRANT
21-V-039	Fedora Bliss, LLC	Elevator	GRANT
21-V-040	Kern Community College District	Elevator	GRANT
21-V-041	PO Sunset LLC	Elevator	GRANT

J. MITSUBISHI ELEVATORS (GROUP IV) — HEARD MARCH 24, 2021

OSHSB FILE NUMBER	APPLICANT NAME	SAFETY ORDERS	PROPOSED DECISION
21-V-016	Vivante Newport Center, LLC	Elevator	GRANT

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

In the Matter of Application to Modify)
Permanent Variance by:)
)
MCREF East Village, LLC)
)
_____)

OSHSB FILE No. 19-V-149M1
Proposed Decision Dated: March 24, 2021

DECISION

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

DAVID THOMAS, Chairman

BARBARA BURGEL, Member

KATHLEEN CRAWFORD, Member

DAVID HARRISON, Member

NOLA KENNEDY, Member

CHRIS LASZCZ-DAVIS, Member

LAURA STOCK, Member

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Date of Adoption: April 15, 2021

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

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

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

In the Matter of Application to Modify Permanent Variance by: <p style="text-align: center;">MCREF East Village, LLC</p>	OSHSB File No.: 19-V-149M1 <u>PROPOSED DECISION</u> Hearing Date: March 24, 2021
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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
19-V-149	MCREF East Village, LLC	Modera San Diego 241 14 th St. San Diego, CA

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

C. Procedural Matters:

1. This hearing was held on March 24, 2021, in Sacramento, California, via teleconference, by Occupational Safety and Health Standards Board (“Board”), with Hearing Officer Autumn Gonzalez, both presiding and hearing the matter on its merit, as a basis of proposed decision to be advanced to the Board for its consideration, in accordance with California Code of Regulations, Title 8, section 426.
2. At the hearing, Dan Leacox of Leacox & Associates, appeared on behalf of the Applicant; 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.
3. Documentary and oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence: the subject modification of permanent variance application captioned above as Exhibit PD-1, Notice of Hearing as Exhibit PD-2, Board staff Pending Application(s) for Permanent Variance Opinion Letter as PD-3, Division evaluation as PD-4, Review Draft 1 Proposed Decision as PD-5, and official notice taken of the Board’s rulemaking records and variance decisions concerning the safety order provisions from which variance has been requested. On March 24, 2021,

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

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

1. The Applicant requests modification of the address of the unchanging variance location specified within Board records for each elevator the subject of previously granted Permanent Variance No. 19-V-149.
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 No. 19-V-149 is in effect, in fact is more completely, and correctly the different address information specified in below subsection D.5.
3. The Division has evaluated the request for modification of variance location address, finds no issue with it, and recommends that the application for modification be granted subject to the same conditions of the Decision and Order in OSHSB Permanent Variance File No. 19-V-149.
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 No. 19-V-149 was, in part, based.
5. The Board finds the correct address by which to designate the location of each elevator the subject of Permanent Variance No. 19-V-149, to be:

Modera San Diego
1445 K St.
San Diego, CA

E. Decision and Order:

1. Permanent Variance Application No. 19-V-149 is conditionally GRANTED, thereby modifying Board records, such that, without change in variance location, each elevator being the subject of Permanent Variance Nos. 19-V-149, and 19-V-149M1, shall have the following address designation:


Modera San Diego
1445 K St.
San Diego, CA

Proposed Variance Decision
OSHSB File No. 19-V-149M1
Hearing Date: March 24, 2021

2. Permanent Variance No. 19-V-149, being only modified as to the subject location address specified in above Decision and Order Section 1, is otherwise unchanged and remaining in full force and effect, as hereby incorporated by reference into this Decision and Order of Permanent Variance No. 19-V-149M1.

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: March 24, 2021



Autumn Gonzalez, Hearing Officer

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

In the Matter of Application to Modify)
Permanent Variance by:)
)
S.S. Heritage Inn of Lake Forest, LLC)
)
_____)

OSHSB FILE No. 19-V-331M1
Proposed Decision Dated: March 24, 2021

DECISION

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

DAVID THOMAS, Chairman

BARBARA BURGEL, Member

KATHLEEN CRAWFORD, Member

DAVID HARRISON, Member

NOLA KENNEDY, Member

CHRIS LASZCZ-DAVIS, Member

LAURA STOCK, Member

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Date of Adoption: April 15, 2021

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

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

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

In the Matter of Application to Modify Permanent Variance by: S.S. Heritage Inn of Lake Forest, LLC	OSHSB File No.: 19-V-331M1 PROPOSED DECISION Hearing Date: March 24, 2021
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The above captioned 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 the subject of Permanent Variance No. 19-V-331, approved by the Board on October 17, 2019.

- A. This proceeding is conducted in accordance with Labor Code section 143.
- B. This hearing was held on March 24, 2021, in Sacramento, California, 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.
 - 1. At the hearing, Andy Ferris of thyssenKrupp Elevators, appeared on behalf of the Applicant, Mark Wickens and David Morris appeared on behalf of the Division of Occupational Safety and Health (“Division”), and Senior Safety Engineer Michael Nelmidia appeared on behalf of Board staff in its technical advisory capacity apart from the Board.
 - 2. At the hearing, oral evidence was received and by stipulation of all parties, documents were accepted into evidence: Application for Modification of Permanent Variance No. 19-V-331M1 (Application), as Exhibit PD-1, Notice of Hearing in this matter as PD-2, Board staff Pending Application Memorandum as PD-3, Division Review of Application as PD-4, Review-Draft-1 Proposed Decision as PD-5; and official notice taken of the Board’s rulemaking records and variance decisions concerning the safety order requirements at issue in this matter. On March 24, 2021, the hearing and record closed, and the matter was taken under submission by the Hearing Officer.
- C. Based on the record of this hearing, the Board makes the following findings of fact:

1. The Applicant requests modification of the variance location specified within Board records for a single elevator the subject of previously granted Permanent Variance No. 19-V-331.
2. Division, in its Review of Application (Exhibit PD-4) outlines the following material facts, and basis of opinion, for its recommendation as to the disposition of the present matter.
3. On October 17, 2019 the Occupational Safety and Health Standards Board granted a permanent variance (OSHSB File No. 19-V-331) to S.S. Heritage Inn of Lake Forest, LLC, for two (2) Synergy 85S MRL conveyances located at 23632 Rockfield Blvd., Lake Forest, California. In the application for the variance it was stated that six (6) suspension ropes would be provided for both elevators, designated as numbers 1 & 2.
4. On January 19, 2021, the Applicant’s representative, Andrew Ferris of ThyssenKrupp Elevator, submitted an application to modify the existing permanent variance to indicate that four (4) suspension ropes would be provided on elevator number 2.
5. Applicant is requesting to modify the permanent variance in File No. 19-V-331, to correct inaccurate elevator suspension information, regarding the number of ropes contained in the original variance application. The correct number of suspension ropes is four (4). It is the well-informed opinion and recommendation of the Division that conveyance safety, and occupational safety and health, will be promoted, as otherwise provided per the Decision and Order of the Board in File No. 19-V-331, with a corresponding reduction in the maximum suspended load listed in Appendix 1 of that Decision and Order, to account for the fewer suspension ropes.
6. Accordingly, Division recommends that the present Application for Modification be conditionally granted, subject to the same conditions specified per the October 17, 2019, adopted Decision and Order, in OSHSB File Number 19-V-331 Decision, with the only change being in the conditionally specified technical parameters listed for the subject elevator in Appendix 1 of that Decision and Order, as follows:

OSHSB File Number	Car	Maximum Suspension Ropes per Elevator (Per Condition No. 3)	Roping Ratio	Max. Rated Speed In Feet Per Minute (per Condition No. 6)	Maximum Suspended Load per Elevator (+5%) (per Cond. No. 7)
19-V-331	1	6	2:1	150	6,818
19-V-331	2	6 4	2:1	150	5031 5002

7. Board staff has reviewed File 19-V-331, and the Review of Application (for Modification) in the present matter, and concurs with Division in its recommendation of grant, subject to certain conditions, reflected in material part, in the below Decision and Order.

- The Board finds that modification of Permanent Variance No. 19-V-331, per above Section 6 specified technical conditions, will provide for safety and health equivalent to Title 8, Elevator Safety Order requirements from which variance was granted under Permanent Variance No. 19-V-331.

D. Decision and Order:

Variance application 19-V-331M1 is conditionally GRANTED, to the limited extent specified below, with respect to one conveyance the subject of Permanent Variance No. 19-V-331, Decision and Order.

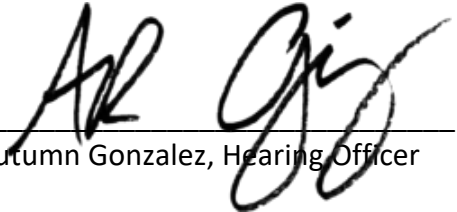
- Permanent Variance File No. 19-V-331, Decision and Order, Appendix 1, is modified, with respect to the below specified conveyance, as follows:

OSHSB File Number	Car	Maximum Suspension Ropes per Elevator (Per Condition No. 3)	Roping Ratio	Max. Rated Speed In Feet Per Minute (per Condition No. 6)	Maximum Suspended Load per Elevator (+5%) (per Cond. No. 7)
19-V-331	1	6	2:1	150	6,818
19-V-331	2	6 4	2:1	150	5031 5002

- Permanent Variance No. 19-V-331, only being modified as specified per above Decision and Order Condition No. 1, is otherwise unchanged and remaining in full force and effect, as hereby incorporated by reference into this Decision and Order of Permanent Variance File No. 19-V-331M1.
- 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.
- This Decision and Order shall remain in effect unless modified or revoked upon application by the Applicant, affected employee(s), the Division, or by the Board on its own motion, in procedural accordance with Title 8, 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: March 24, 2021


 Autumn Gonzalez, Hearing Officer

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

In the Matter of Application to Modify)
Permanent Variance by:)
)
City of Newark)
)
)
_____)

OSHSB FILE No. 20-V-118M1
Proposed Decision Dated: March 24, 2021

DECISION

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

DAVID THOMAS, Chairman

BARBARA BURGEL, Member

KATHLEEN CRAWFORD, Member

DAVID HARRISON, Member

NOLA KENNEDY, Member

CHRIS LASZCZ-DAVIS, Member

LAURA STOCK, Member

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Date of Adoption: April 15, 2021

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

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

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

In the Matter of Application to Modify Permanent Variance by: <p style="text-align: center;">City of Newark</p>	OSHSB File No.: 20-V-118M1 <p style="text-align: center;"><u>PROPOSED DECISION</u></p> Hearing Date: March 24, 2021
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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 Regulations¹, 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-118	City of Newark	Newark Civic Center 37101 Newark Blvd Newark, CA, 94560

B. This proceeding is conducted in accordance with section 401, et. seq.

C. Procedural Matters:

1. This hearing was held on March 24, 2021, in Sacramento, California, via teleconference, by Occupational Safety and Health Standards Board (“Board”), with Hearing Officer Autumn Gonzalez, both presiding and hearing the matter on its merit, as a basis of proposed decision to be advanced to the Board for its consideration, in accordance with section 426.
2. At the hearing, Dan Leacox of Leacox & Associates, 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 Nelmidia appeared on behalf of Board staff in a technical advisory role apart from the Board.
3. Documentary and oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence: the subject modification of permanent variance application captioned above as Exhibit PD-1, Notice of Hearing as Exhibit PD-2, Board staff Pending Application(s) for Permanent Variance Opinion Letter as PD-3, Division evaluation as PD-4, Review Draft 1 Proposed Decision as PD-5, and official notice taken of the Board’s rulemaking records and variance decisions concerning the safety order provisions from which variance has been requested. On March 24, 2021,

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

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.
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 is in effect, in fact is more completely, and correctly the different address information specified in below subsection D.5.
3. The Division has evaluated the request for modification of variance location address, finds no issue with it, and recommends that the application for modification be granted subject to the same conditions of the Decision and Order in OSHSB Permanent Variance File No. 20-V-118.
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 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-118, to be:

Newark Civic Center
37101 Newark Blvd.
Newark, CA

Newark Library
37055 Newark Blvd.
Newark, CA

E. Decision and Order:

Permanent Variance Application No. 20-V-118M1 20-V-222 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-118M1, and 20-V-118, shall have the following address designation:


Newark Civic Center
37101 Newark Blvd.
Newark, CA

Newark Library
37055 Newark Blvd.
Newark, CA

1. Permanent Variance No. 20-V-118, 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-118M1.

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: March 24, 2021



Autumn Gonzalez, Hearing Officer

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

In the Matter of Application for Permanent Variance Regarding:)
)
)
Tailored Properties – MA & Tailored Properties)
–MA II, LLC; Taraval and 33rd Ave, LLC;)
AC Lofts Sub LLC; 584 14th St., LLC)
CA Ventures; Pinnacle International)
Development, Inc.; Locust Equities, LLC;)
and Patton Tower, LLC)
)
)

OSHSB FILE No.: see grid in Item A of
Proposed Decision Dated: March 20, 2021

DECISION

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

DAVID THOMAS, Chairman

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

BARBARA BURGEL, Member

Date of Adoption: April 15, 2021

KATHLEEN CRAWFORD, Member

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.

DAVID HARRISON, Member

NOLA KENNEDY, Member

CHRIS LASZCZ-DAVIS, Member

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.

LAURA STOCK, Member

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>Tailored Properties – MA & Tailored Properties –MA II, LLC; Taraval and 33rd Ave LLC; AC Lofts Sub LLC; 584 14th St LLC; CA Ventures; Pinnacle International Development, Inc.; Locust Equities, LLC; and Patton Tower, LLC</p>	<p>OSHSB File Nos.: See Grid Below</p> <p><u>PROPOSED DECISION</u></p> <p>Hearing Date: March 16, 2021</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
20-V-129	Tailored Properties – MA & Tailored Properties –MA II, LLC	5585 Mildred St. San Diego, CA	1
20-V-140	Taraval and 33rd Ave, LLC	2410 33rd Ave. San Francisco, CA	1
20-V-477	AC Lofts Sub, LLC	2411 El Cajon Blvd. San Diego, CA	1
20-V-478	584 14th St., LLC	584 14th St. Oakland, CA	1
20-V-479	CA Ventures	525 Oxford Cir. Davis, CA	2
20-V-480	Pinnacle International Development, Inc.	1150 E St. San Diego, CA	1
20-V-481	Locust Equities, LLC	1112 Locust Ave. Long Beach, CA	2
20-V-482	Patton Tower, LLC	330 Patton St. Los Angeles, CA	1

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

Proposed Decision

OSHSB Variance File No. 20-V-129, 140, 477 et al.

Hearing Date: March 16, 2021

2. These proceedings are conducted in accordance with Labor Code section 143, and section 401, et. seq.
3. This hearing was held on March 16, 2021, via online teleconference, before the Occupational Safety and Health Standards Board (“Board”), with Hearing Officer Autumn Gonzalez, both presiding and hearing the matter on its merit, as a basis of proposed decision to be advanced to the Board for its consideration, in accordance with section 426 of the Board’s rules of procedure. The Hearing Panelists were Board Members Barbara Burgel and Kathleen Crawford.
4. At the hearing, Kathleen E. Finnerty of Finnerty Law Offices, Inc., Phillip Hampton, John Stockstill, and Andy Ferris of thyssenkrupp Elevator Corporation (“tkE”), appeared on behalf of Applicant; David Morris and Mark Wickens 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. In response to a request submitted by IUEC Local 18 for party status in the matter, the Hearing Officer granted IUEC Local 18 party status, pursuant to section 406.1 of the Board’s procedural regulations. IUEC Local 8 was similarly granted party status. Eric McClaskey and Kevin Wright appeared on behalf of IUEC Local 8 (“IUEC”), and Frank Belio appeared on behalf of IUEC Local 18 (“IUEC”).
5. Oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence:

Exhibit Number	Description of Exhibit
PD-1A	Tailored Properties – MA & Tailored Properties –MA II, LLC Variance Application, First and Second Amended Application
PD-1B	Taraval and 33rd Ave., LLC Variance Application, First and Second Amended Applications
PD-1C	AC Lofts Sub, LLC Variance Application
PD-1D	584 14th St., LLC Variance Application
PD-1E	CA Ventures Variance Application
PD-1F	Pinnacle International Development, Inc., Variance Application
PD-1G	Locust Equities, LLC Variance Application

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Exhibit Number	Description of Exhibit
PD-1H	Patton Tower, LLC Variance Application
PD-2	OSHSB Notice of Hearing
PD-3A through H	Division Reviews of Variance Applications
PD-4A through H	Board Staff Reviews of Variance Applications

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

B. Relevant Safety Orders

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

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

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

2.20.1 Suspension Means

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

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

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

2.20.2.1 On Crosshead Data Plate.

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

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(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

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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

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(Nov. 17, 2016), and the *Patton Equities, LLC* File No. 20-V-128 (Nov. 12, 2020) decisions (*Patton Equities*).

2. Applicant proposes to utilize noncircular elastomeric-coated steel belts (“ECSBs”) rather than steel ropes in a machine room-less (“MRL”) elevator installation, with updated data plates, data tags, and wedge sockets designed for use with ECSBs, as well as the appropriate factor of safety criteria conforming to ASME 17.1-2013, with a continuous residual strength detection device (“RSDD”) compliant with the *Vivante* and *Patton Equities* decisions.
3. Prior to installation, and on or before November 21, 2020, Applicant proposes that it will present the RSDD to the Division, to confirm that the required performance criteria has been achieved, and to receive final acceptance of the device.
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)

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- 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.

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- 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

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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."

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- 2.14 Records of all tests and inspections shall be maintenance records subject to ASME A17.1-2004, sections 8.6.1.2, and 8.6.1.4, respectively.
- 2.15 No later than November 21, 2021, the subject elevator(s) shall be equipped with a residual strength detection device as specified per Addendum 2 to this Decision and Order. Prior to November 21, 2021 the Applicant shall have complied with the requirements of Addendum 3, and corrected any Division identified deficiencies in performing those requirements.

Control and Operating Circuits

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

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

- 3.0 The SIL rated circuitry used to provide device/circuit redundancy and to inhibit electrical current flow in accordance with ASME A17.1-2004, sections 2.26.9.4 and 2.26.9.6.1 shall comply with the following:
 - 3.1 The SIL rated systems and related circuits shall consist of:
 - 3.1.1. ELGO LIMAX33 RED Safe Magnetic Absolute Shaft Information System, labeled or marked with the SIL rating (not less than SIL 3), the name or mark of the certifying organization, and the SIL certification number (968/A 163), followed by the applicable revision number (as in 968/A 163.07/19).
 - 3.1.2 Printed circuit board assembly SSOA (6300 AHE001), labeled or marked with the SIL rating (not less than SIL 3), the name or mark of the certifying organization, and the SIL certification number (968/FSP 1347), followed by the applicable revision number (as in 968/FSP 1347.00/16).
 - 3.1.3 Two circuit board components (Serializer S3I and S3O), each labeled or marked with the SIL rating (not less than SIL 3), the name or mark of the certifying organization and the SIL certification number (968/A 162.04), followed by the applicable revision number (as in 968/A 162.04/18)
 - 3.2 The software system and related circuits shall be certified for compliance with the applicable requirements of ASME A17.1-2013, section 2.26.4.3.2.

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- 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.

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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 operable 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 operable by a Group 1 security key. The enclosure is to remain locked at all times when not in use.
- 5.0 The elevator shall be serviced, maintained, adjusted, tested, and inspected only by CCCM having been trained, and competent, to perform those tasks on the tKE EVO 200 elevator system in accordance with written procedures and criteria, including as required per above Conditions 2.3, and 2.4.
- 6.0 The Division shall be notified when the elevator is ready for inspection. The elevator shall be inspected by the Division, and all applicable requirements met, including conditions of this permanent variance, prior to a Permit to Operate the elevator being issued. The elevator shall not be placed in full service prior to the Permit to Operate being issued by Division.
- 7.0 The Applicant shall notify its employees or their authorized representative(s), or both, of this order in the same way and to the same extent that employees and authorized representatives are to be notified of docketed permanent variance applications pursuant to California Code of Regulations, Title 8, sections 411.2, and 411.3.
- 8.0 This Decision and Order shall remain in effect unless modified or revoked upon application by the Applicant, affected employee(s), the Division, or by the Board on its own motion, in the manner prescribed for its issuance.

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

DATED: March 20, 2021



Autumn Gonzalez, Hearing Officer

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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.

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- (g) A detailed list of all elevator components adjusted, repaired, or replaced in conjunction with the suspension component replacement.
- (h) All information provided on the crosshead data plate per ASME A17.1-2004, Section 2.20.2.1, unless that ASME requirement is modified by the conditions of a variance that pertains to the elevator in question, in which case, the information to be reported shall be the information required by the ASME provision as modified by the variance.
- (i) For the suspension means being replaced, all information provided on the data tag required per ASME A17.1-2004, Section 2.20.2.2, unless that ASME requirement is modified by the conditions of a variance that pertains to the elevator in question, in which case, the information to be reported shall be the information required by the ASME provision as modified by the variance.
- (j) For the replacement suspension means, all information provided on the data tag required by ASME A17.1-2004, Section 2.20.2.2, unless that ASME requirement is modified by the conditions of a variance that pertains to the elevator in question, in which case, the information to be reported shall be the information required by the ASME provision as modified by the variance.
- (k) Any other information requested by the Division regarding the replacement of the suspension means or fastenings.

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

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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, 2020, Applicant shall provide to the Division the following written information:

1. Engineering submittals detailing the functional specifications of the residual-strength monitoring device.
2. A substantiating explanation of how the residual-strength monitoring device will continuously monitor the actual residual strength of each load bearing suspension member at any time during its operational life cycle.
3. The results of testing performed, fully demonstrating how the RSDD directly correlates to the physical properties of the suspension members.
4. Information detailing how the RSDD is to be tested by simulating a reduction of suspension member residual strength.
5. Complete test reports of third party listing/certification required by the Elevator Safety Orders (i.e. ASME A17.5)

Proposed Decision

OSHSB Variance File No. 20-V-129, 140, 477 et al.

Hearing Date: March 16, 2021

6. Schematic wiring diagram of the residual-strength monitoring device, including its interface with the elevator controller.
- (C) On or before May 21, 2021, Applicant shall provide Division for examination, and fully demonstrate to Division the operational performance of, a RSDD of the design to be installed and continuously functioning on the subject elevator. Provided to Division with the RSDD to be examination and demonstration shall be the information specific to it, per above Appendix 1, subpart B.
- (D) On or before November 21 2021, and thereafter, the above specified and documented RSDD shall be installed and operational on the subject elevator.
- (E) 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:)
)
Schindler 3300 with SIL-Rated Drive to)
De-energize Drive Motor (Group IV))
)
_____)

OSHSB FILE No.: see grid in Item A of
Proposed Decision Dated: March 24, 2021

DECISION

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

DAVID THOMAS, Chairman

BARBARA BURGEL, Member

KATHLEEN CRAWFORD, Member

DAVID HARRISON, Member

NOLA KENNEDY, Member

CHRIS LASZCZ-DAVIS, Member

LAURA STOCK, Member

OCCUPATIONAL SAFETY AND HEALTH STANDARDS
BOARD

Date of Adoption: April 15, 2021

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

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

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

<p>In the Matter of Application for Permanent Variance Regarding:</p> <p>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: March 24, 2021</p>
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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 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
20-V-348	860 E & A LLC	860 E Valley Blvd. San Gabriel, CA	2
20-V-349	South Santa Fe Housing Associates, LP	515 South Santa Fe Avenue Vista, CA	1
20-V-352	Sweetzer Investments, LLC	545 N Sweetzer Ave., West Hollywood, CA	1
20-V-355	8811 Sepulveda, L.P.	8811 Sepulveda Blvd. North Hills, CA	6
20-V-356	707 S. Berendo St., LLC	707 S Berendo St. Los Angeles, CA	1
20-V-373	Jordan Downs 2B, LP	2062 99th Place Los Angeles, CA	2
20-V-374	667 Wilton LLC	667 N Wilton Pl Los Angeles, CA	1
20-V-375	3617 Venice Blvd LLC	3617 Venice Blvd. Los Angeles, CA	1
20-V-376	317 Delaware LLC	862 Moraga Dr. Los Angeles, CA	1

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

Proposed Variance Decision

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

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20-V-377	1100 WT Investors, LLC	1100 W. Temple St. Los Angeles, CA	1
20-V-378	Pacifica Seaward LP	788 South Seaward Avenue Ventura, CA	2
20-V-411	Best Westside Properties, LLC	11940 Louise Avenue Los Angeles, CA	1
20-V-415	Los Feliz Investors, LLC	4850 Hollywood Blvd Los Angeles, CA	2
20-V-417	Pacific Plaza Premier Holdings, LLC	419 N. Chandler Ave. Monterey Park, CA	3
20-V-425	4460 Inglewood, LLC	11955 Culver Blvd. Los Angeles, CA	1
20-V-426	1319 Orange LLC	1319 S Orange Grove Ave. Los Angeles, CA	1
20-V-432	The Kavli Foundation	5719 Mesmer Ave. Culver City, CA	2
20-V-443	Costanoan LLC	42 Otis St. San Francisco, CA	1
20-V-444	Wonderful Real Estate Development, LLC	4010 7th Standard Rd. Shafter, CA	1
20-V-445	Comstock Realty Partners	198 Utah St. San Francisco, CA	1
20-V-470	Fairfield Kittridge LLC	21001 Kittridge St. Canoga Park, CA	3
20-V-475	Buddy Silvercreek LLC	5952 Silver Creek Valley Rd San Jose, CA	2
20-V-520	Frogtown Fund LLC	2412 Eads St. Los Angeles, CA	1
21-V-006	West County Health Centers Inc.	16375 First Street Guerneville, CA	1
21-V-007	City and County of San Francisco, Department of Public Health	2403 Keith St. San Francisco, CA	2
21-V-012	NAM Hospitality, LLC	1270 Airport Park Blvd. Ukiah, CA	2

Proposed Variance Decision

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

Hearing Date: March 24, 2021

21-V-013	The Rector, Wardens and Vestrymen of Saint Peter's Parish, In Del Mar California	334 14th St., Del Mar, CA	1
21-V-014	San Leandro Parrott, L.P.	1604 San Leandro Blvd. San Leandro, CA	2
21-V-019	Ingraham Apartments, L.P.	1230 W. Ingraham Street Los Angeles, CA	2
21-V-020	Lancaster 20th Street West LP	2040 Avenue J8 Lancaster, CA	2
21-V-021	Ulric Street Housing Associates, L.P.	2645 Ulric Street San Diego, CA	2
21-V-022	Fairfax Cap Investments, LLC	735 N. Fairfax Ave. Los Angeles, CA	1
21-V-024	Buddha Properties LLC	1170 Harrison St. San Francisco, CA	1

2. This proceeding is conducted in accordance with Labor Code Section 143, and section 401, et. seq.
3. This hearing was held on March 24, 2021, in Sacramento, California, via teleconference, by Occupational Safety and Health Standards Board ("Board"), with Hearing Officer Autumn Gonzalez, both presiding and hearing the matter on its merit, as a basis of proposed decision to be advanced to the Board for its consideration, in accordance with section 426.
4. At the hearing, Jennifer Linares, with the Schindler Elevator Company, 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: each respective permanent variance applications per the above table as Exhibit PD-1, Notice of Hearing as Exhibit PD-2, Board staff Pending Application Memorandum as PD-3, Division Review of Application as PD-4, Review Draft 1 Proposed Decision as PD-5, and official notice taken of the Board's rulemaking records, and variance decisions concerning the safety order requirements from which variance is requested. At close of hearing on March 24, 2021, the record was closed, and the matter taken under submission by the Hearing Officer.

Relevant Safety Order Provisions

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

1. Suspension Means

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

Elevator cars shall be suspended by steel wire ropes attached to the car frame or passing around sheaves attached to the car frame specified in 2.15.1. Ropes that have previously been installed and used on another installation shall not be reused. Only iron (low-carbon steel) or steel wire ropes, having the commercial classification "Elevator Wire Rope," or wire rope specifically constructed for elevator use, shall be used for the suspension of elevator cars and for the suspension of counterweights. The wire material for ropes shall be manufactured by the open-hearth or electric furnace process, or their equivalent.

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

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

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

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

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

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

[...]

(f) whether the ropes were non preformed or preformed

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

The factor of safety of the suspension wire ropes shall be not less than shown in Table 2.20.3. Figure 8.2.7 gives the minimum factor of safety for intermediate

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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.).

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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

Proposed Variance Decision

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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.

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Conclusive Findings:

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

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 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:

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- 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).

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- 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:

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- 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

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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 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 in the Board's rules of practice and procedure.
9. 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: March 24, 2021



Autumn Gonzalez, Hearing Officer

*Proposed Variance Decision
Schindler 3300 with SIL-Rated Drive to De-energize Drive Motor (Group IV)
Hearing Date: March 24, 2021*

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.

Proposed Variance Decision

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

Hearing Date: March 24, 2021

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

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

In the Matter of Application to Modify)
Permanent Variance by:)
)
556 SC Partners LLC)
)
_____)

OSHSB FILE No. 20-V-410M1
Proposed Decision Dated: March 24, 2021

DECISION

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

DAVID THOMAS, Chairman

BARBARA BURGEL, Member

KATHLEEN CRAWFORD, Member

DAVID HARRISON, Member

NOLA KENNEDY, Member

CHRIS LASZCZ-DAVIS, Member

LAURA STOCK, Member

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Date of Adoption: April 15, 2021

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

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

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

In the Matter of Application to Modify Permanent Variance by: 556 SC Partners LLC	OSHSB File No.: 20-V-410M1 PROPOSED DECISION Hearing Date: March 24, 2021
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556 SC Partners LLC (“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 the subject of Variance No. 20-V-410, approved by the Board on December 17, 2020.¹

- A. This proceeding is conducted in accordance with Labor Code section 143.
- B. This hearing was held on March 24, 2021, in Sacramento, California, via teleconference, by delegation of the Occupational Safety and Health Standards Board (“Board”), with Hearing Officer Autumn Gonzalez, both presiding and hearing the matter on its merit, as a basis of proposed decision to be advanced to the Board for its consideration, in accordance with section 426.
 - 1. At the hearing, Daniel May with Kone Elevators, 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 Nelmidia appeared on behalf of Board staff, in a technical advisory capacity apart from the Board.
 - 2. At the hearing, oral evidence was received and by stipulation of all parties, documents were accepted into evidence: application for modification of Permanent Variance No. 20-V-410 as Exhibit PD-1, Notice of Hearing in this matter as PD-2, Board staff Pending Application Memorandum as PD-3, Division Review of Application as PD-4, Review Draft 1 Proposed Decision as PD-5, and official notice taken of the Board’s rulemaking records and variance decisions concerning the safety order requirements at issue in this matter. On March 24, 2021, the hearing and record closed, and the matter was taken under submission by the Hearing Officer.
- C. Based on the record of this hearing, the Board makes the following findings of fact:
 - 1. The Applicant requests modification of the variance location specified within Board records for a single elevator the subject of previously granted Permanent Variance No. 20-V-410.

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

2. Application 20-V-410M1, declared to be wholly truthful under penalty of perjury by signatory Brady Fuerst, states that the maximum rated speed and maximum suspended load in Permanent Variance No. 20-V-410 are incorrect. Applicant requests modification to correct both the maximum rated speed and maximum suspended load.
3. The Board finds the Application Section 3, declaration of Brady Fuerst to be credible, uncontroverted, and consistent with available, sufficient facts.
4. The written Division evaluation of Application for Permanent Variance No. 20-V-410M1, dated February 3, 2021 (Exhibit PD-4), states in significant part:

Applicant is requesting to modify the permanent variance to correct inaccurate elevator speed and maximum suspended load information, contained in the original variance application. The correct maximum rated speed should have been represented as 200 fpm. As a result of this change the maximum suspended load listed in the existing permanent variance decision would need to be reduced as specified within the suspension factor of safety information provided in OSHSB File No. 20-V-410, Permanent Variance Application, Exhibit A.

5. In its written evaluation (Exhibit PD-4), Division recommends grant of Application No. 20-V-410M1, subject to the same conditions stipulated in OSHSB File No. 20-V-410, except as modified below;

Revisions exclusive to OSHSB File No. 20-V-410, Decision and Order,
 Appendix 1:

Monospace 500 Suspension Ropes Appendix 1 Table				
OSHB File No.	Elevator ID	Minimum Quantity of Ropes (Per Condition 3)	Maximum Speed in Feet Per Minute (Per Condition 6)	Maximum Suspended Load (Per Condition 7)
20-V-410	1	7	150 200	12,247 11,556

The Board finds the recommendation of Division, summarized in above subparts 4 and 5, to be the knowledgeable opinion of experienced and competent elevator safety engineering professionals. The Board also finds persuasive the concurrence of Board staff engineering professionals, per Exhibit PD-3, in recommending grant of requested modification.

6. The Board finds that modification of Permanent Variance No. 20-V-410, per above Section 5 specified technical conditions, will provide for safety and health equivalent to Elevator Safety Order requirements from which variance was granted under Permanent

Variance No. 20-V-410.

D. Decision and Order:

Variance application 20-V-410M1 is conditionally GRANTED, to the limited extent specified below, with respect to one conveyance the subject of Permanent Variance No. 20-V-410, Decision and Order.

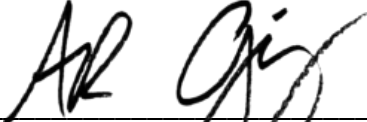
1. Permanent Variance File No. 20-V-410, Decision and Order, Appendix 1, is modified, with respect to the below specified conveyance, as follows:

OSHB File No.	Elevator ID	Minimum Quantity of Ropes (Per Condition 3)	Maximum Speed in Feet Per Minute (Per Condition 6)	Maximum Suspended Load (Per Condition 7)
20-V-410	1	7	150 200	12,247 11,556

2. Permanent Variance No. 20-V-410, only being modified as specified per above Decision and Order Condition No. 1, is otherwise unchanged and remaining in full force and effect, as hereby incorporated by reference into this Decision and Order of Permanent Variance File No. 20-V-410M1.
3. 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.
4. This Decision and Order shall remain in effect unless modified or revoked upon application by the Applicant, affected employee(s), the Division, or by the Board on its own motion, in accordance with the Board's procedures.

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: Autumn Gonzalez



Autumn Gonzalez, Hearing Officer

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

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

OSHSB FILE No.: see grid in Item A of
Proposed Decision Dated: March 24, 2021

DECISION

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

DAVID THOMAS, Chairman

BARBARA BURGEL, Member

KATHLEEN CRAWFORD, Member

DAVID HARRISON, Member

NOLA KENNEDY, Member

CHRIS LASZCZ-DAVIS, Member

LAURA STOCK, Member

OCCUPATIONAL SAFETY AND HEALTH STANDARDS
BOARD

Date of Adoption: April 15, 2021

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

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

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

In the Matter of Application for Permanent Variance Regarding: KONE Monospace 500 Elevators (Group IV)	OSHSB File Nos.: Per Section A.1 Grid Below <u>PROPOSED DECISION</u> Hearing Date: March 24, 2021
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A. Subject Matter:

- Each below listed applicant (“Applicant”) applied for a permanent variance from provisions of the Elevator Safety Orders, found at Title 8 of the California Code of 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
20-V-547	Alta Buena Vista Owner, LLC	1501 Buena Vista Ave., Alameda, CA	4
21-V-017	David Pourbaba	5181 W Adams Blvd. Los Angeles, CA	2
21-V-029	Boston Court Partners LLC	919 Boston Court Pasadena, CA	1
21-V-030	ARE/CAL-SD Region No. 62, LLC	10055 Barnes Canyon Rd. San Diego, CA	2
21-V-031	Waikiki Property LLC	8449 Garvey Ave. Rosemead, CA	2

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

B. Procedural:

- This hearing was held on March 24, 2021, in Sacramento, California and via teleconference, by delegation of the Occupational Safety and Health Standards Board

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

("Board"), with Hearing Officer Autumn Gonzalez, both presiding and hearing the matter on its merit, as a basis of proposed decision to be advanced to the Board for its consideration, in accordance with section 426.

2. At the hearing, Daniel May, with KONE, Inc., 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 Nelmida appeared on behalf of Board staff in a technical advisory capacity apart from the Board.
3. Documentary and oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence: permanent variance applications per Section A.1 table as Exhibit PD-1, Notice of Hearing as Exhibit PD-2, Board staff Pending Application Memorandum as PD-3, Division Review of Application as PD-4, Review Draft 1 Proposed Decision as PD-5, and official notice taken of the Board's rulemaking records and variance decisions concerning the safety order requirements from which variance is sought. Upon close of hearing on March 24, 2021, the record closed and the matter was taken under submission by the Hearing Officer.

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

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

2.20.4 Minimum Number and Diameter of Suspension Ropes

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

5. An intent of the requirement of ASME A17.1-2004, section 2.20.4, is to ensure that the number, diameter, and construction of suspension ropes are adequate to provided

safely robust and durable suspension means over the course of the ropes' foreseen service life.

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

2.18.5.1 Material and Factor of Safety.

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

10. The Board takes notice of Title 8, section 3141.7, subpart (a)(10):

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

11. Applicants propose use of 6mm governor rope having a safety factor of 5 or greater, in conformity with section 3141.7, subdivision (a)(10), the specific parameters of which, being expressly set out within the Elevator Safety Orders, take precedence over more generally referenced governor rope diameter requirements per ASME A17.1-2004, section 2.18.5.1. Accordingly, the governor rope specifications being presently proposed, inclusive of a factor of safety of 5 or greater, would comply with current Elevator Safety Orders requirements, and therefore not be subject to issuance of permanent variance.
12. Absent evident diminution in elevator safety, over the past decade the Board has issued numerous permanent variances for use in KONE (Ecospace) elevator systems of 8 mm

diameter suspension rope materially similar to that presently proposed (e.g. OSHSB File Nos. 06-V-203, 08-V-245, and 13-V-303).

13. As noted by the Board in OSHSB File Nos. 18-V-044, and 18-V-045, Decision and Order Findings, subpart B.17 (hereby incorporated by reference), the strength of wire rope operating as an elevator's suspension means does not remain constant over its years of projected service life. With increasing usage cycles, a reduction in the cross-sectional area of the wire rope normally occurs, resulting in decreased residual strength. This characteristic is of particular relevance to the present matter because, as also noted by Board staff, decreasing wire rope diameter is associated with a higher rate of residual strength loss. This foreseeable reduction in cross-sectional area primarily results from elongation under sheave rounding load, as well as from wear, and wire or strand breaks. However, these characteristics need not compromise elevator safety when properly accounted for in the engineering of elevator suspension means, and associated components.
14. The presently proposed wire rope is Wuxi Universal steel rope Co LTD. 8 mm 8x19S+8x7+PP, with a manufacturer rated breaking strength of 35.8 kN, and an outer wire diameter of less than 0.56 mm, but not less than 0.51 mm. Both Board staff and Division safety engineers have scrutinized the material and structural specifications, and performance testing data, of this particular proposed rope, and conclude it will provide for safety equivalent to ESO compliant 9.5 mm wire rope, with 0.56 mm outer wire (under conditions of use included within the below Decision and Order).
15. The applicant supplies tabulated data regarding the "Maximum Static Load on All Suspension Ropes." To obtain the tabulated data, the applicant uses the following formula derived from ASME A17.1 2004, Section 2.20.3:

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

where

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

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

S = manufacturer's rated breaking strength of one rope

f = the factor of safety from Table 2.20.3

16. ASME A17.1-2010 Sections 2.20.3 and 2.20.4 utilize the same formula, but provide for use of suspension ropes having a diameter smaller than 9.5 mm, under specified conditions, key among them being that use of ropes having a diameter of between

8 mm to 9.5 mm be engineered with a factor of safety of 12 or higher. This is a higher minimum factor of safety than that proposed by Applicant, but a minimum recommended by both Board staff and Division as a condition of variance necessary to the achieving of safety equivalence to 9.5 mm rope.

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

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

D. Conclusive Findings:

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

E. Decision and Order:

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

Proposed Variance Decision
KONE Monospace 500 Elevators
Hearing Date: March 24, 2021

1. The diameter of the hoisting steel ropes shall be not less than 8 mm (0.315 in) diameter and the roping ratio shall be two to one (2:1).
2. The outer wires of the suspension ropes shall be not less than 0.51 mm (0.02 in.) in diameter.
3. The number of suspension ropes shall be not fewer than those specified per hereby incorporated Decision and Order Appendix 1 Table.
4. The ropes shall be inspected annually for wire damage (rouge, valley break etc.) in accordance with "KONE Inc. Inspector's Guide to 6 mm diameter and 8 mm diameter steel ropes for KONE Elevators" (per Application Exhibit B, or as thereafter amended by KONE subject to Division approval).
5. A rope inspection log shall be maintained and available in the elevator controller room / space at all times.
6. The elevator rated speed shall not exceed those speeds specified per the Decision and Order Appendix 1 Table.
7. The maximum suspended load shall not exceed those weights (plus 5%) specified per the Decision and Order Appendix 1 Table.
8. The opening to the hoistway shall be effectively barricaded when car top inspection, maintenance, servicing, or testing of the elevator equipment in the hoistway is required. If the service personnel must leave the area for any reason, the hoistway and control room doors shall be closed.
9. The installation shall meet the suspension wire rope factor of safety requirements of ASME A17.1-2013 section 2.20.3.
10. Any Certified Qualified Conveyance Company performing inspections, maintenance, servicing or testing the elevators shall be provided a copy of this variance decision.
11. The Division shall be notified when the elevator is ready for inspection. The elevator shall be inspected by the Division and a "Permit to Operate" issued before the elevator is placed in service.
12. The Applicant shall comply with suspension means replacement reporting condition per hereby incorporated Decision and Order Appendix 2.
13. The Applicant shall notify its employees or their authorized representative(s), or both, of this order in the same way and to the same extent that employees and authorized

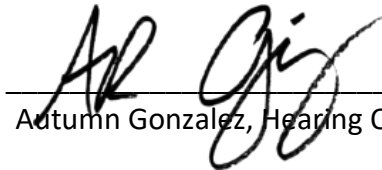
Proposed Variance Decision
KONE Monospace 500 Elevators
Hearing Date: March 24, 2021

representatives are to be notified of docketed permanent variance applications pursuant to sections 411.2 and 411.3.

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

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: March 24, 2021



Autumn Gonzalez, Hearing Officer

Appendix 1

MonoSpace 500 Suspensin Ropes Appendix 1 Table					
OSHSB File No.	Elevator ID	Rated Capacity (lbs.)	Minimum Number of Ropes	Maximum Rated Elevator Speed	Maximum Suspended Load (lbs.) [Plus 5%]
20-V-547	1-2	3,500	8	200	13,207
20-V-547	2-2	3,500	7	200	11,556
20-V-547	3-3	3,500	7	200	11,556
20-V-547	5-3	3,500	8	200	13,207
21-V-017	1	3,500	7	200	11,556
21-V-017	2	3,500	7	200	11,556
21-V-029	1	3,500	7	200	11,556
21-V-030	1	3,500	8	200	13,207
21-V-030	2	3,500	8	200	13,207
21-V-031	1	3,500	7	150	12,247
21-V-031	2	2,500	6	150	10,497

Appendix 2

Suspension Means Replacement Reporting Condition

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

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

Proposed Variance Decision
KONE Monospace 500 Elevators
Hearing Date: March 24, 2021

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

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

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

OSHSB FILE No.: see grid in Item A of
Proposed Decision Dated: March 24, 2021

DECISION

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

DAVID THOMAS, Chairman

BARBARA BURGEL, Member

KATHLEEN CRAWFORD, Member

DAVID HARRISON, Member

NOLA KENNEDY, Member

CHRIS LASZCZ-DAVIS, Member

LAURA STOCK, Member

OCCUPATIONAL SAFETY AND HEALTH STANDARDS
BOARD

Date of Adoption: April 15, 2021

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

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

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

<p>In the Matter of Application for Permanent Variance Regarding:</p> <p style="text-align: center;">Schindler Model 3300 Elevators with variant Gov. Ropes & Sheaves (Group IV)</p>	<p>OSHSB File Nos.: Per Section A table, below</p> <p style="text-align: center;"><u>PROPOSED DECISION</u></p> <p>Hearing Date: March 24, 2021</p>
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A. Subject Matter and Jurisdiction:

- Each below listed applicant (“Applicant”) has applied for permanent variance from certain provisions of the Elevator Safety Orders, found at Title 8, of the California Code of 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
21-V-008	Westfield DDC, Inc.	2855 Stevens Creek Blvd. San Jose, CA	1
21-V-015	Prologis Logistics Services Incorporated	1500 E Grant Line Rd. Tracy, CA	2
21-V-025	Toll Brothers, Inc.	3578 Rambla Place Santa Clara, CA	2

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

B. Process and Procedure:

- This hearing was held on March 24, 2021, in Sacramento, California, via teleconference, by Occupational Safety and Health Standards Board (“Board”), with Hearing Officer Autumn Gonzalez, both presiding and hearing the matter on its merit, as a basis of proposed decision to be advanced to the Board for its consideration, in accordance with California Code of Regulations, section 426.

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

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2. 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.
3. Oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence: each respective permanent variance application per Section A table as Exhibit PD-1, Notice of Hearing as Exhibit PD-2, Board staff Pending Application Memorandum as PD-3, Division Review of Application as PD-4, Review Draft 1 Proposed Decision as PD-5, and official notice taken of the Board’s rulemaking records, and variance decisions concerning the safety order requirements from which variance is requested. At close of hearing on March 24, 2021, the record was closed, and the matter taken under submission by the Hearing Officer.

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

Requested Suspension Means Related Variance:

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

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

Requested Car Top Railing Inset Variance:

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

Section 2.14.1.7.1—Top of Car Perimeter Railing Placement

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Requested Seismic Reset Switch Placement Variance:

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

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

Requested Transfer Switch Placement Variance:

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

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

Requested Governor Sheave to Rope Diameter Ratio Variance:

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

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

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

Table 2.18.7.4 Multiplier for Determining Governor Sheave Pitch Diameter

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

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

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

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

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

Positions of Division, and Board Staff:

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

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scrutiny of the subject matter, consultation between Division, Board staff, Applicant representatives, and refinement of recommended conditions and limitations.

D. Conclusive Findings:

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

E. Decision and Order:

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

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

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

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

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built into an upper floor landing door jam, or within other readily accessible and secure space shared with the motion controller outside the hoistway: section 8.4.10.1.1.

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

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

Further Conditions and Limitations:

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

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

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- 1.10. The elevator crosshead data plate shall comply with the requirements of ASME A17.1-2013, section 2.20.2.1.
 - 1.11. A suspension means data tag shall be provided that complies with the requirements of ASME A17.1-2013, section 2.20.2.2.
 - 1.12. Comprehensive visual inspections of the entire length of each and all installed suspension members, in conformity with above Conditions 1.2 and 1.3 specified criteria, shall be conducted and documented every six months by a CCCM.
 - 1.13. The Applicant shall be subject to the requirements per hereto attached, and inhere incorporated, Addendum 2, "Suspension Means Replacement Reporting Condition."
 - 1.14. Records of all tests and inspections shall be maintenance records subject to ASME A17.1-2004, Sections 8.6.1.2, and 8.6.1.4, respectively.
2. Inspection Transfer switch and Seismic Reset switch placement and enclosure shall comply with the following:
 - 2.1. If the inspection transfer switch required by ASME A17.1-2004, Rule 2.26.1.4.4, does not reside in a machine room, that switch shall not reside in the elevator hoistway. The switch shall reside in the control/machinery room/space containing the elevator's control equipment in an enclosure secured by a lock openable by a Group 1 security key. The enclosure is to remain locked at all times when not in use.
 - 2.2. If the seismic reset switch does not reside in the machine room, that switch shall not reside in the elevator hoistway. The switch shall reside in the control/machinery room/space containing the elevator's control equipment in an enclosure secured by a lock openable by a Group 1 security key. The enclosure is to remain locked at all times when not in use.
3. Any and all inset car top railing shall comply with the following:
 - 3.1. Serviceable equipment shall be positioned so that mechanics and inspectors do not have to stand on or climb over the railings to perform adjustments, maintenance, repairs or inspections. The Applicant shall not permit anyone to stand or climb over the car top railing.
 - 3.2. The distance that the railing can be inset shall be limited to not more than 6 inches.

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

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

- 3.6. The Group IV requirements for car top clearances shall be maintained (car top clearances outside the railing will be measured from the car top and not from the required bevel).
4. The elevator shall be serviced, maintained, adjusted, tested, and inspected only by CCCM having been trained, and competent, to perform those tasks on the Schindler Model 3300 elevator system in accordance with written procedures and criteria, including as required per above Conditions 1.2, and 1.3.
5. The speed governor rope and sheaves shall comply with the following:
 - 5.1. The governor shall be used in conjunction with a steel 6 mm (0.25 in.) diameter governor rope with 6-strand, regular lay construction.
 - 5.2. The governor rope shall have a factor of safety of 8 or greater as related to the strength necessary to activate the safety.
 - 5.3. The governor sheaves shall have a pitch diameter of not less than 200 mm (7.87 in.).
6. The Division shall be notified when the elevator is ready for inspection. The elevator shall be inspected by the Division, and all applicable requirements met, including conditions of this permanent variance, prior to a Permit to Operate the elevator being issued. The elevator shall not be placed in service prior to the Permit to Operate being issued by Division.

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Hearing Date: March 24, 2021

7. The Applicant shall notify its employees or their authorized representative(s), or both, of this order in the same way and to the same extent that employees and authorized representatives are to be notified of docketed permanent variance applications pursuant to California Code of Regulations, Title 8, sections 411.2, and 411.3.
8. This Decision and Order shall remain in effect unless modified or revoked upon application by the Applicant, affected employee(s), the Division, or by the Board on its own motion, in procedural accordance with Title 8, sections 411, et. seq.

Pursuant to 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: March 24, 2021


Autumn Gonzalez, Hearing Officer

ADDENDUM 1

October 6, 2010

CIRCULAR LETTER E-10-04

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

SUBJECT: Coated Steel Belt Monitoring

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

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

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

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

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

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

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

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

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

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

Debra Tudor
Principal Engineer
DOSH-Elevator Unit HQS

ADDENDUM 2

Suspension Means – Replacement Reporting Condition

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

Further:

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

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Hearing Date: March 24, 2021

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

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

In the Matter of Application for Permanent)
Variance Regarding:)
)
Otis Gen2S Elevators (Group IV))
)
_____)

OSHSB FILE No.: see grid in Item A of
Proposed Decision Dated: March 24, 2021

DECISION

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

DAVID THOMAS, Chairman

BARBARA BURGEL, Member

KATHLEEN CRAWFORD, Member

DAVID HARRISON, Member

NOLA KENNEDY, Member

CHRIS LASZCZ-DAVIS, Member

LAURA STOCK, Member

OCCUPATIONAL SAFETY AND HEALTH STANDARDS
BOARD

Date of Adoption: April 15, 2021

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

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

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

<p>In the Matter of Application for Permanent Variance Regarding:</p> <p style="text-align: center;">Otis Gen2S Elevators (Group IV)</p>	<p>OSHSB File Nos.: Per Section A table, below</p> <p style="text-align: center;"><u>PROPOSED DECISION</u></p> <p>Hearing Date: March 24, 2021</p>
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A. Subject Matter

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

Variance No.	Applicant Name	Variance Location Address	No. of Elevators
21-V-009	Colorado 77, LLC	39 S Los Robles Ave. 300 E. Colorado Blvd. Pasadena, CA	3
21-V-010	Life Illuminated LLC	VRV Parking Garage 12736 Beach Blvd. Stanton, CA	2
21-V-011	San Juan Unified School District	Del Campo Science Bldg. 4925 Dewey Drive Fair Oaks, CA	1
21-V-026	Ocotillo LA 9001SMB, LLC	9001 Santa Monica Blvd. West Hollywood, CA	2
21-V-027	PATH Villas South Gate, LP	5610 Imperial Highway South Gate, CA	1
21-V-028	SJECCD	Maintenance & Operations Bldg Emergency Operations Center 2100 Moorpark Ave San Jose, CA	1

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 Otis Gen2S Elevators (Group IV)
 Hearing Date: March 24, 2021*

21-V-032	Seefried Industrial Properties	Project Bruin Distributin Center 3100 Sakioka Drive Oxnard, CA	1
21-V-033	1717 University Associates LLC	1717 University Avenue Berkeley, CA	1
21-V-034	17422 Derian Irvine LLC	Pistoia Parking Structure 18100 Derian Avenue Irvine, CA	2
21-V-035	Brooklyn Basin Associates III, L.P.	311 9th Avenue Oakland, CA	2
21-V-036	Atlas V Marengo LLC	101 S. Marengo Pasadena, CA	2
21-V-037	FC Pier 70 Building 12, LP	180 Maryland Street San Francisco, CA	4
21-V-038	Fedora Bliss, LLC	832 S. Mariposa Ave. Los Angeles, CA	2
21-V-039	Fedora Bliss, LLC	839 S. Fedora St. Los Angeles, CA	2
21-V-040	Kern Community College District	Bakersfield College - Science Building 1801 Panorama Drive Bakersfield, CA	1
21-V-041	PO Sunset LLC	6200 W Sunset Blvd. Los Angeles, CA	3

2. The safety orders from which variance may issue, are enumerated in the portion of the below Decision and Order preceding the variance conditions.

B. Procedural

1. This proceeding is conducted in accordance with Labor Code Section 143, and California Code of Regulations, Title 8, Section 401, et. seq.
2. This hearing was held on March 24, 2021, 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

*Proposed Variance Decision
Otis Gen2S Elevators (Group IV)
Hearing Date: March 24, 2021*

a basis of proposed decision to be advanced to the Board for its consideration, in accordance with California Code of Regulations, Title 8, Section 426.

3. At the hearing, Dan Leacox of Leacox & Associates appeared on behalf of each Applicant; Mark Wickens and David Morris appeared on behalf of the Division of Occupational Safety and Health (“Division”), and Michael Nelmida appeared on behalf of Board staff, in a technical advisory role apart from the Board.
4. Oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence: each respective permanent variance applications per Section A table as Exhibit PD-1; Notice of Hearing as Exhibit PD-2; Board staff Pending Application Memorandum as PD-3; Division Review of Application as PD-4; Review Draft 1 Proposed Decision as PD-5; and official notice taken of the Board’s rulemaking records, and variance files and decisions, concerning the Elevator Safety Order standards at issue. At close of hearing on March 24, 2021, the record was closed, and the matter taken under submission by the Hearing Officer.

C. Findings and Basis:

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

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

D. Conclusive Findings:

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

E. Decision and Order:

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

- Car top railing: Sections 2.14.1.7.1 (only to the extent necessary to permit an inset car top railing, if, in fact, the car top railing is inset);
- Speed governor over-speed switch: 2.18.4.2.5(a) (only insofar as is necessary to permit the use of the speed reducing system proposed by the Applicants, where the speed reducing switch resides in the controller algorithms, rather than on the governor, with the necessary speed input supplied by the main encoder signal from the motor);
- Governor rope diameter: 2.18.5.1 (only to the extent necessary to allow the use of reduced diameter governor rope);
- Pitch diameter: 2.18.7.4 (to the extent necessary to use the pitch diameter specified in Condition No. 13.c);
- Suspension means: 2.20.1, 2.20.2.1, 2.20.2.2(a), 2.20.2.2(f), 2.20.3, 2.20.4, 2.20.9.3.4 and 2.20.9.5.4—the variances from these “suspension means” provisions are only to the extent necessary to permit the use of Otis Gen2 flat coated steel suspension belts in lieu of conventional steel suspension ropes;
- Inspection transfer switch: 2.26.1.4.4(a) (only to the extent necessary to allow the inspection transfer switch to reside at a location other than a machine room, if, in fact, it does not reside in the machine room); and

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

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

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

monitoring device and criteria for belt replacement, and the applicant shall make those procedures and criteria available to the Division upon request.

4. The flat coated steel belts shall be provided with a metal data tag that is securely attached to one of those belts. This data tag shall bear the following flat steel coated belt data:
 - a. The width and thickness in millimeters or inches;
 - b. The manufacturer's rated breaking strength in (kN) or (lbf);
 - c. The name of the person or organization that installed the flat coated steel belts;
 - d. The month and year the flat coated steel belts were installed;
 - e. The month and year the flat coated steel belts were first shortened;
 - f. The name or trademark of the manufacturer of the flat coated steel belts; and
 - g. Lubrication information.
5. There shall be a crosshead data plate of the sort required by Section 2.20.2.1, and that plate shall bear the following flat steel coated belt data:
 - a. The number of belts;
 - b. The belt width and thickness in millimeters or inches; and
 - c. The manufacturer's rated breaking strength per belt in (kN) or (lbf).
6. The opening to the hoistway shall be effectively barricaded when car top inspection, maintenance, servicing, or testing of elevator equipment in the hoistway is required. If service personnel must leave the area for any reason, the hoistway and control room doors shall be closed.
7. If there is an inset car top railing:
 - a. Serviceable equipment shall be positioned so that mechanics and inspectors do not have to climb on railings to perform adjustment, maintenance, repairs or inspections. The applicant shall not permit anyone to stand on or climb over the car top railing.

- b. The distance that the car top railing may be inset shall be limited to no more than 6 inches.
- c. All exposed areas outside the car top railing shall preclude standing or placing objects or persons which may fall and shall be beveled from the mid- or top rail to the outside of the car top.
- d. The top of the beveled area and/or car top outside the railing, shall be clearly marked. The markings shall consist of alternating 4 inch diagonal red and white stripes.
- e. The applicant shall provide durable signs with lettering not less than ½ inch on a contrasting background on each inset railing; each sign shall state:

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

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

12. The governor speed-reducing switch function shall comply with the following:
 - a. It shall be used only with direct drive machines; i.e., no gear reduction is permitted between the drive motor and the suspension means.
 - b. The velocity encoder shall be coupled to the driving machine motor shaft. The “C” channel of the encoder shall be utilized for velocity measurements required by the speed reducing system. The signal from “C” channel of the encoder shall be verified with the “A” and “B” channels for failure. If a failure is detected then an emergency stop shall be initiated.
 - c. Control system parameters utilized in the speed-reducing system shall be held in non-volatile memory.
 - d. It shall be used in conjunction with approved car-mounted speed governors only.
 - e. It shall be used in conjunction with an effective traction monitoring system that detects a loss of traction between the driving sheave and the suspension means. If a loss of traction is detected, then an emergency stop shall be initiated.
 - f. A successful test of the speed-reducing switch system’s functionality shall be conducted at least once a year (the record of the annual test of the speed-reducing switch system shall be a maintenance record subject to ASME A17.1-2004, Section 8.6.1.4).
 - g. A successful test of the traction monitoring system’s functionality shall be conducted at least once a year (the record of the annual test of the traction monitoring system shall be a maintenance record subject to ASME A17.1-2004, Section 8.6.1.4).
 - h. The Applicant shall not utilize the elevator unless the manufacturer has written procedures for the maintenance, inspection, and testing of the speed-reducing switch and traction monitoring systems. The Applicant shall make the procedures available to the Division upon request.

13. The speed governor rope and sheaves shall comply with the following:
 - a. The governor shall be used in conjunction with a 6 mm (0.25 in.) diameter steel governor rope with 6-strand, regular lay construction.
 - b. The governor rope shall have a factor of safety of 8 or greater as related to the strength necessary to activate the safety.

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- 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: March 24, 2021



Autumn Gonzalez, Hearing Officer

ADDENDUM 1

October 6, 2010

CIRCULAR LETTER E-10-04

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

SUBJECT: Coated Steel Belt Monitoring

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

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

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

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

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

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

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

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

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

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

Debra Tudor
Principal Engineer
DOSH-Elevator Unit HQS

ADDENDUM 2

Suspension Means – Replacement Reporting Condition

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

Further:

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

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Otis Gen2S Elevators (Group IV)
Hearing Date: March 24, 2021

- 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 grid in Item A of
Proposed Decision Dated: March 24, 2021

DECISION

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

DAVID THOMAS, Chairman

BARBARA BURGEL, Member

KATHLEEN CRAWFORD, Member

DAVID HARRISON, Member

NOLA KENNEDY, Member

CHRIS LASZCZ-DAVIS, Member

LAURA STOCK, Member

OCCUPATIONAL SAFETY AND HEALTH STANDARDS
BOARD

Date of Adoption: April 15, 2021

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

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

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

<p>In the Matter of Application for Permanent Variance Regarding:</p> <p style="text-align: center;">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: March 24, 2021</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
21-V-016	Vivante Newport Center, LLC	850 San Clemente Drive Newport Beach, CA	3

- 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.
- This hearing was held on March 24, 2021, in Sacramento, California and 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.
- At the hearing, Carolina Castaneda, 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 Nelmidia appeared on behalf of Board staff in a technical advisory role apart from the Board.
- At the hearing, documentary and oral evidence was received, and by stipulation of all parties, documents were accepted into evidence: each permanent variance application per Section A table as Exhibit PD-1; Notice of Hearing as PD-2; Board staff Pending Application Memorandum as PD-3; Division Review of Application report as PD-4;

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Mitsubishi Elevators (Group IV)
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Review Draft 1 Proposed Decision as PD-5; and Official Notice taken of the Board's rulemaking records and variance decisions concerning the safety order requirements from which variance is requested. At the close of hearing on March 24, 2021, 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

*Proposed Variance Decision
Mitsubishi Elevators (Group IV)
Hearing Date: March 24, 2021*

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

Dated: March 24, 2021



Autumn Gonzalez, Hearing Officer

Occupational Safety and Health Standards Board

Business Meeting
Legislative Update

Legislative Update
Prepared April 5, 2021, for the April 15, 2021
Meeting of the Occupational Safety and Health Standards Board

Summary of Changes

AB-2 Regulations: legislative review: regulatory reform. (2021-2022) **No Update**

AB-7 Emergency ambulance employees: subsidized protective gear. (2021-2022) **No Update**

AB-29 State bodies: meetings. (2021-2022) **No Update**

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

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

AB-257 Fast food industry: working standards. (2021-2022) **Update New language in italics**

AB-339 State and local government: open meetings. (2021-2022) **No Update**

AB-420 Public health: amusement parks and COVID-19. (2021-2022) **No Update**

AB-474 California Public Records Act: conforming revisions. (2021-2022) **NEW. Monitoring for impacts.**

AB-701 Warehouse distribution centers. (2021-2022) **No Update.**

AB-893 Emergency regulations: Division of Occupational Safety and Health: State Department of Public Health. (2021-2022) **NEW. Monitoring for impacts.**

AB-885 Bagley-Keene Open Meeting Act: teleconferencing. (2021-2022) **NEW. Monitoring for impacts.**

AB-1291 State bodies: open meetings. (2021-2022) **NEW. Monitoring for impacts.**

SB-46 Employment: contact tracing and safety policies: COVID-19. (2021-2022) **Update New language in italics**

SB-321 Employment safety standards: household domestic services. (2021-2022) **NEW. Monitoring for impacts.**

SB-410 Occupational safety and health: regulations. (2021-2022) **NEW. Monitoring for impacts.**

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Prepared April 5, 2021, for the April 15, 2021
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AB-2 Regulations: legislative review: regulatory reform. (2021-2022)
(Fong)

Date	Action
01/11/21	Referred to Com. on A. & A.R.

Summary:

AB 2, as introduced, Fong. Regulations: legislative review: regulatory reform.

The Administrative Procedure Act governs the procedure for the adoption, amendment, or repeal of regulations by state agencies and for the review of those regulatory actions by the Office of Administrative Law. That act requires an agency, prior to submitting a proposal to adopt, amend, or repeal an administrative regulation, to determine the economic impact of that regulation, in accordance with certain procedures. The act defines a major regulation as a regulation, as specified, that will have an economic impact on California business enterprises and individuals in an amount exceeding \$50,000,000, as estimated by the agency. The act requires the office to transmit a copy of a regulation to the Secretary of State for filing if the office approves the regulation or fails to act on it within 30 days. The act provides that a regulation or an order of repeal of a regulation becomes effective on a quarterly basis, as prescribed, except in specified instances.

This bill would require the office to submit to each house of the Legislature for review a copy of each major regulation that it submits to the Secretary of State. The bill would add another exception to those currently provided that specifies that a regulation does not become effective if the Legislature enacts a statute to override the regulation.

The Administrative Procedure Act requires the Office of Administrative Law and a state agency proposing to adopt, amend, or repeal a regulation to review the proposed changes for, among other things, consistency with existing state regulations.

This bill would require each state agency to, on or before January 1, 2023, review that agency's regulations, identify any regulations that are duplicative, overlapping, inconsistent, or out of date, to revise those identified regulations, as provided, and report to the Legislature and Governor, as specified. The bill would repeal these provisions on January 1, 2024.

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

AB-2

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

Date	Action
01/11/21	Referred to Com. on L. & E

Summary:

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

AB-7

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

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

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

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

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AB-29	AB-29 State bodies: meetings. (2021-2022) (Cooper and Rubio)	
	Date	Action
	01/11/21	Referred to Com. on REV. & TAX
<p><u>Summary:</u></p> <p>AB 29, as introduced, Cooper. State bodies: meetings.</p> <p>Existing law, the Bagley-Keene Open Meeting Act, requires that all meetings of a state body, as defined, be open and public, and that all persons be permitted to attend any meeting of a state body, except as otherwise provided in that act. Existing law requires the state body to provide notice of its meeting, including specified information and a specific agenda of the meeting, as provided, to any person who requests that notice in writing and to make that notice available on the internet at least 10 days in advance of the meeting.</p> <p>This bill would require that notice to include all writings or materials provided for the noticed meeting to a member of the state body by the staff of a state agency, board, or commission, or another member of the state body that are in connection with a matter subject to discussion or consideration at the meeting. The bill would require those writings or materials to be made available on the state body’s internet website, and to any person who requests the writings or materials in writing, on the same day as the dissemination of the writings and materials to members of the state body or at least 72 hours in advance of the meeting, whichever is earlier. The bill would prohibit a state body from discussing those writings or materials, or from taking action on an item to which those writings or materials pertain, at a meeting of the state body unless the state body has complied with these provisions.</p> <p>Board staff are monitoring this legislation for cost and impacts to its meeting requirements.</p>		

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

Date	Action
03/22/21	In committee: Hearing postponed by committee.

Summary:

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

AB-62

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

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

This bill would take effect immediately as a tax levy.

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

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Prepared April 5, 2021, for the April 15, 2021
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AB-73 Employment safety: agricultural workers: wildfire smoke. (2021-2022)
 (Rivas, Garcia, Gonzalez, and Kalra)

Date	Action
03/29/21	From committee chair, with author's amendments: Amend, and re-refer to Com. on L. & E. Read second time and amended.

Summary:

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

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

AB-73

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

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

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

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

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

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

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

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

AB 257 ~~Fast food industry: working standards~~ *Food facilities and employment*
 (2021-2022)
 (Gonzalez)

Date	Action
03/25/21	From committee chair, with author's amendments: Amend, and re-refer to Com. on L. & E. Read second time and amended.
03/25/21	Referred to Coms. on L. & E. and JUD.

AB-257 Summary:
*AB 257, as amended, Lorena Gonzalez. ~~Fast food industry: working standards.~~ *Food facilities and employment.**

Existing law prescribes various protections for employees and generally charges the Labor Commissioner with the enforcement of labor laws. Existing law establishes the powers and responsibilities of the Division of Occupational Safety and Health and the Division of Labor Standards and Enforcement, which are within the Department of Industrial Relations. Existing law creates the California Retail Food Code, the purpose of which is to safeguard public health and provide to consumers food that is safe, unadulterated, and honestly presented through adoption of science-based standards, which establishes uniform health and sanitation standards for, and provides for regulation by the State Department of Public Health of, retail food facilities, as defined, and requires local health agencies to enforce these provisions.

This bill would enact the Fast Food Accountability and Standards Recovery Act or FAST Recovery Act. The bill would ~~make a statement of findings regarding the fast food industry,~~

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~~particularly with respect to the COVID-19 pandemic, and state the intent of the Legislature to enact legislation relating to the fast food industry.~~ *establish the Fast Food Sector Council (council), to be composed of 11 members to be appointed by the Governor, the Speaker of the Assembly, and the Senate Rules Committee, and would prescribe its powers. The purpose of the council would be to establish industry-wide minimum standards on wages, working hours, and other working conditions related to the health, safety, and welfare of, and supplying the necessary cost of proper living to, fast food restaurant workers, as well as effecting interagency coordination and prompt agency responses in this regard. The bill would define the characteristics of a fast food restaurant, including that the establishment be part of a set of fast food restaurants consisting of 30 or more establishments nationally that share a common brand, or that are characterized by standardized options for decor, marketing, packaging, products, and services.*

This bill would require the council to promulgate minimum fast food restaurant employment standards, including standards on wages, working conditions, and training, and to issue, amend, and repeal any other rules and regulations, as necessary to carry out its duties. Under the bill, if a conflict exists between council's standards, rules, or regulations and those issued by another state agency, the standards, rules, or regulations issued by the council would apply to fast food restaurant workers and fast food restaurant franchisees and franchisors, and the conflicting rules or regulations of the other state agency would not have force or effect with respect to these parties. The bill would except from this application proposed standards within the jurisdiction of the Occupational Safety and Health Standards Board and would prescribe an alternate process in this regard.

This bill would require the council to conduct a full review of the adequacy of minimum fast food restaurant health, safety, and employment standards at least once every 3 years, and would empower the council to issue subpoenas for this purpose. The bill would require the council, following that review, to issue, amend, or repeal, or make recommendations to issue, amend, or repeal, any fast food employment, health or safety standard as appropriate. The bill would require the council to hold hearings every 6 months that would be open to the public, as specified, and would authorize the council to coordinate with and authorize local agencies to hold such meetings. The bill would authorize a county, and a city with a population greater than 200,000, to establish a Local Fast Food Sector Council, and would prescribe its powers and requirements for its composition. The bill would authorize a Local Fast Food Sector Council to provide recommendations to the council and would prescribe requirements for the state council in connections with these recommendations.

This bill would require standards for minimum wages, maximum hours of work, and other working conditions fixed by the council to be the minimum standards for fast food restaurant employees and would require that they be enforced by the Division of Labor Standards Enforcement. The bill would require the Labor Commissioner and the commissioner's deputies to take assignments of violations of standards issued by the council upon the filing of a claim in writing by an employee or an employee's authorized representative.

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In addition to the above, FAST Recovery Act would require that fast food restaurant franchisor be responsible for ensuring that its franchisee comply with a variety of employment, worker, and public health and safety laws and orders, including those related to unfair business practices, general liability, employment discrimination, the California Retail Food Code, a range of labor regulations, emergency orders, and standards issued by the council. The bill would require that a fast food restaurant franchisor be jointly and severally liable for violations of its franchisee, as specified, and would provide that specified laws may be enforced against a fast food restaurant franchisor to the same extent that they may be enforced against a franchisee. Among other things, the bill would authorize a fast food restaurant franchisee to file an action against its franchisor for monetary or injunctive relief in connection with the terms of a franchise and the franchisee's compliance with specified laws and orders. The bill would create presumptions in this regard and would provide for joint and several liability of the franchisor if the terms of a franchise are found to be a substantial factor in causing the franchisee to be liable. The bill would prohibit a fast food restaurant franchisee or fast food restaurant franchisor 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.

Existing law requires a local health officer or a local enforcement agency to notify the person in charge of the food facility, investigate conditions, and take appropriate action when a local health officer is notified of an illness that can be transmitted by food or an employee in a food facility. Existing law requires the owner or the food safety certified employee to require food employees to report to the person in charge if a food employee is diagnosed with an illness. Existing law specifies that illness, for purposes of those requirements, includes salmonella typhi and norovirus, among others. A person who violates any provision of the California Retail Food Code is guilty of a misdemeanor.

This bill would additionally include COVID-19 as an illness for purposes of the above-described requirements. By increasing the duties of local officials and expanding the definition of an existing crime, this bill would impose a state-mandated local program.

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

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

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

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AB-339 State and local government: open meetings. (2021-2022)
 (Lee and Garcia)

Date	Action
01/29/21	From printer. May be heard in committee February 28.
01/28/21	Read first time. To print.

Summary:

AB 339, as introduced, Lee. State and local government: open meetings.

Existing law requires all meetings, as defined, of a house of the Legislature or a committee thereof to be open and public, and requires all persons to be permitted to attend the meetings, except as specified.

This bill would require all meetings, including gatherings using teleconference technology, to include an opportunity for all persons to attend via a call-in option or an internet-based service option that provides closed captioning services and requires both a call-in and an internet-based service option to be provided to the public. The bill would require all meetings to provide the public with an opportunity to comment on proposed legislation, as provided, and requires translation services to be provided for the 10 most-spoken languages, other than English, in California, and would require those persons commenting in a language other than English to have double the amount of time as those giving a comment in English, if time restrictions on public comment are utilized, except as specified. The bill would require instructions on how to attend the meeting to be posted at the time notice of the meeting is publicized, as specified.

Existing law, the Ralph M. Brown Act, requires, with specified exceptions, that all meetings of a legislative body of a local agency, as those terms are defined, be open and public and that all persons be permitted to attend and participate.

This bill would require all meetings to include an opportunity for all persons to attend via a call-in option or an internet-based service option that provides closed captioning services and requires both a call-in and an internet-based service option to be provided to the public. The bill would require, even in the case of a declared state or local emergency, teleconferenced meetings to include an in-person public comment opportunity. The bill would require all meetings to provide the public with an opportunity to address the legislative body remotely via call-in or internet-based service, as provided, and would require instructions on how to attend the meeting to be posted at the time notice of the meeting is publicized, as specified. The bill would also require the legislative bodies of the local agency to employ a sufficient amount of qualified bilingual persons to provide

AB-339

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translation during the meeting in the language of a non-English-speaking person, in jurisdictions which govern a substantial number of non-English-speaking people, as defined.

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.

This bill would require all meetings, as defined, to include an opportunity for all persons to attend via a call-in option or an internet-based service option that provides closed captioning services and requires both a call-in and an internet-based service option to be provided to the public. The bill would require instructions on how to attend the meeting via call-in or internet-based service to be posted online along with the meeting agenda in an easily accessible location at least 72 hours before all regular meetings and at least 24 hours before all special meetings. The bill would require all meetings to provide the public with an opportunity to address the legislative body remotely via call-in or internet-based service, as provided, and would require those persons commenting in a language other than English to have double the amount of time as those giving a comment in English, if time restrictions on public comment are utilized, except as specified.

Existing law, the Dymally-Alatorre Bilingual Services Act, requires any materials explaining services available to the public to be translated into any non-English language spoken by a substantial number of the public, as defined, served by the agency, and requires every state and local agency serving a substantial number of non-English-speaking people, as defined, to employ a sufficient number of qualified bilingual persons in public contact positions or as interpreters to ensure provision of information and services in the language of the non-English-speaking person.

This bill would require legislative bodies of local agencies, and state bodies, as defined, to translate agendas and instructions for accessing the meeting to be translated into all languages for which 5% of the population in the area governed by the local agency, or state body's jurisdiction, are speakers.

By imposing new duties on local governments with respect to meetings, this bill would impose a state-mandated local program.

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

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

The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open

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meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

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

AB-420	AB-420 Public health: amusement parks and COVID-19. (2021-2022) (Quirk-Silva and Valladares)	
	Date	Action
	03/01/21	Re-referred to Com. on A.,E.,S.,T., & I.M..
	02/25/21	From committee chair, with author's amendments: Amend, and re-refer to Com. on A.,E.,S.,T., & I.M. Read second time and amended.
	02/25/21	Referred to Coms. on A.,E.,S.,T., & I.M. and L. & E.
	02/05/21	From printer. May be heard in committee March 7.
	02/04/21	Read first time. To print.
<p><u>Summary:</u></p> <p>AB 420, as introduced, Quirk-Silva. Public health: amusement parks and COVID-19.</p> <p>Existing law, the California Emergency Services Act, authorizes the Governor to declare a state of emergency during conditions of disaster or extreme peril to persons or property, including epidemics. Pursuant to this authority, on March 4, 2020, the Governor declared a state of emergency relating to the novel coronavirus 2019 (COVID-19) pandemic. On August 28, 2020, the executive branch implemented a 4-tier "Blueprint for a Safer Economy," which identifies a county's COVID-19 risk level for business operations on a scale from widespread risk to minimal risk. On October 20, 2020, the State Department of Public Health and the Division of Occupational Safety and Health issued a guidance document, "COVID-19 INDUSTRY GUIDANCE: Amusement Parks and Theme Parks," which authorizes a small amusement park to operate at limited capacity when its county is in the moderate</p>		

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	<p>tier, and authorizes any other amusement park to operate at 25% capacity when its county is in the minimal tier.</p> <p>This bill would express the intent of the Legislature that the executive branch adjust the “COVID-19 INDUSTRY GUIDANCE: Amusement Parks and Theme Parks” document and place all amusement parks, regardless of size, within the moderate risk tier, rather than the minimal risk tier. If the executive branch takes those actions, the bill would require the Department of Industrial Relations to administer a competitive grant for amusement parks to be used by amusement parks to purchase personal protective equipment for their employees. The bill would appropriate \$500,000 from the General Fund for the grant program. The bill would also make related findings and declarations.</p> <p>Board staff are monitoring this legislation to determine if regulatory action by the Board is called for.</p>
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	<p>AB-474 California Public Records Act: conforming revisions. (2021-2022) (Chau)</p> <table border="1" style="width: 100%;"> <thead> <tr> <th style="width: 20%;">Date</th> <th>Action</th> </tr> </thead> <tbody> <tr> <td>03/24/21</td> <td>Read second time. Ordered to Consent Calendar.</td> </tr> <tr> <td>03/23/21</td> <td>From committee: Do pass. To Consent Calendar. (Ayes 11. Noes 0.) (March 23).</td> </tr> <tr> <td>02/18/21</td> <td>Referred to Com. on JUD.</td> </tr> <tr> <td>02/09/21</td> <td>From printer. May be heard in committee March 11.</td> </tr> <tr> <td>02/08/21</td> <td>Read first time. To print.</td> </tr> </tbody> </table> <p>AB-474</p> <p><u>Summary:</u></p> <p>AB 474, as introduced, Chau. California Public Records Act: conforming revisions.</p> <p>The California Public Records Act requires state and local agencies to make their records available for public inspection, unless an exemption from disclosure applies.</p> <p>This bill would enact various conforming and technical changes related to another bill that recodifies and reorganizes the California Public Records Act. The bill would only become operative if the related bill recodifying the act is enacted and becomes operative on January 1, 2023. The bill would also specify that any other bill enacted by the Legislature during the</p>	Date	Action	03/24/21	Read second time. Ordered to Consent Calendar.	03/23/21	From committee: Do pass. To Consent Calendar. (Ayes 11. Noes 0.) (March 23).	02/18/21	Referred to Com. on JUD.	02/09/21	From printer. May be heard in committee March 11.	02/08/21	Read first time. To print.
Date	Action												
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02/09/21	From printer. May be heard in committee March 11.												
02/08/21	Read first time. To print.												

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	<p>2021 calendar year that takes effect on or before January 1, 2022, and that affects a provision of this bill shall prevail over this act, except as specified.</p> <p>Board staff are monitoring this legislation.</p>
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AB-701	<p>AB-701 Warehouse distribution centers. (2021-2022) (Gonzalez)</p>	
	Date	Action
	02/25/21	Referred to Com. on L. & E.
	02/17/21	From printer. May be heard in committee March 19.
	02/16/21	Read first time. To print.
	<p><u>Summary:</u></p> <p>This bill would require specified employers to provide to each employee, defined as a nonexempt employee who works at a warehouse distribution center, a written description of each quota to which the employee is subject, including the quantified number of tasks to be performed, or materials to be produced or handled, within the defined time period, and any potential adverse employment action that could result from failure to meet the quota. The bill would require, if the quota or the adverse consequences for failure to meet the quota have changed, the employer to provide the employee with a revised written description. The bill would prohibit an employer from taking adverse action against an employee for failure to meet a quota that has not been disclosed or for failure to meet a quota that does not allow a worker to comply with health and safety laws.</p> <p>This bill would require the division to propose to the Occupational Safety and Health Standards Board for the board’s review and adoption a standard that minimizes the risk of illness and injury among employees working in warehouse distribution centers that employ production quotas, as provided. Because this bill would expand the definition of an existing crime, it would impose a state-mandated local program.</p> <p>Board staff are monitoring this legislation to determine if regulatory action by the Board is called for.</p>	

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AB-893 Emergency regulations: Division of Occupational Safety and Health: State Department of Public Health. (2021-2022)

(Davies)

Date	Action
02/25/21	Referred to Com. on A. & A.R.
02/18/21	From printer. May be heard in committee March 20.
02/17/21	Read first time. To print

Summary:

AB 893, as introduced, Davies. Emergency regulations: Division of Occupational Safety and Health: State Department of Public Health.

AB-893

Existing law establishes the Occupational Safety and Health Standards Board within the Department of Industrial Relations to adopt occupational health and safety standards to protect the welfare of employees. The Division of Occupational Safety and Health enforces occupational safety and health standards and orders.

Existing law establishes the State Department of Public Health, within the California Health and Human Services Agency, and vests the department with certain duties, powers, functions, jurisdiction, and responsibilities over specified public health programs.

Existing law, the Administrative Procedure Act, governs, among other things, the procedures for the adoption, amendment, or repeal of regulations, including emergency regulations, by state agencies and for the review of those regulatory actions by the Office of Administrative Law.

This bill would require the Division of Occupational Safety and Health or the State Department of Public Health, within 14 calendar days of the release of a federal recommendation that conflicts with an emergency regulation related to COVID-19 issued by the division or the department, to review the conflicting emergency regulation and make a determination to either amend the regulation or submit a report to the Legislature on the decision not to amend the regulation, as specified. The bill would require the division or department, before determining whether to amend the emergency regulation, to provide public notice and an opportunity for public comment. The bill would repeal these provisions

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	<p>90 days after the termination of the state of emergency related to the COVID-19 pandemic declared by the Governor.</p> <p>This bill would declare that it is to take effect immediately as an urgency statute.</p> <p>Board staff are monitoring this legislation to determine if regulatory action by the Board is called for.</p>
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	<p>AB-885 Bagley-Keene Open Meeting Act: teleconferencing.(2021-2022) (Quirk)</p> <table border="1"> <thead> <tr> <th style="text-align: center;">Date</th> <th style="text-align: center;">Action</th> </tr> </thead> <tbody> <tr> <td>03/25/21</td> <td>Re-referred to Com. on G.O.</td> </tr> <tr> <td>03/24/21</td> <td>From committee chair, with author's amendments: Amend, and re-refer to Com. on G.O. Read second time and amended.</td> </tr> <tr> <td>02/25/21</td> <td>Referred to Com. on G.O.</td> </tr> <tr> <td>02/18/21</td> <td>From printer. May be heard in committee March 20.</td> </tr> <tr> <td>02/17/21</td> <td>Read first time. To print.</td> </tr> </tbody> </table>	Date	Action	03/25/21	Re-referred to Com. on G.O.	03/24/21	From committee chair, with author's amendments: Amend, and re-refer to Com. on G.O. Read second time and amended.	02/25/21	Referred to Com. on G.O.	02/18/21	From printer. May be heard in committee March 20.	02/17/21	Read first time. To print.
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02/18/21	From printer. May be heard in committee March 20.												
02/17/21	Read first time. To print.												
AB-885	<p><u>Summary:</u></p> <p>AB 885, as amended, Quirk. Bagley-Keene Open Meeting Act: teleconferencing.</p> <p>The Bagley-Keene Open Meeting Act (Bagley-Keene Act), requires, with specified exceptions, that all meetings of a state body, as defined, be open and public, and all persons be permitted to attend any meeting of a state body, except as provided. The Bagley-Keene Act, among other things, requires a state body that elects to conduct a meeting or proceeding by teleconference to make the portion of the meeting that is required to be open to the public audible to the public at the location specified in the notice of the meeting. The Bagley-Keene Act requires a state body that elects to conduct a meeting or proceeding by teleconference to post agendas at all teleconference locations, identify each teleconference location in the notice and agenda of the meeting or proceeding, and requires each teleconference location to be accessible to the public. That law authorizes any meeting of a state body that is an advisory board, advisory commission, advisory committee, advisory subcommittee, or similar multimember advisory body to hold an open meeting by teleconference if the meeting</p>												

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complies with the requirements of the act, except as provided. Existing law requires that when a member of a multimember state advisory body participates remotely the body provide a means by which the public may remotely hear audio of the meeting or remotely observe the meeting. Existing law requires a multimember state advisory body to end or adjourn a meeting if it discovers that a required means of remote access has failed during the meeting, and, if the meeting is to adjourn and reconvene on the same day, that law requires the body to communicate, among other things, how a member of the public may hear audio of the meeting or observe the meeting.

This bill would require a state body that elects to conduct a meeting or proceeding by teleconference to make the portion that is required to be open to the public both audibly and visually observable. The bill would require a state body that elects to conduct a meeting or proceeding by teleconference to post an agenda at the designated primary physical meeting location in the notice of the meeting where members of the public may physically attend the meeting and participate. The bill would extend the above requirements of meetings of multimember advisory bodies that are held by teleconference to meetings of all multimember state bodies. The bill would require a multimember state body to provide a means by which the public may both audibly and visually remotely observe a meeting if a member of that body participates remotely. The bill would further require any body that is to adjourn and reconvene a meeting on the same day to communicate how a member of the public may both audibly and visually observe the meeting. The bill would also make nonsubstantive changes to those provisions.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

Board staff are monitoring this legislation for cost and impacts to its meeting requirements.

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AB-1291 State bodies: open meetings. (2021-2022)
(Frazier)

Date	Action
03/04/21	Referred to Com. on G.O.
02/22/21	Read first time.
02/20/21	From printer. May be heard in committee March 22.
02/19/21	Introduced. To print.

Summary:

AB-1291

AB 1291, as introduced, Frazier. State bodies: open meetings.

The Bagley-Keene Open Meeting Act requires that meetings of a state body be open and public and that all persons be permitted to attend, with certain exceptions. Existing law provides that, subject to certain exceptions and reasonable regulations, the state body shall provide members of the public an opportunity to directly address the state body on agenda items. Existing law authorizes the state body to limit the amount of time allotted for each member of the public to speak, but specifies that members of the public who use translators shall be given twice that allotted amount of time.

This bill would also require a state body, when it limits time for public comment, to provide at least twice the allotted time to a member of the public who utilizes translating technology to address the state body. The bill would additionally make technical, nonsubstantive changes.

Board staff are monitoring this legislation for cost and impacts to its meeting requirements.

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SB-46 ~~Employment: contact tracing and safety policies: COVID-19~~ American Rescue Plan Act funds: federal recovery funds: funded projects. (2021-2022)
 (Stern)

Date	Action
03/18/21	Referral to Com. on E.Q. rescinded because of the limitations placed on committee hearings due to ongoing health and safety risks of the COVID-19 virus.
03/18/21	Re-referred to Coms. on G.O., L., P.E. & R., and E.Q.
03/10/21	From committee with author's amendments. Read second time and amended. Re-referred to Com. on RLS.

Summary:

SB 46, as amended, Stern. ~~Employment: contact tracing and safety policies: COVID-19.~~ American Rescue Plan Act funds: federal recovery funds: funded projects.

SB-46

On Feb 24, 2021, the American Rescue Plan Act of 2021 (ARP) was introduced in the United States Congress. The stimulus package, if enacted into law, would, among other things, provide funding for economic relief payments to state, local, tribal, and territorial governments to speed up the United States' recovery from the economic and health effects of the COVID-19 pandemic and the ongoing recession.

This bill would require, to the extent authorized by federal law, a state agency that receives and disburses ARP funds or other federal recovery funds to consider projects' potential impact on specified goals, including, among other things, restoring frontline communities and rapidly accelerating achievement of environmental justice and climate goals, including, but not limited to, climate, environmental, and biodiversity protection and stimulating growth. The bill would require state agencies to document how proposed projects meet or align with the goals and require the Labor and Workforce Development Agency to establish an internet website where the public can track the expenditure of federal ARP funds by the state and how funded projects meet the goals.

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

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

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	<p>Board staff are monitoring this legislation to determine if regulatory action by the Board is called for.</p>
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SB-321 Employment safety standards: household domestic services. (2021-2022)

(Durazo)

Date	Action
03/11/21	Re-referred to Com. on L., P.E. & R.
03/03/21	From committee with author's amendments. Read second time and amended. Re-referred to Com. on RLS.
02/25/21	Referred to Com. on RLS.
02/22/21	Joint Rule 55 suspended. (Ayes 32. Noes 4.)
02/22/21	(Ayes 32. Noes 4.)
02/22/21	Art. IV. Sec. 8(a) of the Constitution dispensed with.
02/16/21	From printer. May be acted upon on or after March 18.
02/12/21	Introduced. Read first time. To Com. on RLS. for assignment. To print.

SB-321

Summary:

SB 321, as introduced, Durazo. Employment safety standards: household domestic services.

Existing law, the California Occupational Safety and Health Act of 1973, requires employers to comply with certain standards ensuring healthy and safe working conditions, as specified. Existing law charges the Division of Occupational Safety and Health within the Department of Industrial Relations with enforcement of the act, subject to oversight by the Chief of the Division of Occupational Safety (chief). Existing law makes a violation of the act a crime.

Existing law defines "employment," for purposes of the act, to include the carrying on of any trade, enterprise, project, industry, business, occupation, or work, including all excavation, demolition, and construction work, or any process or operation in any way related thereto, in which any person is engaged or permitted to work for hire, except household domestic service.

This bill would delete the above-described exception for household domestic service, thereby making it subject to the act. The bill would provide, however, that "employment" does not include household domestic service that is publicly funded, as specified, unless it is subject to certain regulatory provisions. The bill would make coverage for household domestic service operative on January 1, 2023, as specified. By expanding the scope of a crime, the bill would impose a state-mandated local program.

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The bill would require the chief or a representative of the chief to convene an advisory committee and, within 6 months of convening, in consultation with the Commission on Health and Safety and Workers' Compensation, make findings and recommendations to the Occupational Safety and Health Standards Board for industry-specific regulations related to household domestic service. The bill would require the board to adopt industry-specific regulations pursuant to these provisions within a reasonable time and no later than January 1, 2023.

Existing law authorizes the chief and all qualified and authorized division inspectors and investigators to have free access to any place of employment to make an investigation or inspection during regular working hours, and at other reasonable times when necessary, for the protection of safety and health.

This bill would require the chief or their representative, when the workplace is a residential dwelling, to initiate telephone contact with the employer in response to an alleged violation received from a domestic service employee within a specified timeframe. The bill would require the chief or their representative to provide specified notice to the employer about the alleged violation and to investigate the violation in accordance with certain procedures. The bill would require the employer to provide specified information to the division regarding mitigation efforts to correct the violation and to provide copies of all correspondence received from the division to the domestic service employee or to post the correspondence, as specified. The bill would authorize the chief or their authorized representative, for complaints alleging serious illness or injury or death in household domestic service, to enter the premises with permission or with an inspection warrant without first initiating telephone contact, as specified. The bill would require investigations of complaints in household domestic service employment to be conducted in a manner that avoids any unwarranted invasion of personal privacy and to not contain any personal, financial, or medical information of residents residing in the residential dwelling that is not pertinent to the investigation of the complaint.

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

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SB-410 Occupational safety and health: regulations. (2021-2022)

(Leyva)

Date	Action
03/11/21	Re-referred to Com. on L., P.E. & R.
03/03/21	From committee with author's amendments. Read second time and amended. Re-referred to Com. on RLS.
02/25/21	Referred to Com. on RLS.
02/22/21	Joint Rule 55 suspended. (Ayes 32. Noes 4.)
02/22/21	(Ayes 32. Noes 4.)
02/22/21	Art. IV. Sec. 8(a) of the Constitution dispensed with.
02/16/21	From printer. May be acted upon on or after March 18.
02/12/21	Introduced. Read first time. To Com. on RLS. for assignment. To print.

SB-410

Summary:

SB 410, as amended, Leyva. Occupational safety and health: regulations.

Existing law establishes the Occupational Safety and Health Standards Board within the Department of Industrial Relations. Existing law authorizes the standards board to adopt, amend, or repeal occupational safety and health standards and orders, as defined, and requires the adoption of standards at least as effective as the federal standards for all issues for which federal standards have been promulgated under provisions of the federal Occupational Safety and Health Act of 1970. Existing law generally requires the adoption, amendment, or repeal of standards and orders by the standards board to comply with the rulemaking provisions of the Administrative Procedure Act (APA), but exempts from provisions of the APA relating to public participation and review of proposed regulations a standard or amendment to any standard adopted by the standards board that is substantially the same as a federal standard, including existing APA requirements, for a proposed nonmajor regulation, to prepare a prescribed economic impact assessment and, for a proposed major regulation, to prepare a standardized regulatory impact analysis in a manner prescribed by the Department of Finance.

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	<p>This bill would exempt any occupational safety and health standard and order from the standardized regulatory impact analysis requirement.</p> <p>Board staff are monitoring this legislation to determine if regulatory action by the Board is called for.</p>
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Business Meeting Executive Officer's Report