

Occupational Safety and Health Standards Board

Public Meeting and Business Meeting

May 19, 2022

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.

AGENDA

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

May 19, 2022 at 10:00 AM (PST)

Attend the meeting in person:

Rancho Cordova City Hall
Council Chambers
2729 Prospect Park Drive
Rancho Cordova, CA 95670

Teleconference Location:

Hensel Phelps
12050 Pecos, Suite 100
BUILD Conference Room
Westminster, CO 80234

A Board Member will participate via teleconference while attending occupational safety and leadership meetings in Colorado. In accordance with Bagley-Keene, each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. (Government Code (GC) section 11123)

Members of the public may attend the Board Meeting via teleconference from the Colorado location, in person from our California location, or via remote participation as listed below.

Attend the meeting via Video-conference:

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

Attend the meeting via Teleconference:

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

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

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

Public Comment Queue:

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

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

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

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

- I. **CALL TO ORDER AND INTRODUCTIONS**
- II. **PUBLIC MEETING (Open for Public Comment)**

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

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

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

- A. PUBLIC COMMENT
- B. ADJOURNMENT OF THE PUBLIC MEETING

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

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

A. PROPOSED PETITION DECISION FOR ADOPTION

1. Matthew Cross
[Petition File No. 595](#)

Petitioner requests to add a new standard to General Industry Safety Orders to require manual material handling (MMH) carts include a built-in or self-contained means of securing the handholds. The handholds must be secured prior to transporting the load and capable of withstanding the expected forces based on the cart capacity and ground conditions. The proposal would also require MMH cart manufacturers to notify employers who have purchased non-conforming MMH carts to replace or phase-out their non-conforming carts.

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

E. CLOSED SESSION

Matters on Appeal

1. 22-V-023T Building Zone Industries, Inc. (BZI)
2. 22-V-054T Operating Engineers Local 3, District 80

Matters Pending Litigation

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

Personnel

F. RETURN TO OPEN SESSION

1. Report from Closed Session

G. ADJOURNMENT OF THE BUSINESS MEETING

Next Meeting: June 16, 2022
Cal/EPA Building
Byron Sher Auditorium
1001 I Street
Sacramento, CA 95814
10:00 a.m.

CLOSED SESSION

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

PUBLIC COMMENT

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

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

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

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

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

DISABILITY ACCOMMODATION NOTICE

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

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

TRANSLATION

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

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

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

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

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

Occupational Safety and Health Standards Board

Meeting Notice

DEPARTMENT OF INDUSTRIAL RELATIONS
Occupational Safety and Health Standards Board
2520 Venture Oaks Way, Suite 350
Sacramento, CA 95833
Tel: (916) 274-5721 Fax: (916) 274-5743
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NOTICE OF PUBLIC MEETING AND BUSINESS MEETING
OF THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

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

PUBLIC MEETING: On **May 19, 2022**, at 10:00 a.m.
in the Council Chambers of the Rancho Cordova City Hall
2729 Prospect Park Drive, Rancho Cordova, California

as well as via the following:

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

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

BUSINESS MEETING: On **May 19, 2022**, at 10:00 a.m.
in the Council Chambers of the Rancho Cordova City Hall
2729 Prospect Park Drive, Rancho Cordova, California

as well as via the following:

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

At the 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
Petition 595**

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 a Petition)
by:) **PETITION FILE NO. 595**
)
Matthew Cross)
)
)
)

Applicant.)

The Occupational Safety and Health Standards Board hereby adopts the attached PROPOSED DECISION.

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD

DAVID THOMAS, Chairman

BARBARA BURGEL, Member

KATHLEEN CRAWFORD, Member

DAVE HARRISON, Member

NOLA KENNEDY, Member

CHRIS LASZCZ-DAVIS, Member

LAURA STOCK, Member

By: _____
Christina Shupe, Executive Officer

DATE: May 19, 2022
Attachments

PETITION NO. 595

Petitioner requests to add a new standard to General Industry Safety Orders to require manual material handling (MMH) carts include a built-in or self-contained means of securing the handholds. The handholds must be secured prior to transporting the load and capable of withstanding the expected forces based on the cart capacity and ground conditions. The proposal would also require MMH cart manufacturers to notify employers who have purchased non-conforming MMH carts to replace or phase-out their non-conforming carts.

HYPERLINKS TO PETITION NO. 595 DOCUMENTS:

[PROPOSED PETITION DECISION](#)

[BOARD STAFF EVALUATION](#)

[CAL/OSHA EVALUATION](#)

[ORIGINAL PETITION \(RECEIVED 12/02/21\)](#)

Occupational Safety and Health Standards Board

Business Meeting

Proposed Variance Decisions

**CONSENT CALENDAR—PROPOSED VARIANCE DECISIONS
MAY 19, 2022, MONTHLY BUSINESS MEETING
OF THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD**

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

Docket Number	Applicant Name	Safety Order(s) at Issue	Proposed Decision Recommendation
1. 20-V-210	Dragados	1604.24(a)(2), 1604.26 & 8495(b)(1)	DENY
2. 20-V-515	Santa Barbara Museum of Art	Elevator	GRANT

PROPOSED DECISIONS FOR BOARD CONSIDERATION, HEARD ON MAY 13, 2022

Docket Number	Applicant Name	Safety Order(s) at Issue	Proposed Decision Recommendation
3. 20-V-147	Frontier Kemper - Tutor Perini Joint Venture	TSO	GRANT/DENY

PROPOSED DECISIONS FOR BOARD CONSIDERATION, HEARD ON APRIL 27, 2022

Docket Number	Applicant Name	Safety Order(s) at Issue	Proposed Decision Recommendation
4. 18-V-126M1	Carmel Partners (CP VII One28, LLC)	Elevator	GRANT
5. 20-V-474M1	Los Angeles World Airports	Elevator	GRANT
6. 20-V-536M1	SCP Horton Owner 4, LLC	Elevator	GRANT
7. 21-V-178M1	San Jose Hotel Investments, LLC	Elevator	GRANT
8. 21-V-220M1	311 Mathilda Owner LLC	Elevator	GRANT
9. 21-V-683	7227 Saranac LLC	Elevator	GRANT
10. 22-V-036	Lone Oak - San Diego III, L.L.C.	Elevator	GRANT

Docket Number	Applicant Name	Safety Order(s) at Issue	Proposed Decision Recommendation
11. 22-V-037	Scripps Health	Elevator	GRANT
12. 22-V-038	The Scripps Research Institute	Elevator	GRANT
13. 22-V-041	PRII/Intra Corp 2055 Main LLC	Elevator	GRANT
14. 22-V-042	CLG Myra, LLC	Elevator	GRANT
15. 22-V-044	Oxnard Union High School District	Elevator	GRANT
16. 22-V-045	DATAM S.F., LLC	Elevator	GRANT
17. 22-V-046	Sony Pictures Studios	Elevator	GRANT
18. 22-V-047	Camdaily, LLC	Elevator	GRANT
19. 22-V-048	Pine LLC	Elevator	GRANT
20. 22-V-049	GB Commercial LLC	Elevator	GRANT
21. 22-V-050	1128 W. 37th Drive, LLC	Elevator	GRANT
22. 22-V-051	3000 S. Crenshaw Blvd (LA) Oz Owner, LLC	Elevator	GRANT
23. 22-V-052	HIMR Normandie JV, LLC	Elevator	GRANT
24. 22-V-055	1136/1142 La Cienega LLC	Elevator	GRANT
25. 22-V-056	Bryson II Partners, LP	Elevator	GRANT
26. 22-V-057	Labrea9 LLC	Elevator	GRANT
27. 22-V-058	SCP Horton Owner 1, LLC	Elevator	GRANT
28. 22-V-059	SCP Horton Owner 1, LLC	Elevator	GRANT
29. 22-V-060	SCP Horton Owner 1, LLC	Elevator	GRANT
30. 22-V-061	SCP Horton Owner 1, LLC	Elevator	GRANT
31. 22-V-062	SCP Horton Owner 1, LLC	Elevator	GRANT
32. 22-V-063	SCP Horton Owner 2, LLC	Elevator	GRANT
33. 22-V-065	CHF (Irvine) LLC	Elevator	GRANT
34. 22-V-066	CHF (Irvine) LLC	Elevator	GRANT

Docket Number	Applicant Name	Safety Order(s) at Issue	Proposed Decision Recommendation
35. 22-V-067	CHF (Irvine) LLC	Elevator	GRANT
36. 22-V-068	Ortega Gardens LLC	Elevator	GRANT
37. 22-V-069	Elk Grove Unified School District	Elevator	GRANT
38. 22-V-070	CHF-Davis II, LLC	Elevator	GRANT
39. 22-V-071	CHF-Davis II, LLC	Elevator	GRANT
40. 22-V-072	22nd Street, LLC	Elevator	GRANT
41. 22-V-073	843 N. Spring Owner LLC	Elevator	GRANT
42. 22-V-076	Sun King LP	Elevator	GRANT
43. 22-V-077	200 North Vermont QOZB, LP	Elevator	GRANT
44. 22-V-080	CHF-Davis II, LLC	Elevator	GRANT
45. 22-V-081	CHF-Davis II, LLC	Elevator	GRANT
46. 22-V-082	CHF-Davis II, LLC	Elevator	GRANT
47. 22-V-083	Kaiser Permanente	Elevator	GRANT
48. 22-V-084	La Maestra Family Clinic, Inc.	Elevator	GRANT
49. 22-V-085	PRII Wood Oceanside LLC	Elevator	GRANT
50. 22-V-086	18331 Von Karman Irvine, LLC	Elevator	GRANT
51. 22-V-087	18331 Von Karman Irvine, LLC	Elevator	GRANT
52. 22-V-088	Ranjeet K. Pancholy and Vijay J. Pancholy 2004 Revocable Trust	Elevator	GRANT
53. 22-V-089	Rona Concord, 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 for
Permanent Variance regarding:

Dragados

OSHSB File No.: 20-V-210
Proposed Decision Dated: April 29, 2022

DECISION

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

DAVID THOMAS, Chairman

BARBARA BURGEL, Member

KATHLEEN CRAWFORD, Member

DAVID HARRISON, Member

NOLA KENNEDY, Member

CHRIS LASZCZ-DAVIS, Member

LAURA STOCK, Member

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD

Date of Adoption: May 19, 2022

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

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

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

In the Matter of Application for Permanent Variance Regarding: Dragados	OSHSB File No.: 20-V-210 <u>PROPOSED DECISION</u> Hearing Date: April 19, 2022
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A. Jurisdictional and Procedural Matters

1. By application received June 2, 2020, Dragados (Applicant) has applied for permanent variance from certain provisions of California Code of Regulations, title 8, 1604.24 subdivision (a)(2) and 1604.26, subdivision (c) of the Construction Safety Orders, and 8495, subdivision (b)(1) of the Tunnel Safety Orders.¹

The Los Angeles County Sanitation District contracted the applicant to construct a 7-mile long tunnel for the Joint Water Pollution Control Plant (JWPCP) – Effluent Outfall Tunnel Project. The project includes associated vertical access shafts, and the starter and tail tunnels within the entry shaft at the start of the tunnel. The starter and tail tunnels serve the purpose of enabling the fitting together of the tunnel-boring machine (TBM) assemblage within the relatively narrow diameter of the entry shaft. The main work site is located at 1701 South Figueroa Street in Wilmington, California.

2. This proceeding is conducted in accordance with Labor Code section 143, and the Board’s procedural regulations at section 401, et. seq.
3. The hearing was held on April 19, 2022, in Sacramento, California, by delegation of the Occupational Safety and Health Standards Board (Board), with Board members Kathleen Crawford and Dave Harrison serving as the hearing panel and Hearing Officer Autumn Gonzalez presiding. This proposed decision is presented to the Board for its consideration, in accordance with section 426 of the Board’s rules of procedure.
4. Appearing for the Applicant were Ryan Swift. Michael Nelmidia, Senior Safety Engineer, appeared on behalf of Board staff in a technical advisory capacity apart from the Board, and Jason Denning, Principal Safety Engineer and Spencer Price, Senior Safety Engineer of Research and Standards, for the Division of Occupational Safety and Health (Division).
5. Oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence: subject Application for Permanent Variance as

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

Exhibit PD-1, Notice of Hearing as Exhibit PD-2, Division Review of Application as PD-3, Board Staff Review of Application as PD-4, and official notice taken of the Board's rulemaking records, and variance decisions concerning the safety order requirements from which variance is requested. The record was closed, and matter taken under submission by the below-signed Hearing Officer on April 19, 2022.

B. Findings of Fact

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

1. Applicant proposes to utilize a construction passenger elevator, also called a construction personnel hoist (CPH) in the entry shaft, to transport employees between the surface level and the bottom of the shaft.
2. The proposed CPH would be operated with single-press button controls (also referred to as automatic controls) in lieu of manual constant-contact controls and allows for operation without a dedicated operator or attendant continually stationed inside the elevator car.
3. The shaft will be excavated using a clamshell bucket attached to a crane to its final depth of 122.2 feet, lined with concrete, and dewatered. The shaft excavation diameter will be 55 feet, with a final lined shaft diameter of 48 feet. The starter and tail tunnels will be 23 foot diameter ellipse shaped tunnels. Due to spatial constraints, the CPH will not be installed until the starter and tail tunnels are complete. A cage ladder system will also be installed at that time. Access and egress will be available via the elevator and cage ladder. In addition, a man basket that can be attached to the service crane will be available.
4. The shaft will access the tunnels during construction, which have been classified by Cal/OSHA's Mining and Tunneling Unit as "potentially gassy." A potentially gassy classification is applicable to tunnels where there is a possibility of flammable gas or hydrocarbons. (Section 8422, subdivision (b)(2)).
5. The CPHs will transport employees including laborers and technical staff personnel, and small hand tools, between the bottom of the shaft and the existing ground level above at the beginning and ending of the work shift. Approximately 20 employees may use the CPH during each shift. During the intermittent period of the shift change, approximately 30 employees could be present and utilizing the CPH. A mobile crane at ground level will hoist large equipment and materials.
6. One employee will always be stationed to work within 100 feet of the elevator on both the upper and lower levels.

7. There are two cameras stationed within the tunnel; the camera feeds are available for viewing in the worksite office, but no one individual is responsible for monitoring the feeds.

C. Relevant Safety Orders

1. Applicant requests a variance from section 1604.24, subdivision (a), which reads as follows:

(a) Operation and Operating Devices.

[...]

(2) Operating Devices for Car-Switch Operation Hoists.

Handles of lever-type operating devices of car-switch operation hoists shall be so arranged that they will return to the stop position when the hand of the operator is removed. Car-switch push-buttons shall be of the constant-pressure type so that when the hand is removed from the button the car will stop.

Both this section and section 8495, subdivision (b)(1) require operators of CPHs to apply constant pressure or contact to the controls for the hoist car to move. If the operator removes pressure or contact, the hoist car stops immediately. The applicant requests a variance from these sections to allow use of a CPH with automatic controls. Section 8495, subdivision (b)(1) states:

(b) Personnel Hoisting Systems.

(1) The hoist control shall be of such design that it will return to the "stop" position when the hand of the operator is removed from the control lever. The brakes shall be automatically applied and the power cut off whenever the control lever is in the "stop" position.

2. Section 1604.26, subdivision (c) requires CPHs to be operated by a competent authorized operator in the hoist car:

(c) Operation. Hoists shall be operated only by a competent authorized operator, in the car, or stationed adjacent to the driving machine subject to the following conditions:

(1) A regular attendant is stationed in the car.

(2) A constant-pressure-type switch shall be provided in the car, which must be held manually in the closed position by the attendant in the car in order to permit operation of the driving machine and which shall be opened automatically when released by the operator during normal or emergency stop operations.

(3) A means of closed voice communication shall be provided between the car attendant and the operator stationed adjacent to the driving machine.

The section allows the authorized operator to be stationed at the CPH driving machine if a regular attendant is in the hoist car in communication with the operator and the hoist car is equipped with constant pressure controls, similar to sections 1604.24, subdivision (a)(2) and 8495, subdivision (b)(1). The applicant requires a variance from section 1604.26, subdivision (c) because it does not plan on having authorized, dedicated operators or attendants stationed inside the hoist car.

D. Conclusive Findings

Section 1604.24, subdivision (c) requires that a hoist be operated only by a competent authorized operator in the car, or stationed adjacent to the car with a regular attendant stationed in the car.

In a potentially gassy tunnel such as the one at issue here, time is of the essence in an emergency situation, where employees may need to quickly evacuate due to atmospheric or other hazards. As in 18-V-456, the panel is concerned that the lack of attendant could cause a hazardous or even fatal delay in the event of an emergency. A worker stationed up to 100 feet away from the conveyance simply does not provide equivalent to an attendant being stationed at the conveyance at all times.

Based upon the above findings and the record as a whole, the panel concludes that Applicant has not met the required showing that its proposed alternative program, method, practice, means, device, or process would provide equal or superior conveyance safety, and workplace safety and health, as would prevail if Applicant complied with the requirements of the safety order from which permanent variance has been requested.

E. Decision and Order

A preponderance of the evidence supports the conclusion that that the Applicant's proposal, subject to all limiting conditions set forth in the below Decision and Order, will not provide equivalent safety and health to that which would prevail upon full compliance with the requirements of sections 1604.24 subdivision (a)(2) and 1604.26, subdivision (c), and 8495, subdivision (b)(1), from which variance is being sought.

Proposed Variance Decision
OSHSB File No. 20-V-210
Hearing Date: April 19, 2022

The application for Permanent Variance requested by Dragados, OSHSB File No. 20-V-210, is hereby DENIED.

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: April 29, 2022



Autumn Gonzalez, Hearing Officer

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

In the Matter of Application for
Permanent Variance regarding:

Santa Barbara Museum of Art

OSHSB File No.: 20-V-515
Proposed Decision Dated: April 29, 2022

DECISION

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

DAVID THOMAS, Chairman

BARBARA BURGEL, Member

KATHLEEN CRAWFORD, Member

DAVID HARRISON, Member

NOLA KENNEDY, Member

CHRIS LASZCZ-DAVIS, Member

LAURA STOCK, Member

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD

Date of Adoption: May 19, 2022

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

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

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

In the Matter of Application for Permanent Variance Regarding: Santa Barbara Museum of Art	OSHSB File No.: 20-V-515 <u>PROPOSED DECISION</u> Hearing Date: April 19, 2022
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A. Subject Matter:

1. Santa Barbara Museum of Art (Applicant) has applied for a permanent variance from provisions of Title 8, California Code of Regulations, Elevator Safety Orders, section 3141 [ASME A17.1-2004, Section 2.11.12.1.2], with respect to the position of landing floors and sills, for one (1) freight elevator with vertical [bi-parting] slide-type doors, located at 1130 State St., Santa Barbara, California.¹

B. Procedural:

1. On December 11, 2020, Bob Kupiec, of Kupiec Architects, representing the Applicant, applied for a permanent variance from the provisions of section 3141 [ASME A17.1-2004, Section 2.11.12.1.2] of the Elevator Safety Orders. On March 11, 2021, and April 1, 2021, the application was amended by Applicant's representative.
2. This hearing was held on April 19, 2022, in Sacramento, California via audio/video conference link, by delegation of the Occupational Safety and Health Standards Board (Board), with Board Members Kathleen Crawford and David Harrison serving as hearing panelists, and 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.
3. At the hearing, Bob Kupiec and John Coplin appeared on behalf of Applicant. David Morris and Mark Wickens, Senior Safety Engineers, appeared on behalf of the Division of Occupational Safety and Health (Division). Senior Safety Engineer Michael Nelmidia appeared on behalf of Board staff in a technical advisory capacity apart from the Board.
4. Documentary and oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence: permanent variance application and amendments per Exhibit PD-1, Notice of Hearing as Exhibit PD-2, Board staff Pending

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

Application Memorandum as PD-3, Division Review of Application as PD-4, Photograph of Elevator as PD-5, and Letter from Applicant as PD-6, 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 April 19, 2022, the record closed and the matter was taken under submission by the Hearing Officer.

C. Relevant Safety Orders

1. Freight platform hoist is defined at section 3009 as follows:

A freight platform hoist is a freight type hoist having no car enclosure, no hoistway enclosure and a rise of not more than 5 feet (1.52 m) in or adjacent to a loading platform or similar landing and serving two permanent landings.

2. Applicant contends the design and operational limits of the freight platform hoist classifies it as a device excluded from the jurisdictional authority of the Elevator Safety Orders. The application regulation, section 3000, subdivision (d)(13) specifically excludes "[f]reight platform hoists with a travel of not more than 5 feet (1.52m)" from coverage under the Elevator Safety Orders. Applicant instead asserts the freight platform hoist meets the requirements and standards of ANSI MH29.1-2003 Safety Requirements for Industrial Scissor Lifts.

3. Section 3009, subdivision (b) defines what constitutes an elevator:

A hoisting and lowering mechanism which moves a car or platform in fixed guides in a substantially vertical direction and which is designed to carry passengers or freight, or both, between two or more fixed landings.

A hoisting mechanism, such as a portable hoist or a tiering machine, used to elevate or lower material between two or more fixed landings and used or fixed in a permanent location will be classed as an elevator.

A hydraulic hoisting mechanism used to elevate or lower material between two or more fixed landings and used or fixed in a permanent location will be classed as an elevator.

[...]

4. Section 3141 [ASME A17.1-2004, Section 2.11.12.1.2] states, "Landing sills shall be secured to the building structure in substantially the same plane as the elevator landing floor."

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

1. Applicant has installed a freight elevator that is designed for the secure receiving, transporting, and discharging of freight. Two of the elevator’s hoistway entrances, designated as “MR” and “SD”, serve an exterior loading area and are positioned to open approximately 4 feet above ground level. This arrangement allows for the secure transfer of freight directly into and out of delivery trucks parked at the ground level. The SD entrance is additionally equipped to transfer materials to and from an adjacent freight platform hoist.
2. The design proposed by Applicant uses a truck lift system to raise and lower the bed of delivery trucks in order to achieve a flush landing surface with the MR hoistway entrance sill. Likewise, the Freight Platform Hoist will be positioned to achieve a flush landing surface with the SD entrance sill.
3. The current elevator safety regulation permits the loading and unloading of trucks directly on to an elevator car platform using an elevator arranged as a “truck zone elevator” which permits the manual positioning of the elevator car to meet the level of the truck cargo area.
4. The absence of a fixed landing area at the MR and SD hoistway entrances will expose freight handlers and emergency responders to unguarded fall hazards and moving equipment.

E. Conclusive Findings:

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

F. Decision and Order:

Applicant’s application for a variance in the matter of file number 20-V-515 is conditionally GRANTED, to the extent Applicant shall be issued permanent variance from section 3141 - ASME A17.1-2004, Section 2.11.12.1.2, only to the extent necessary to permit a secure and stable delivery truck bed and/or an adjacent freight platform hoist to act as the elevator

landing, for the purpose of receiving and discharging freight, and subject to the below conditions:

1. Manually removable railings, protecting the full width of the hoistway entrance, shall be installed on the exterior “MR” and “SD” hoistway entrance sills, in accordance with the following:
 - a. The railings shall be substantially constructed of metal and shall consist of a top rail, intermediate rail, posts, and toe-board.
 - b. The top rail shall have a smooth surface, and the upper surface shall be located at a vertical height of 1070 mm (42 in.) from the surface on which the railing is installed.
 - c. The intermediate rail shall be located approximately halfway between the top rail and the surface on which the railing is installed.
 - d. Posts shall be located not more than 2,400 mm (94.5 in.) apart.
 - e. The toe-board shall be securely fastened to the posts and extend from the surface on which the railing is installed to a height not less than 100 mm (4 in.).
2. The Applicant shall provide a durable sign, with lettering not less than 2 inches high, on a contrasting background. The sign shall be located and permanently secured on each railing, and the sign shall be visible from both sides of the railing. The sign shall state:

CAUTION
DO NOT STAND ON OR CLIMB OVER RAILING
ONLY AUTHORIZED MUSEUM PERSONNEL
SHALL REMOVE OR REPLACE THIS RAILING

3. The Applicant shall provide durable warning signs, with lettering not less than 2 inches high, on a bright colored contrasting background. The signs shall be located and permanently secured on the hoistway side of the “MR” and “SD” hoistway entrance doors, adjacent to the door vision panel. The signs shall state:

WARNING
POSSIBLE FALL HAZARD
WHEN DOOR IS OPEN

4. The switches in the elevator car used to control hoistway door and/or car gate movement (door/gate open and close buttons) shall be arranged to require continuous-pressure to initiate and maintain door/gate movement.

5. The following elevator operating devices shall be secured by a security card system that assures their actuation is initiated exclusively by trained and authorized museum, or elevator personnel (mechanics and inspectors):
 - a. The switches in the elevator car used to register elevator floor calls.
 - b. The switches in the elevator car used to close hoistway doors and gates (door close buttons).
 - c. The switch(es) in the elevator car to open the "MR" hoistway door and associated car gate (door open button(s))

The security system shall not interfere with elevator emergency operations or the switches in the elevator car used to **open** hoistway doors and gates (door open buttons), except as required above.

[Note: This condition is to assure the elevator car and door/gate controls are secured by the security card system for authorized use only, while permitting a person to freely exit the elevator at a landing without using a security card. A security card might become unreadable or lost (dropped under the elevator) when the doors are in the closed position.]

6. Before any authorized museum personnel uses the elevator, or assists freight handlers in using the elevator, the Applicant shall:
 - a. Develop, implement, and document an effective training program for the safe use of the elevator and compliance with the conditions of this permanent variance. The training program shall include provisions for the initial and annual refresher training of all persons authorized to operate the elevator.
 - b. Provide and document the training of museum personnel authorized to use the elevator in accordance with the required training program.
 - c. Training program documents shall be made available to the Division upon request.
7. A durable sign shall be provided, with lettering no less than 0.25 inch high, on a contrasting background, located adjacent to the operating controls inside the elevator car, and permanently secured to the car enclosure, instructing authorized persons in the safe operating procedures of the elevator.

8. Durable signs shall be provided, with lettering not less than 1 inch high, on a contrasting background, inside the elevator car, and shall be located adjacent to the operating controls, permanently and securely fastened to the car enclosure. The signs shall state:

**ONLY AUTHORIZED TRAINED MUSEUM PERSONNEL
SHALL OPERATE THIS ELEVATOR**

9. Phase I Firefighter's Emergency Recall Operation shall not utilize the exterior "MR" or "SD" hoistway entrances as the "designated" or "alternate" recall level.
10. Prior to opening the "MR" or "SD" hoistway entrance doors or removing their associated guard railings, a truck bed or freight platform hoist shall be secured in a position that creates a flush and stable loading surface with the hoistway entrance sill. The guard railings shall be replaced and the hoistway entrance doors closed, prior to moving or repositioning trucks or the freight platform hoist.
11. In accordance with section 3650, subdivision (t)(22), vehicles (industrial trucks, forklifts, and the like) shall not be driven in and out of highway trucks and trailers at the "MR" or "SD" hoistway entrance doors until such highway trucks or trailers are: (1) securely blocked or restrained, and (2) the brakes set.
12. The truck lift system and the freight platform hoist shall be properly maintained in accordance with the manufacturer's specifications. Maintenance records shall be maintained by the Applicant and made available to the Division upon request.
13. Upon truck arrival authorized personnel trained to operate the elevator shall install removable dock plates between truck bed and elevator landing sill. Plates shall be constructed of ¼ inch thick checker plate aluminum, sized to fit each opening and shall be stored in the secure space adjacent to the elevator. The dock plate shall be designed to span the area between the truck bed and the elevator entrance sill. The dock plate shall not be positioned in the movement path of the elevator hoistway doors or car platform.
14. Any Certified Qualified Conveyance Company performing inspections, maintenance, servicing, or testing of the elevator shall be provided a copy of this variance decision.
15. The Division shall be notified when the elevator is ready for inspection, and the elevator shall be inspected by the Division and a Permit to Operate shall be issued before the elevator is put into service as a freight elevator.

Proposed Variance Decision
OSHSB File No. 20-V-515
Hearing Date: April 19, 2022

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: April 29, 2022



Autumn Gonzalez, Hearing Officer

THE PROPOSED DECISION FOR OSHSB FILE NO. 20-V-147, FRONTIER KEMPER - TUTOR PERINI JOINT VENTURE, WILL BE PROVIDED WHEN IT IS READY FOR THE BOARD'S CONSIDERATION.

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:

Carmel Partners (CP VII One28 LCC)

OSHSB File No.: 18-V-126M1
Proposed Decision Dated: April 28, 2022

DECISION

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

DAVID THOMAS, Chairman

BARBARA BURGEL, Member

KATHLEEN CRAWFORD, Member

DAVID HARRISON, Member

NOLA KENNEDY, Member

CHRIS LASZCZ-DAVIS, Member

LAURA STOCK, Member

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD

Date of Adoption: May 19, 2022

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

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

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

In the Matter of Application to Modify Permanent Variance by: Carmel Partners (CP VII One28 LLC)	OSHSB File No.: 18-V-126M1 <u>PROPOSED DECISION</u> Hearing Date: April 27, 2022
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A. Subject Matter and Jurisdiction:

1. The above named 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. The subject permanent variance file, and preexisting variance holder of record therein, are as follows:

Preexisting OSHSB File No.	Preexisting Variance Holder of Record
18-V-126	SiliconSage Construction Inc.

- 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 April 27, 2022, in Sacramento, California, via teleconference, by Occupational Safety and Health Standards Board (“Board”), with Hearing Officer Autumn Gonzalez, both presiding and hearing the matter on its merit, as a basis of proposed decision to be advanced to the Board for its consideration, in accordance with California Code of Regulations, title 8, section 426.
2. At the hearing, Scott Gardner with Greystar, appeared on behalf of the Applicant; 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.

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

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

Official notice is taken of the Board's files, records, recordings and decisions concerning the Elevator Safety Order requirements from which variance shall issue. On April 27, 2022, the hearing and record closed, and the matter was taken under submission by the Hearing Officer.

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

1. The Applicant requests modification of the variance holder specified within Board records for each elevator the subject of previously granted Permanent Variance No. 18-V-126.
2. Application Section 3, declared to be wholly truthful under penalty of perjury by Application signatory, states that the person or entity named in Application Section 1, Carmel Partners (CP VII One28, LLC), became the owner of the conveyance(s) subject to the existing variance referenced in Application Section 2, as the term conveyance owner is defined per California Code of Regulations, Title 8, Section 403(o).
3. The Division has evaluated the request for modification of person or entity of record holding Permanent Variance No. 18-V-126M1, 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. 18-V-126.
4. The Board finds the Application Section 3, declaratory statements of the Applicant signatory 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, in substantial part, grant of preexisting Permanent Variance No. 18-V-126 was based.

Proposed Variance Decision
OSHSB File No. 18-V-126M1
Hearing Date: April 27, 2022

5. The Board finds the current person or entity having custody of each elevator the subject of Permanent Variance No. 18-V-126 to be in fact:

Carmel Partners (CP VII One28, LLC)

E. Decision and Order:

1. Variance application is conditionally GRANTED, as specified below, such that, within Board records, the person or entity holding Permanent Variance No. 18-V-126, shall be:

Carmel Partners (CP VII One28, LLC)

2. Permanent Variance No. 18-V-126 being only modified as 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. 18-V-126M1.

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: April 28, 2022



Autumn Gonzalez, Hearing Officer

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

In the Matter of Application to Modify
Permanent Variance by:

Los Angeles World Airports

OSHSB File No.: 20-V-474M1
Proposed Decision Dated: April 28, 2022

DECISION

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

DAVID THOMAS, Chairman

BARBARA BURGEL, Member

KATHLEEN CRAWFORD, Member

DAVID HARRISON, Member

NOLA KENNEDY, Member

CHRIS LASZCZ-DAVIS, Member

LAURA STOCK, Member

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD

Date of Adoption: May 19, 2022

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

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

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

In the Matter of Application to Modify Permanent Variance by: <p style="text-align: center;">Los Angeles World Airports</p>	OSHSB File No.: 20-V-474M1 PROPOSED DECISION Hearing Date: April 27, 2022
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A. The following person or entity (“Applicant”) has applied for a modification of permanent variance from provisions of the Elevator Safety Orders, found at title 8 of the California Code of Regulations, for each elevator having the below specified preexisting variance location address of record:

Preexisting OSHSB File No.	Applicant Name	Variance Address of Record	Preexisting Number of Elevators
20-V-474	Los Angeles World Airports	Los Angeles International Airport (LAX) LAX Consolidated Rent-A-Car Center (CONRAC) 5401 98th Street Los Angeles, CA	15

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 April 27, 2022, in Sacramento, California, and via teleconference, by Occupational Safety and Health Standards Board (“Board”) with Hearing Officer Autumn Gonzalez, both presiding and hearing the matter on its merit, as a basis of proposed decision to be advanced to the Board for its consideration, in accordance with California Code of Regulations, title 8, section 426.
2. At the hearing, Jennifer Linares appeared on behalf of the Applicants’ representative, the Schindler Elevator Corporation; Mark Wickens appeared on behalf of the Division of Occupational Safety and Health (“Division”); and Michael Nelmidia appeared on behalf of Board staff.

3. Documentary and oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence: the subject modification of permanent variance application captioned above as Exhibit PD-1, Notice of Hearing as Exhibit PD-2, Board staff Pending Application(s) for Permanent Variance Opinion Letter as PD-3, Division evaluation as PD-4, Review Draft 1 Proposed Decision as PD-5, and official notice taken of the Board's files, records, recordings and decisions concerning the Elevator Safety Order requirements from which variance shall issue. On April 27, 2022, the hearing and record closed, and the matter was taken under submission by the Hearing Officer.

D. Findings and Basis:

Address Change

1. The Applicant requests modification of the address of the unchanging variance location specified within Board records for each elevator the subject of previously granted Permanent Variance 20-V-474.
2. Application section 3, declared to be wholly truthful under penalty of perjury by Application signatory, states facts upon which reasonably may be based a finding that the address, specified in the records of the Board, at which Permanent Variance 20-V-474 is in effect, in fact is more completely, and correctly the different combination of addresses specified in below subsection D.5.
3. The Division has evaluated the request for modification of variance location address, finds no issue with it, and recommends that the application for modification be granted subject to the same conditions of the Decision and Order in OSHSB Permanent Variance File No. 20-V-474.
4. The Board finds the above subpart D.2 referenced declaration to be credible, uncontroverted, and consistent with available, sufficient facts, and of no bearing as to the finding of equivalent occupational health and safety upon which Grant of preexisting Permanent Variance 20-V-474 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-474, to be:

5251 W. 98th Street
Los Angeles, CA

Quantity Change

6. The Applicant requests modification of the quantity of elevators the subject of previously granted Permanent Variance No. 20-V-474, to decrease the quantity of elevators from fifteen (15) to fourteen (14).
7. The Division has evaluated the immediate request for modification of variance, finds no issue with it, and recommends that the application for modification be granted subject to the same conditions of the Decision and Order in OSHSB Permanent Variance File No. 20-V-474.
8. The Board finds the subpart D.2 referenced declaration to be credible, uncontroverted, and consistent with available, sufficient facts, and finds modification of Permanent Variance 20-V-474, decreasing the quantity of subject elevators from fifteen (15) to fourteen (14), to be of no bearing upon the finding of equivalent occupational health and safety upon which Grant of preexisting Permanent Variance 20-V-474 was, in part, based.

E. Decision and Order:

1. Application for Modification of Permanent Variance, No. 20-V-474M1, is conditionally GRANTED, as specified below:
 - a a total of fourteen (14) elevators are the subject of Permanent Variance No. 20-V-474, as hereby modified.
 - b without change in variance location, each elevator being the subject of Permanent Variance Nos. 20-V-474, and 20-V-474M1, shall have the following address designation:

5251 W. 98th Street
Los Angeles, CA

2. Permanent Variance No. 20-V-474, being only modified as to the subject location address and quantity of elevators specified in above Decision and Order section 1, is otherwise unchanged and remaining in full force and effect, as hereby incorporated by reference into Modification of Permanent Variance No. 20-V-474M1.
3. The applicant shall notify its employees or their authorized representative(s), or both, of this order in the same way that the Applicant was required to notify them of the application for permanent variance, per California Code of Regulations, title 8, sections 411.2 and 411.3.

Proposed Variance Decision
OSHSB File No.: 20-V-474M1
Hearing Date: April 27, 2022

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

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

Dated: April 28, 2022



Autumn Gonzalez Hearing Officer

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

In the Matter of Application to Modify
Permanent Variance by:

SCP Horton Owner 4, LLC

OSHSB File No.: 20-V-536M1
Proposed Decision Dated: April 28, 2022

DECISION

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

DAVID THOMAS, Chairman

BARBARA BURGEL, Member

KATHLEEN CRAWFORD, Member

DAVID HARRISON, Member

NOLA KENNEDY, Member

CHRIS LASZCZ-DAVIS, Member

LAURA STOCK, Member

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD

Date of Adoption: May 19, 2022

THE FOREGOING VARIANCE DECISION WAS
ADOPTED ON THE DATE INDICATED ABOVE.
IF YOU ARE DISSATISFIED WITH THE
DECISION, A PETITION FOR REHEARING
MAY BE FILED BY ANY PARTY WITH THE
STANDARDS BOARD WITHIN TWENTY (20)
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YOUR PETITION FOR REHEARING MUST
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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: SCP Horton Owner 4, LLC	OSHSB File No.: 20-V-536M1 <u>PROPOSED DECISION</u> Hearing Date: April 27, 2022
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A. Subject Matter and Jurisdiction:

1. The above named 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. The subject permanent variance file, and preexisting variance holder of record therein, are as follows:

Preexisting OSHSB File No.	Preexisting Variance Holder of Record
20-V-536	SCP Horton Owner 1, LLC

- 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 April 27, 2022, in Sacramento, California, via teleconference, by Occupational Safety and Health Standards Board (“Board”), with Hearing Officer Autumn Gonzalez, both presiding and hearing the matter on its merit, as a basis of proposed decision to be advanced to the Board for its consideration, in accordance with California Code of Regulations, Title 8, Section 426.
2. At the hearing, Wolter Geesink with Otis Elevator Company, and Dan Leacox of Leacox & Associates, appeared on behalf of the Applicant; 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.

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

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

Official notice is taken of the Board’s files, records, recordings and decisions concerning the Elevator Safety Order requirements from which variance shall issue. On April 27, 2002, 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 variance holder specified within Board records for each elevator the subject of previously granted Permanent Variance No. 20-V-536.
 2. Application Section 3, declared to be wholly truthful under penalty of perjury by Application signatory, states that the person or entity named in Application Section 1, SCP Horton Owner 1, LLC, became the owner of the conveyance(s) subject to the existing variance referenced in Application Section 2, as the term conveyance owner is defined per California Code of Regulations, Title 8, Section 403(o).
 3. The Division has evaluated the request for modification of person or entity of record holding Permanent Variance No. 20-V-536, 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-536.
 4. The Board finds the Application Section 3, declaratory statements of the Applicant signatory 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, in substantial part, grant of preexisting Permanent Variance No. 20-V-536 was based.

5. The Board finds the current person or entity having custody of each elevator the subject of Permanent Variance No. 20-V-536M1, to be in fact:

SCP Horton Owner 4, LLC

E. Decision and Order:


1. Variance application is conditionally GRANTED, as specified below, such that, within Board records, the person or entity holding Permanent Variance No. 20-V-536, and Permanent Variance No. 20-V-536M1, shall be:

SCP Horton Owner 4, LLC

2. Permanent Variance No. 20-V-536, only being modified as 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-536M1.
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 California Code of Regulations, Title 8, Sections 411.2 and 411.3.
4. This Decision and Order shall remain in effect unless modified or revoked upon application by the Applicant, affected employee(s), the Division, or by the Board on its own motion, in the manner prescribed for its issuance or per duly adopted superseding procedural rules.

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

Dated: April 28, 2022



Autumn Gonzalez, Hearing Officer

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

In the Matter of Application to Modify
Permanent Variance by:

San Jose Hotel Investments, LLC

OSHSB File No.: 21-V-178M1
Proposed Decision Dated: April 28, 2022

DECISION

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

DAVID THOMAS, Chairman

BARBARA BURGEL, Member

KATHLEEN CRAWFORD, Member

DAVID HARRISON, Member

NOLA KENNEDY, Member

CHRIS LASZCZ-DAVIS, Member

LAURA STOCK, Member

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD

Date of Adoption: May 19, 2022

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

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

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

In the Matter of Application to Modify Permanent Variance by: San Jose Hotel Investments, LLC	OSHSB File No.: 21-V-178M1 <u>PROPOSED DECISION</u> Hearing Date: April 27, 2022
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A. The following person or entity (“Applicant”) has applied for a modification of permanent variance from provisions of the Elevator Safety Orders, found at title 8 of the California Code of Regulations, for each elevator having the specified preexisting variance location address of record:

Preexisting OSHSB File No.	Applicant Name	Preexisting Variance Address of Record
21-V-178	San Jose Hotel Investments, LLC	1130 Champions Dr. San Jose, 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 April 27, 2022, in Sacramento, California, via teleconference, by Occupational Safety and Health Standards Board (“Board”), with Hearing Officer Autumn Gonzalez, both presiding and hearing the matter on its merit, as a basis of proposed decision to be advanced to the Board for its consideration, in accordance with California Code of Regulations, title 8, section 426.
2. At the hearing, Kathleen E. Finnerty, of Finnerty Law Offices, Inc., appeared on behalf of the Applicant; 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.

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

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

Official notice is taken of the Board's files, records, recordings and decisions concerning the Elevator Safety Order requirements from which variance shall issue. On April 27, 2022, the hearing and record closed, and the matter was taken under submission by the Hearing Officer.

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

1. The Applicant requests modification of the address of the unchanging variance location specified within Board records for each elevator the subject of previously granted Permanent Variance 21-V-178.
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 21-V-178 is in effect, in fact is more completely, and correctly the different combination of addresses specified in below subsection D.5.
3. The Division has evaluated the request for modification of variance location address, finds no issue with it, and recommends that the application for modification be granted subject to the same conditions of the Decision and Order in OSHSB Permanent Variance File No. 21-V-178.
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 21-V-178 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. 21-V-178, to be:

1130 Wondo Way
San Jose, CA

E. Decision and Order:

1. Permanent Variance Application No. 21-V-178M1 is conditionally GRANTED, thereby modifying Board records, such that, without change in variance location, each elevator being the subject of Permanent Variance Nos. 21-V-178, and 21-V-178M1, shall have the following address designation:

1130 Wondo Way
San Jose, CA

2. Permanent Variance No. 21-V-178, 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. 21-V-178M1.

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: April 28, 2022



Autumn Gonzalez, Hearing Officer

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

In the Matter of Application to Modify
Permanent Variance by:

311 Mathilda Owner LLC

OSHSB File No.: 21-V-220M1
Proposed Decision Dated: April 28, 2022

DECISION

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

DAVID THOMAS, Chairman

BARBARA BURGEL, Member

KATHLEEN CRAWFORD, Member

DAVID HARRISON, Member

NOLA KENNEDY, Member

CHRIS LASZCZ-DAVIS, Member

LAURA STOCK, Member

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD

Date of Adoption: May 19, 2022

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

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

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

In the Matter of Application to Modify Permanent Variance by: 311 Mathilda Owner LLC	OSHSB File No.: 21-V-220M1 <u>PROPOSED DECISION</u> Hearing Date: April 27, 2022
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A. The following person or entity (“Applicant”) has applied for a modification of permanent variance from provisions of the Elevator Safety Orders, found at title 8 of the California Code of Regulations, for each elevator having the specified preexisting variance location address of record:

Preexisting OSHSB File No.	Applicant Name	Preexisting Variance Address of Record
21-V-220	311 Mathilda Owner LLC	311 S. Mathilda Ave. Sunnyvale, 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 April 27, 2022, in Sacramento, California, via teleconference, by Occupational Safety and Health Standards Board (“Board”), with Hearing Officer Autumn Gonzalez, both presiding and hearing the matter on its merit, as a basis of proposed decision to be advanced to the Board for its consideration, in accordance with California Code of Regulations, title 8, section 426.
2. At the hearing, Kathleen E. Finnery of Finnerty Law Offices, Inc., appeared on behalf of the Applicant; 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.

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

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

Official notice is taken of the Board’s files, records, recordings and decisions concerning the Elevator Safety Order requirements from which variance shall issue. On April 27, 2022, the hearing and record closed, and the matter was taken under submission by the Hearing Officer.

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

1. The Applicant requests modification of the address of the unchanging variance location specified within Board records for each elevator the subject of previously granted Permanent Variance 21-V-220.
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 21-V-220 is in effect, in fact is more completely, and correctly the different combination of addresses specified in below subsection D.5.
3. The Division has evaluated the request for modification of variance location address, finds no issue with it, and recommends that the application for modification be granted subject to the same conditions of the Decision and Order in OSHSB Permanent Variance File No. 21-V-220.
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 21-V-220 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. 21-V-220, to be:

490 West McKinley Avenue
Sunnyvale, CA

E. Decision and Order:

1. Permanent Variance Application No. 21-V-220M1 is conditionally GRANTED, thereby modifying Board records, such that, without change in variance location, each elevator being the subject of Permanent Variance Nos. 21-V-220, and 21-V-220M1, shall have the following address designation:

490 West McKinley Avenue
Sunnyvale, CA

2. Permanent Variance No. 21-V-220, 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. 21-V-220M1.

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: April 28, 2022



Autumn Gonzalez, Hearing Officer

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

In the Matter of Application for
Permanent Variance by:

7227 Saranac LLC

OSHSB File No.: 21-V-683
Proposed Decision Dated: April 28, 2022

DECISION

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

DAVID THOMAS, Chairman

BARBARA BURGEL, Member

KATHLEEN CRAWFORD, Member

DAVID HARRISON, Member

NOLA KENNEDY, Member

CHRIS LASZCZ-DAVIS, Member

LAURA STOCK, Member

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD

Date of Adoption: May 19, 2022

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

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

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

In the Matter of Application for Permanent Variance by: 7227 Saranac LLC	OSHSB File No.: 21-V-683 Proposed Decision Hearing Date: April 27, 2022
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A. Procedural Matters

1. 7227 Saranac LLC (“Applicant”) has applied for a permanent variance from provisions of title 8 of the California Code of Regulations regarding vertical platform (wheelchair) lifts, with respect to one vertical platform (wheelchair) lift proposed to be located at:

2754 Imperial Ave.
San Diego, CA

2. The safety orders at issue are stated in the prefatory part of the Decision and Order. This proceeding is conducted in accordance with Labor Code section 143, and California Code of Regulations, title 8, section 401, et. seq.
3. This hearing was held on April 27, 2022, in Sacramento, California via teleconference, by delegation of the Occupational Safety and Health Standards Board (“Board”), with Hearing Officer Autumn Gonzalez, both presiding and hearing the matter on its merit, as a basis of proposed decision to be advanced to the Board for its consideration, in accordance with California Code of Regulations, title 8, section 426.
4. At the hearing, Craig Dell of Vertical Transport, Inc. appeared on behalf of Applicant, Mark Wickens appeared on behalf of the Division of Occupational Safety and Health (“Division”); and Michael Nelmidia appeared on behalf of Board staff acting in a technical advisory role apart from the Board.
5. At the hearing, oral evidence was received and by stipulation of all parties, documents were accepted into evidence: subject Application for Permanent Variance as Exhibit PD-1, Notice of Hearing in this matter as PD-2, Board staff Pending Application Memorandum as PD-3, Division Review of Application as PD-4, Review-Draft-1 Proposed Decision as PD-5; and official notice taken of the Board’s rulemaking records and variance decisions concerning the safety order requirements from which variance has been requested. On April 27, 2022, at close of hearing, the record closed and the matter was taken under submission on behalf of the Board.

B. Findings of Fact

Based on the record of this proceeding, and officially noticed Board records per (above section A.5) stipulation of Applicant and Division—inclusive of permanent variance file records of sworn testimony, findings and decisions in OSHSB File No. 15-V-297, the Board finds the following:

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

2754 Imperial Ave.
San Diego, CA
2. Applicant requests variance solely from title 8, section 3142(a) and section 3142.1.
3. The subject vertical lift is proposed to be a Savaria Model V-1504, with a vertical travel range of approximately 168 inches. That range of travel exceeds the 12 foot maximum vertical rise allowed by ASME A18.1-2003, section 2.7.1—the State of California standard in force at the time of this Decision.
4. The Division’s evaluation in this Matter, states that the more recent consensus code ASME A18.1-2005 allows for vertical platform lifts to have a travel not exceeding 14 feet (168 in.).
5. Permanent variances regarding the extended travel of vertical platform lifts, of similar configuration to that of the subject proposed model, have been previously granted. (e.g. OSHSB File Nos. 13-V-260, 15-V-097, 15-V-297, 17-V-198)
6. It is the well informed professional opinion of Board staff and Division (per Exhibits PD-3, and PD-4, respectively) that equivalent safety will be achieved upon grant of presently requested permanent variance, subject to conditions materially equivalent to those imposed by Board adopted Decision and Order, In Matters of Application for Permanent Variance Nos. 15-V-297, and 18-V-069. Board Staff concurs with Division (per Exhibit PD-3) in recommending such conditional grant.
7. With respect to the equivalence or superior of safety, conditions and limitations of the below Decision and Order are in material conformity with those of previously issued Permanent Variance Nos. 15-V-297, and 18-V-069.

C. Conclusive Findings

On the basis of the above procedural matters, legal authority, and findings of fact, the

Board finds that Applicant has complied with the statutory and regulatory requirements that must be met before an application for a permanent variance may be granted and that a preponderance of the evidence establishes that the Applicant's proposal, subject to all limiting conditions set forth in the below Decision and Order, will provide both conveyance safety, and employment and a place of employment that are as safe and healthful as those that would prevail if the Applicant complied with the safety orders at issue.

D. Decision and Order

The Application for Permanent Variance of 7227 Saranac LLC, OSHSB File No. 21-V-683, is conditionally GRANTED to the limited extent, upon the Board's adoption of this Proposed Decision, 7227 Saranac LLC, shall have permanent variance from California Code of Regulations, title 8, sections 3142(a) and 3142.1 incorporated ASME A18.1-2003, section 2.7.1, inasmuch as each restricts the vertical rise of a wheelchair lift to a maximum of 12 feet, with respect to one (1) Savaria Model V-1504 Vertical Platform Lift, to be located at:

2754 Imperial Ave.
San Diego, CA

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

1. This lift may travel up to 168 inches, unless the manufacturer's instructions provide for a lesser vertical travel limit, or lesser total elevation change, in which case, travel shall be limited to the lesser limit or elevation change.
2. The wheelchair lift shall be installed and operated in accordance with the manufacturer's instructions, unless the provisions of this variance or applicable provisions of the law provide or require otherwise.
3. Durable signs with lettering not less than 5/16 inch on a contrasting background shall be permanently and conspicuously posted inside the car and at all landings indicating that the lift is for the exclusive use of persons with physical impairments and that the lift is not to be used to transport material or equipment. The use of the lift shall be limited in accordance with these signs.
4. A maintenance contract shall be executed between the owner/operator and a Certified Qualified Conveyance Company (CQCC). The contract shall stipulate that

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

- (a) Platform driving means examination;
 - (b) Platform examination;
 - (c) Suspension means examination;
 - (d) Platform alignment;
 - (e) Vibration examination;
 - (f) Door/gate electrical; and
 - (g) Mechanical lock examination.
5. The lift shall be tested annually for proper operation under rated load conditions. The Division's Elevator Unit District Office shall be provided written notification in advance of the test, and the test shall include a check of car or platform safety device.
 6. The lift shall be shut down immediately if the lift experiences unusual noise and vibration, and the Applicant shall notify the CQCC immediately. The lift shall only be restarted by the CQCC.
 7. The Applicant shall notify the CQCC if the lift shuts down for any reason. The lift shall only be restarted by the CQCC.
 8. Service logs including, but not limited to, the device shutdown(s) shall be kept in the maintenance office and shall be available to the Division. The shutdown information shall contain the date of the shutdown, cause of the shutdown, and the action taken to correct the shutdown.
 9. The Applicant shall provide training on the safe operation of the lift in accordance with section 3203. Such training shall be conducted annually for all employees using or who will be assisting others in using the lift. The Applicant shall notify the Division in writing that training has been conducted. A copy of the training manual (used for the subject training), and documentation identifying the trainer and attendees shall be maintained for at least 1 year and provided to the Division upon request.

Proposed Variance Decision

OSHSB File No. 21-V-683

Hearing Date: April 27, 2022

10. Any CQCC performing inspections, maintenance, servicing or testing of the elevators shall be provided a copy of this variance decision.
11. The Division shall be notified when the lift is ready for inspection, and the lift shall be inspected by the Division and a Permit to Operate shall be issued before the lift is put into service.
12. The Applicant shall notify its employees or their authorized representative(s), or both, of this order in the same way and to the same extent that employees and authorized representatives are to be notified of docketed permanent variance applications pursuant to California Code of Regulations, title 8, sections 411.2 and 411.3.
13. This Decision and Order shall remain in effect unless modified or revoked upon application by the Applicant, affected employee(s), the Division, or by the Board on its own motion, in the procedural manner prescribed per title 8, Division 1, Chapter 3.5.

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

Dated: April 28, 2022



Autumn Gonzalez, Hearing Officer

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

In the Matter of Application for
Permanent Variance regarding:

KONE Monospace 500 Elevators (Group IV)

OSHSB File No.: See Section A.1 table of
Proposed Decision Dated: April 28, 2022

DECISION

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

DAVID THOMAS, Chairman

BARBARA BURGEL, Member

KATHLEEN CRAWFORD, Member

DAVID HARRISON, Member

NOLA KENNEDY, Member

CHRIS LASZCZ-DAVIS, Member

LAURA STOCK, Member

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD

Date of Adoption: May 19, 2022

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

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

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

<p>In the Matter of Application for Permanent Variance Regarding:</p> <p style="text-align: center;">KONE Monospace 500 Elevators (Group IV)</p>	<p>OSHSB File Nos.: See Section A.1 Table Below</p> <p style="text-align: center;"><u>PROPOSED DECISION</u></p> <p>Hearing Date: April 27, 2022</p>
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A. Subject Matter:

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

Variance No.	Applicant Name	Variance Location Address	No. of Elevators
22-V-036	Lone Oak - San Diego III, L.L.C.	1348 47th Street San Diego, CA	1
22-V-037	Scripps Health	4077 Sixth Ave San Diego, CA	3
22-V-038	The Scripps Research Institute	10590 John J. Hopkins Drive San Diego, CA	1
22-V-041	PRII/Intra Corp 2055 Main LLC	2055 Main St Irvine, CA	2
22-V-042	CLG Myra, LLC	1221 N. Myra Ave Los Angeles, CA	1
22-V-044	Oxnard Union High School District	1975 Camino Del Sol Oxnard, CA	4
22-V-050	1128 W. 37th Drive, LLC	1128 W 37th Drive Los Angeles, CA	1
22-V-051	3000 S. Crenshaw Blvd (LA) Oz Owner, LLC	3000 S. Crenshaw Blvd. Los Angeles, CA	2
22-V-052	HIMR Normandie JV, LLC	1124 S. Normandie Ave Los Angeles, CA	1

*Proposed Variance Decision
KONE Monospace 500 Elevators (Group IV)
Hearing Date: April 27, 2022*

22-V-065	CHF (Irvine) LLC	23000 Arroyo Drive Irvine, CA	2
22-V-066	CHF (Irvine) LLC	24000 Arroyo Drive Irvine, CA	2
22-V-067	CHF (Irvine) LLC	22000 Arroyo Drive Irvine, CA	3
22-V-083	Kaiser Permanente	1465 E. 103rd Street Los Angeles, CA	3
22-V-084	La Maestra Family Clinic, Inc.	181 Rea Avenue El Cajon, CA	1
22-V-085	PRII Wood Oceanside LLC	1001 N. Coast Hwy Oceanside, CA	3

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

B. Procedural:

1. This hearing was held on April 27, 2022, in Sacramento, California, via teleconference, by delegation of the Occupational Safety and Health Standards Board (“Board”), with Hearing Officer Autumn Gonzalez, both presiding and hearing the matter on its merit, as a basis of proposed decision to be advanced to the Board for its consideration, in accordance with California Code of Regulations, Title 8, Section 426.
2. At the hearing, Manish Sablok, with KONE, Inc., appeared on behalf of each Applicant; 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 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:

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

Official notice is taken of the Board’s files, records, recordings and decisions concerning the Elevator Safety Order requirements from which variance shall issue. On April 27, 2022, the hearing and record closed, and the matter was taken under submission by the Hearing Officer.

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

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

2.20.4 Minimum Number and Diameter of Suspension Ropes

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

5. An intent of the afore cited requirement of ASME A17.1-2004, Section 2.20.4, is to ensure that the number, diameter, and construction of suspension ropes are adequate to provided safely robust and durable suspension means over the course of the ropes’ foreseen service life.
6. KONE has represented to Division and Board staff, having established an engineering practice for purposes of Monospace 500 elevator design, of meeting or exceeding the minimum factor of safety of 12 for 8 mm suspension members, as required in

ASME A17.1-2010, Section 2.20.3—under which, given that factor of safety, supplemental broken suspension member protection is not required.

7. Also, each Applicant proposes as a further means of maintaining safety equivalence, monitoring the rope in conformity with the criteria specified within the *Inspector's Guide to 6 mm Diameter Governor and 8 mm Diameter Suspension Ropes for KONE Elevators* (per Application attachment "B", or as thereafter revised by KONE subject to Division approval).
8. In addition, each Applicant has proposed to utilize 6 mm diameter governor ropes in variance from Title 8, Section 3141, incorporated ASME A17.1-2004, Section 2.18.5.1.
9. ASME A17.1-2004, Section 2.18.5.1, specifies, in relevant part:

2.18.5.1 Material and Factor of Safety.

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

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

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

11. Applicants propose use of 6mm governor rope having a safety factor of 5 or greater, in conformity with Section 3141.7(a)(10), the specific parameters of which, being expressly set out within Title 8, Elevator Safety Orders, take precedence over more generally referenced governor rope diameter requirements per ASME A17.1-2004, Section 2.18.5.1. Accordingly, the governor rope specifications being presently proposed, inclusive of a factor of safety of 5 or greater, would comply with current Title 8, Elevator Safety Orders requirements, and therefore not be subject to issuance of permanent variance.
12. Absent evident diminution in elevator safety, over the past decade the Board has issued numerous permanent variances for use in KONE (Ecospace) elevator systems of 8 mm diameter suspension rope materially similar to that presently proposed (e.g. OSHSB File Nos. 06-V-203, 08-V-245, and 13-V-303).
13. As noted by the Board in OSHSB File Nos. 18-V-044, and 18-V-045, Decision and Order Findings, subpart B.17 (hereby incorporated by reference), the strength of wire rope operating as an elevator's suspension means does not remain constant over its years of

projected service life. With increasing usage cycles, a reduction in the cross-sectional area of the wire rope normally occurs, resulting in decreased residual strength. This characteristic is of particular relevance to the present matter because, as also noted by Board staff, decreasing wire rope diameter is associated with a higher rate of residual strength loss. This foreseeable reduction in cross-sectional area primarily results from elongation under sheave rounding load, as well as from wear, and wire or strand breaks. However, these characteristics need not compromise elevator safety when properly accounted for in the engineering of elevator suspension means, and associated components.

14. The presently proposed wire rope is Wuxi Universal steel rope Co LTD. 8 mm 8x19S+8x7+PP, with a manufacturer rated breaking strength of 35.8 kN, and an outer wire diameter of less than 0.56 mm, but not less than 0.51 mm. Both Board staff and Division safety engineers have scrutinized the material and structural specifications, and performance testing data, of this particular proposed rope, and conclude it will provide for safety equivalent to ESO compliant 9.5 mm wire rope, with 0.56 mm outer wire (under conditions of use included within the below Decision and Order).
15. The applicant supplies tabulated data regarding the “Maximum Static Load on All Suspension Ropes.” To obtain the tabulated data, the applicant uses the following formula derived from ASME A17.1 2004, Section 2.20.3:

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

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.

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KONE Monospace 500 Elevators (Group IV)

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17. Board staff and Division are in accord with Applicant, in proposing as a condition of safety equivalence, that periodic physical examination of the wire ropes be performed to confirm the ropes continue to meet the criteria set out in the (Application attachment) *Inspector's Guide to 6 mm Diameter Governor and 8 mm Diameter Suspension Ropes for KONE Elevators*. Adherence to this condition will provide an additional assurance of safety equivalence, regarding smaller minimum diameter suspension rope outer wire performance over the course of its service life.
18. Both Board staff, and Division, by way of written submissions to the record (Exhibits PD-3 and PD-4 respectively), and stated positions at hearing, are of the well informed opinion that grant of permanent variance, as limited and conditioned per the below Decision and Order will provide employment, places of employment, and subject conveyances, as safe and healthful as would prevail given non-variant conformity with the Elevator Safety Order requirements from which variance has been requested.

D. Conclusive Findings:

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

E. Decision and Order:

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

1. The diameter of the hoisting steel ropes shall be not less than 8 mm (0.315 in) diameter and the roping ratio shall be two to one (2:1).
2. The outer wires of the suspension ropes shall be not less than 0.51 mm (0.02 in.) in diameter.

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3. The number of suspension ropes shall be not fewer than those specified per hereby incorporated Decision and Order Appendix 1 Table.
4. The ropes shall be inspected annually for wire damage (rouge, valley break etc.) in accordance with "KONE Inc. Inspector's Guide to 6 mm diameter and 8 mm diameter steel ropes for KONE Elevators" (per Application Exhibit B, or as thereafter amended by KONE subject to Division approval).
5. A rope inspection log shall be maintained and available in the elevator controller room / space at all times.
6. The elevator rated speed shall not exceed those speeds specified per the Decision and Order Appendix 1 Table.
7. The maximum suspended load shall not exceed those weights (plus 5%) specified per the Decision and Order Appendix 1 Table.
8. The opening to the hoistway shall be effectively barricaded when car top inspection, maintenance, servicing, or testing of the elevator equipment in the hoistway is required. If the service personnel must leave the area for any reason, the hoistway and control room doors shall be closed.
9. The installation shall meet the suspension wire rope factor of safety requirements of ASME A17.1-2013 Section 2.20.3.
10. Any Certified Qualified Conveyance Company performing inspections, maintenance, servicing or testing the elevators shall be provided a copy of this variance decision.
11. The Division shall be notified when the elevator is ready for inspection. The elevator shall be inspected by the Division and a "Permit to Operate" issued before the elevator is placed in service.
12. The Applicant shall comply with suspension means replacement reporting condition per hereby incorporated Decision and Order Appendix 2.
13. The Applicant shall notify its employees or their authorized representative(s), or both, of this order in the same way and to the same extent that employees and authorized representatives are to be notified of docketed permanent variance applications pursuant to California Code of Regulations, Title 8, Sections 411.2 and 411.3.
14. This Decision and Order shall remain in effect unless modified or revoked upon application by the Applicant, affected employee(s), the Division of Occupational Safety

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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: April 28, 2022



Autumn Gonzalez, Hearing Officer

Appendix 1

Monospace 500 Suspension Ropes Appendix 1 Table				
OSHSB File No.	Elevator ID	Minimum Quantity of Ropes (per Condition 3)	Maximum Speed in Feet per Minute (per Condition 6)	Maximum Suspended Load (per Condition 7)
22-V-036	1	7	150	12,247
22-V-037	1	8	350	11,706
22-V-037	2	8	350	11,706
22-V-037	3	8	350	11,706
22-V-038	1	7	150	12,247
22-V-041	1	8	350	11,706
22-V-041	2	8	350	11,706
22-V-042	1	7	200	11,556
22-V-044 Building A	1	7	200	11,556
22-V-044 Building D	1	7	200	11,556
22-V-044 Building E	1	7	200	11,556
22-V-044 Building J	1	7	200	11,556
22-V-050	1	8	350	11,706

*Proposed Variance Decision
 KONE Monospace 500 Elevators (Group IV)
 Hearing Date: April 27, 2022*

22-V-051	1	7	150	12,247
22-V-051	2	7	150	12,247
22-V-052	1	4	150	6,998
22-V-065	1	7	200	11,556
22-V-065	2	7	200	11,556
22-V-066	1	7	200	11,556
22-V-066	2	7	200	11,556
22-V-067	1	7	200	11,556
22-V-067	2	7	200	11,556
22-V-067	3	7	200	11,556
22-V-083	1	8	200	13,207
22-V-083	3	8	200	13,207
22-V-083	4	7	150	12,247
22-V-084	1	7	150	12,247
22-V-085	1	7	150	12,247
22-V-085	2	7	150	12,247
22-V-085	3	7	150	12,247

Appendix 2

Suspension Means Replacement Reporting Condition

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

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

Proposed Variance Decision

KONE Monospace 500 Elevators (Group IV)

Hearing Date: April 27, 2022

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

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

In the Matter of Application for
Permanent Variance by:

DATAM S.F., LLC

OSHSB File No.: See Section A.1 table of
Proposed Decision Dated: April 28, 2022

DECISION

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

DAVID THOMAS, Chairman

BARBARA BURGEL, Member

KATHLEEN CRAWFORD, Member

DAVID HARRISON, Member

NOLA KENNEDY, Member

CHRIS LASZCZ-DAVIS, Member

LAURA STOCK, Member

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD

Date of Adoption: May 19, 2022

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

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

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

In the Matter of Application for Permanent Variance by: <p style="text-align: center;">DATAM S.F., LLC</p>	OSHSB File Nos.: See section A.1 table below <p style="text-align: center;"><u>PROPOSED DECISION</u></p> Hearing Date: April 27, 2022
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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 Escalators
22-V-045	DATAM S.F., LLC	222 Mason Street San Francisco, CA	6

- This proceeding is conducted in accordance with Labor Code section 143, and title 8, section 401, et. seq.
- The safety orders at issue are section 3141.11, incorporated ASME A17.1-2004, sections 6.1.4.1., and 6.1.6.4, and section 3141.2 incorporated ASME A17.1-2004, sections 8.7.6.1.1 [8.7.1.1] and 8.7.6.1.6.

B. Process and Procedure:

- This hearing was held on April 27, 2022, in Sacramento, California, via teleconference, by Occupational Safety and Health Standards Board (“Board”), with Hearing Officer Autumn Gonzalez, both presiding and hearing the matter on its merit, as a basis of proposed decision to be advanced to the Board for its consideration, in accordance with section 426.
- At the hearing, Carolina Castaneda, with Mitsubishi Electric, Elevator Division, appeared on behalf of each Applicant, 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.

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

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

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

Official notice is taken of the Board’s rulemaking records, and variance decisions concerning the safety order requirements from which variance is requested. At close of hearing on April 27, 2022, the record was closed, and the matter taken under submission by the Hearing Officer.

C. Findings of Fact

1. Based upon the record of this proceeding, the Board finds the following: Applicant proposes to perform alterations to six (6) existing escalators that include a “sleep mode” capability that will cause the escalator to run at a reduced speed when not in use to conserve energy. This arrangement does not comply with the Elevator Safety Orders that prohibit the intentional variation of an escalator’s speed after start-up, and thus variance is requested from California Code of Regulations. For this reason, the Applicant requires a permanent variance from the provisions of California Code of Regulations, Title 8, Elevator Safety Orders, Group IV, Section 3141.2 [ASME A17.1-2004 Sections 8.7.6.1.1 (8.7.1.1) and 8.7.6.1.6] with the relevant code sections being ASME A17.1-2004, Sections 6.1.4.1 and 6.1.6.4, regarding the variation of escalator speed and handrail speed monitoring.
2. ASME A17.1-2004, section 8.7.8.1.6 states:

8.7.8.1.6 Handrails. Any alteration to the handrails or handrail system shall require conformance with 6.1.3.2.2, 6.1.3.4.1 through 6.1.3.4.4, 6.1.3.4.6, 6.1.6.3.12, and 6.1.6.4.
3. The Applicant’s proposed “sleep mode” function is similar to other installations for which a permanent variance has been granted (OSHSB File No. 13-V-153). In this previous variance decision it was concluded by the Board, that a variance also be granted from section 3141.11 [ASME A17.1-2004, Section 6.1.6.4] regarding handrail speed monitoring. ASME A17.1-2004, section 6.1.4.1, states:

6.1.4.1 Limits of Speed. The rated speed shall be not more than 0.5 m/s (100 ft/min), measured along the centerline of the steps in the direction of travel. The speed attained by an escalator after start-up shall not be intentionally varied.

The purpose of this regulation is to ensure that the speed of the escalator during normal operation is kept constant to prevent passengers from losing their balance.

4. The Applicant contends that equivalent safety is achieved through the use of a controller that is capable of varying the escalator drive motor speed in conjunction with dual redundant sensors strategically placed at each end of the unit to detect passenger traffic. When the sensors indicate a lack of traffic approaching the escalator, for a specified amount of time not less than three times the amount of time to transfer a passenger between landings, the control system will initiate the “sleep mode” function, decelerating the escalator to a “crawling speed”, no less than 0.05 m/s (10 ft./min). If passenger traffic is detected while the escalator is in “Sleep Mode,” a signal will be sent to the controller to “wake up” resulting in the escalator accelerating to normal operating speed within 1.5 seconds at a rate no greater than 1 ft/sec².
5. Per Applicant, the sensors used to detect passenger traffic would provide coverage able to detect passengers at a distance greater than a walking person could travel in 2 seconds, which will ensure the escalator is running at normal speed prior to passenger boarding.
6. Applicant proposes that if passenger traffic is detected approaching the escalator opposite the motion of the escalator steps while in “sleep mode”, an alarm will sound and the escalator will exit “sleep mode” and accelerate until it reaches normal operating speed at a rate no greater than 1 ft/sec². This arrangement is intended to discourage passengers from entering the escalator opposite the motion of the steps while at reduced speed.
7. As proposed, the sensors used to detect passenger traffic are to be installed and arranged in a double redundant, fail-safe fashion with two sensors installed at each end of the escalator providing the same coverage field. This arrangement is intended to allow for passenger traffic detection in the case of any single sensor failure and provide for signal comparison by the controller to detect sensor failure. In the event of a detected failure of any one of the passenger traffic sensors, “sleep mode” would be disabled and the escalator would remain at normal operating speed until all sensors have resumed normal function. In addition, the passenger traffic sensors are to be

wired to the escalator controller in a fail-safe manner that prevents “sleep mode” activation if the wiring is cut or disconnected.

8. ASME A17.1-2004, section 8.7.6.1.1 states:

8.7.6.1.1. General Requirements. Any alteration to an escalator shall comply with 6.1.6.1, 6.1.6.1.1, 6.1.6.2.1, 6.1.6.3.1, 6.1.6.3.5, 6.1.6.7, 8.7.1.1, and 8.7.1.2.

9. The Division has applied ASME A17.1-2004 section 8.7.6.1.1 (reference to section 8.7.1.1) to the prohibition of intentionally varying the travel speed under section 6.1.4.1.

10. Division notes in its Review of Application (Attachment PD-4) that the Applicant proposed “sleep mode” function meets the requirements of ASME A17.1-2010, section 6.1.4.1.2 regarding varying the speed of an escalator after start-up. For this reason among others identified within the its Review of Application, the Division advises that equivalent or superior safety will be provided by grant of permanent variance in this matter, as conditionally limited per the below Decision and Order.

11. ASME A17.1-2010, section 6.1.4.1.2, states:

Variation of the escalator speed after start-up shall be permitted provided the escalator installation conforms to all of the following:

- (a) The acceleration and deceleration rates shall not exceed 0.3 m/s^2 (1.0 ft/sec^2).
- (b) The rated speed is not exceeded.
- (c) The minimum speed shall be not less than 0.05 m/s (10 ft/min).
- (d) The speed shall not automatically vary during inspection operation.
- (e) Passenger detection means shall be provided at both landings of the escalator such that
 - (1) detection of any approaching passenger shall cause the escalator to accelerate to or maintain the full escalator speed conforming to 6.1.4.1.2(a) through (d)

Proposed Variance Decision

OSHSB Variance File No. 22-V-045

Hearing Date: April 27, 2022

(2) detection of any approaching passenger shall occur sufficiently in advance of boarding to cause the escalator to attain full operating speed before a passenger walking at normal speed [1.35 m/s (270 ft/min)] reaches the combplate

(3) passenger detection means shall remain active at the egress landing to detect any passenger approaching against the direction of escalator travel and shall cause the escalator to accelerate to full rated speed and sound the alarm (see 6.1.6.3.1) at the approaching landing before the passenger reaches the combplate

(f) Automatic deceleration shall not occur before a period of time has elapsed since the last passenger detection that is greater than 3 times the amount of time necessary to transfer a passenger between landings.

(g) Means shall be provided to detect failure of the passenger detection means and shall cause the escalator to operate at full rated speed only.”

12. The Division states correctly in its Review of Application, that Applicant’s proposed “sleep mode” function is materially similar to other installations for which a permanent variance has been granted (OSHSB File No. 14-V-129). In these previous variance decisions it was concluded that a variance was required from ASME A17.1-2004, section 6.1.6.4 regarding handrail speed monitoring, and the concluding conditional grant of variance provided for the disabling of the handrail-speed monitoring device while the escalator is operating in slow speed “sleep mode.”

13. ASME A17.1-2004, section 6.1.6.4, states:

Handrail Speed Monitoring Device. A handrail speed monitoring device shall be provided that will cause the activation of the alarm required by 6.1.6.3.1(b) without any intentional delay, whenever the speed of either handrail deviates from the step speed by 15% or more. The device shall also cause electric power to be removed from the driving-machine motor and brake when the speed deviation of 15% or more is continuous within a 2 s to 6 s range. The device shall be of the manual-reset type.

The intent of this regulation is to prevent the destabilization of passengers by maintaining the potential relationship of the moving elements with which passengers interaction while riding.

14. The Applicant intends to disable the handrail speed monitoring during sleep mode operation.
15. The Division advises that the proposed “sleep mode” system incorporating the proposed hand rail speed control specifications, subject to all conditions and limitations of the below Decision and Order will provide for safety equivalence.
16. The proposed “sleep mode” system functions and devices are materially comparable to other installations for which permanent variance previously has been granted by the Board (e.g. OSHSB File No. 13-V-153, 14-V-129, 15-V-236, 16-V-069), absent, to the Division’s reported knowledge, adverse effect upon passenger or workplace safety or health.
17. Both Division and Board staff recommend that conditionally limited grant of permanent variance in this matter, per the below Decision and Order, will provide for passenger safety and occupational safety and health equivalent or superior to that would otherwise prevail per the subject Elevator Safety Order requirements.

D. Conclusive Findings:

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

E. Decision and Order:

The application is conditionally GRANTED as specified below, and to the limited extent, as of the date the Board adopts this Proposed Decision, the respective section A table specified quantity of Mitsubishi escalators listed in Attachment 2, at the specified location, shall have permanent variance from Applicant requires a permanent variance from the provisions of section 3141.2 [ASME A17.1-2004 Sections 8.7.6.1.1 (8.7.1.1) and 8.7.6.1.6]

with the relevant code sections being ASME A17.1-2004, Sections 6.1.4.1 and 6.1.6.4, regarding the variation of escalator speed and handrail speed monitoring, subject to each and all of the following requirements and limitations:

1. The Applicant may intentionally vary the escalator speed and install proximity sensors for traffic detection subject to the following:
 - (a) The rate of acceleration and deceleration shall not exceed 0.3 m/s^2 (1 ft/sec^2) when transitioning between speeds.
 - (b) Failure of a single proximity sensor including its associated circuitry, shall cause the escalator to revert to its normal operating speed at an acceleration of not more than 0.3 m/s^2 (1 ft/sec^2).
 - (c) Automatic deceleration shall not occur before a period of time of not less than three times the time it takes a passenger to ride from one landing to the other at normal speed has elapsed.
 - (d) Detection of any passenger shall cause the escalator to reach full speed before a passenger, walking at 4.5 ft/sec , reaches the comb plate.
 - (e) The passenger detection means shall detect a person within a sufficient distance along all possible paths to the escalator that do not require climbing over barriers or escalator handrails to assure that the escalator attains full operating speed before a person walking at 4.5 ft/sec reaches the escalator comb plate. The minimum detection distance shall be calculated according to the following formula or alternatively according to Attachment 1 (Detection Distance Sleep Mode Operation) attached hereto and incorporated herein by this reference:

$$d = (V_f - V_s) \times (V_w / a) \text{ where}$$

d = detection distance (ft)

V_f = normal speed (ft/min) [not to exceed 100 ft/min]

V_s = slow "sleep" speed (ft/min) [not less than 10 ft/min]

V_w = passenger walking speed (4.5 ft/sec)

a = acceleration/deceleration rate (ft/sec^2) [not to exceed 1 ft/sec^2]

Proposed Variance Decision

OSHSB Variance File No. 22-V-045

Hearing Date: April 27, 2022

- (f) Detection of any passenger approaching against the direction of escalator travel shall cause the escalator to reach full speed before a passenger, walking at 4.5 ft/sec, reaches the comb plate and shall cause the escalator alarm to sound. The sounding of the alarm may include a 3 to 5 second alarm or three 1 second alarm soundings.
 - (g) The minimum speed of the escalator shall not be less than 0.05 m/s (10 ft/min). The "sleep mode" functionality shall not affect the escalator inspection operation. The speed of the escalator shall not vary during Inspection Mode.
 - (h) There shall be two means of detecting passengers at each end of the escalator for redundancy and for detection of failure in the passenger detection means.
 - (i) The passenger sensors (detectors) at each end of the escalator must be verified by the control system for proper operation in the following manner:
 - 1. If any of the passenger detection sensors remains tripped for at least 5 minutes but no more than 10 minutes, then the control system shall generate a fault to indicate which sensor is faulted while causing the escalator to exit the Sleep Mode and remain at the normal run speed until the faulted sensor begins to function properly.
 - 2. If one of the paired sensors at either end of the escalator does not trip while the other paired sensor trips at least five times but no more than ten times, the control system shall generate a fault to indicate which sensor is faulted while causing the escalator to exit the Sleep Mode and remain at the normal run speed until the faulted sensor begins to function properly.
 - (j) The handrail speed monitoring device required by section 6.1.6.4 may be disabled while the escalator is operating in the slow speed (Sleep Mode) condition.
- 2. The Applicant shall have the controller schematic diagrams available in the control space together with a written explanation of the operation of the controller.
 - 3. An annual test shall be conducted by a Certified Competent Conveyance Mechanic (CCCM) employed by a Certified Qualified Conveyance Company (CQCC) which maintains and services the escalators, to demonstrate that the escalator is transitioning

Proposed Variance Decision

OSHSB Variance File No. 22-V-045

Hearing Date: April 27, 2022

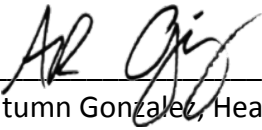
between "Normal Mode" and "Sleep Mode" and back in conformance with the terms of this variance. The instrumentation used shall be capable of allowing the CCCM to determine the acceleration and deceleration rates of the escalator.

4. The results of each annual test required by Condition No. 3 shall be submitted to the appropriate Elevator Unit District Office in tabular and graphic form (speed vs. time).
5. Whenever practicable, as determined by the Applicant and subject to the concurrence of the Division, the variable speed system is to be installed without the installation of new bollards or other such new structures, if the bollards or other structures would impede passenger movement at the destination end of the escalator. If new bollards or other such structures of that sort are constructed in connection with the variable speed system, the Applicant will take all practicable steps to minimize the impact of same on the movement of passengers at the destination end of the escalator.
6. Any Certified Qualified Conveyance Company (CQCC; elevator contractor) performing inspection, maintenance, servicing or testing of the escalators shall be provided a copy of the variance decision.
7. The Division shall be notified when the escalator is ready for inspection, and the escalator shall be inspected by the Division and a "Permit to Operate" issued before the escalator may be placed in service.
8. 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.
9. 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 section 411, et. seq.

Proposed Variance Decision
OSHSB Variance File No. 22-V-045
Hearing Date: April 27, 2022

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: April 28, 2022



Autumn Gonzalez, Hearing Officer

ATTACHMENT 1
 Detection Distance Sleep Mode Operation
 Acceleration Rate (ft./sec²) vs. Escalator Sleep Mode Speed (ft./min)

	10	15	20	25	30	35	40	45	50	55	60	65	70	75	80	85	90	95	100
1.00	6.76	6.39	6.01	5.64	5.26	4.88	4.51	4.13	3.76	3.38	3.01	2.63	2.25	1.88	1.50	1.13	0.75	0.38	0.00
0.95	7.12	6.72	6.33	5.93	5.54	5.14	4.75	4.35	3.96	3.56	3.16	2.77	2.37	1.98	1.58	1.19	0.79	0.40	0.00
0.90	7.52	7.10	6.68	6.26	5.85	5.43	5.01	4.59	4.18	3.76	3.34	2.92	2.51	2.09	1.67	1.25	0.84	0.42	0.00
0.85	7.96	7.52	7.07	6.63	6.19	5.75	5.30	4.86	4.42	3.98	3.54	3.09	2.65	2.21	1.77	1.33	0.88	0.44	0.00
0.80	8.45	7.98	7.52	7.05	6.58	6.11	5.64	5.17	4.70	4.23	3.76	3.29	2.82	2.35	1.88	1.41	0.94	0.47	0.00
0.75	9.02	8.52	8.02	7.52	7.01	6.51	6.01	5.51	5.01	4.51	4.01	3.51	3.01	2.51	2.00	1.50	1.00	0.50	0.00
0.70	9.66	9.13	8.59	8.05	7.52	6.98	6.44	5.90	5.37	4.83	4.29	3.76	3.22	2.68	2.15	1.61	1.07	0.54	0.00
0.65	10.41	9.83	9.25	8.67	8.09	7.52	6.94	6.36	5.78	5.20	4.62	4.05	3.47	2.89	2.31	1.73	1.16	0.58	0.00
0.60	11.27	10.65	10.02	9.39	8.77	8.14	7.52	6.89	6.26	5.64	5.01	4.38	3.76	3.13	2.51	1.88	1.25	0.63	0.00
0.55	12.30	11.61	10.93	10.25	9.56	8.88	8.20	7.52	6.83	6.15	5.47	4.78	4.10	3.42	2.73	2.05	1.37	0.68	0.00
0.50	13.53	12.78	12.02	11.27	10.52	9.77	9.02	8.27	7.52	6.76	6.01	5.26	4.51	3.76	3.01	2.25	1.50	0.75	0.00
0.45	15.03	14.20	13.36	12.53	11.69	10.86	10.02	9.19	8.35	7.52	6.68	5.85	5.01	4.18	3.34	2.51	1.67	0.84	0.00
0.40	16.91	15.97	15.03	14.09	13.15	12.21	11.27	10.33	9.39	8.45	7.52	6.58	5.64	4.70	3.76	2.82	1.88	0.94	0.00
0.35	19.32	18.25	17.18	16.10	15.03	13.96	12.88	11.81	10.74	9.66	8.59	7.52	6.44	5.37	4.29	3.22	2.15	1.07	0.00
0.30	22.55	21.29	20.04	18.79	17.54	16.28	15.03	13.78	12.53	11.27	10.02	8.77	7.52	6.26	5.01	3.76	2.51	1.25	0.00
0.25	27.05	25.55	24.05	22.55	21.04	19.54	18.04	16.53	15.03	13.53	12.02	10.52	9.02	7.52	6.01	4.51	3.01	1.50	0.00
0.20	33.82	31.94	30.06	28.18	26.30	24.42	22.55	20.67	18.79	16.91	15.03	13.15	11.27	9.39	7.52	5.64	3.76	1.88	0.00
0.15	45.09	42.59	40.08	37.58	35.07	32.57	30.06	27.56	25.05	22.55	20.04	17.54	15.03	12.53	10.02	7.52	5.01	2.51	0.00
0.10	67.64	63.88	60.12	56.36	52.61	48.85	45.09	41.33	37.58	33.82	30.06	26.30	22.55	18.79	15.03	11.27	7.52	3.76	0.00
0.05	135.27	127.76	120.24	112.73	105.21	97.70	90.18	82.67	75.15	67.64	60.12	52.61	45.09	37.58	30.06	22.55	15.03	7.52	0.00

$$d = (V_f - V_s) \times \frac{V_w}{a}$$

d Detection distance (ft.)

V_f Elevator Rated Speed Escalators with rated speeds of 100 ft./min.

V_s Slow Speed[“Sleep mode” Speed] (ft./min.)

V_w Passenger Walking Speed of 4.5 ft./sec.

a Acceleration/Deceleration Rate (ft./sec.²)

Note: 1 ft./min. = 0.0167 ft./sec.

Proposed Variance Decision

OSHSB Variance File No. 22-V-045

Hearing Date: April 27, 2022

ATTACHMENT 2

Permanent Variance is granted as to the below specified escalators, identified by the Applicant assigned designations in effect on the date of Decision and Order adoption:

Escalator ID
A2-83593
A3-83594
A4-A3595
A5-83596
A6-83597
A7-83598

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

In the Matter of Application for
Permanent Variance regarding:

Mitsubishi Elevators (Group IV)

OSHSB File No.: See Section A.1 Table in
Proposed Decision Dated: April 28, 2022

DECISION

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

DAVID THOMAS, Chairman

BARBARA BURGEL, Member

KATHLEEN CRAWFORD, Member

DAVID HARRISON, Member

NOLA KENNEDY, Member

CHRIS LASZCZ-DAVIS, Member

LAURA STOCK, Member

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD

Date of Adoption: May 19, 2022

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

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

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

<p>In the Matter of Application for Permanent Variance Regarding:</p> <p style="text-align: center;">Mitsubishi Elevators (Group IV)</p>	<p>OSHSB File Nos.: See section A.1 Table</p> <p style="text-align: center;"><u>PROPOSED DECISION</u></p> <p>Hearing Date: April 27, 2022</p>
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A. Procedural Matters:

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

Variance No.	Applicant Name	Variance Location Address	No. of Elevators
22-V-046	Sony Pictures Studios	10202 W. Washington Blvd Culver City, CA	2

- The safety orders at issue are set forth in the prefatory portion of the Decision and Order. This proceeding is conducted in accordance with Labor Code section 143, and California Code of Regulations, title 8, section 401, et. seq.
- This hearing was held on April 27, 2022, in Sacramento, California, via teleconference, by delegation of the Occupational Safety and Health Standards Board (“Board”), with Hearing Officer Autumn Gonzalez, both presiding and hearing the matter on its merit, as a basis of proposed decision to be advanced to the Board for its consideration, in accordance with California Code of Regulations, title 8, section 426.
- At the hearing, Carolina Castaneda, with Mitsubishi Electric, Elevator Division, appeared on behalf of each Applicant, 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.
- At the hearing, documentary and oral evidence was received, and by stipulation of all parties, documents were accepted into evidence:

*Proposed Variance Decision
Mitsubishi Elevators (Group IV)
Hearing Date: April 27, 2022*

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

Official Notice is taken of the Board's rulemaking records and variance decisions concerning the safety order requirements from which variance is requested. At the close of hearing on April 27, 2022, the record was closed and the matter taken under submission by the Hearing Officer.

B. Findings of Fact:

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

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

C. Conclusive Findings:

The above stated procedural prerequisites, legal authority, and factual findings, as further supported by the documentary record and hearing testimony in this matter, provide a substantive and reasonable basis of conclusion that: (1) Each Applicant has complied with the statutory and regulatory requirements that must be met before an application for permanent variance may be conditionally granted, and (2) a preponderance of the evidence

establishes that each Applicants proposal, subject to all conditions and limitations set forth in the below Decision and Order, will provide equivalent safety and health to that which would prevail upon full compliance with the requirements of California Code of Regulation, title 8, Elevator Safety Orders from which variance is being sought.

D. Decision and Order:

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

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

5. The Applicant shall provide a durable sign with lettering not less than ½-inch high on a contrasting background. The sign shall be located on the inset top railing; the sign shall be visible from the access side of the car top, and the sign shall state:

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

6. The Group IV requirements for car top clearances shall be maintained (car top clearances outside the railing will be measured from the car top and not from the required bevel).
7. A mechanical means (e.g., locking bar mechanism) that will secure the car to the guide rail to prevent unintended movement shall be provided and used during machine and/or governor car-top work. The mechanical means (e.g., locking bar mechanism) shall have a safety factor of not less than 3.5 for the total unbalanced load.
8. An electrical switch or a lockout/tagout procedure shall be provided that will remove power from the driving machine and brake when the mechanical means (e.g., locking bar mechanism) is engaged.
9. In order to inhibit employees from working outside the car top railing, sections shall not be hinged and they shall be installed by means that will inhibit (but not necessarily completely preclude) removal. The Applicant shall ensure that all persons performing work that requires removal of any part of the car top railing are provided with fall protection that is appropriate and suitable for the assigned work. That fall protection shall consist of a personal fall arrest system or fall restraint system that complies with California Code of Regulations, title 8, section 1670.
10. The bevel utilized by the Applicant in accordance with the variance granted from ASME A17.1-2004, section 2.10.2.4 shall slope at not less than 75 degrees from the horizontal to serve as the toe board; however, that slope may be reduced to a minimum of 40 degrees from the horizontal as may be required for sections where machine encroachment occurs.
11. If the Applicant directs or allows its employees to perform tasks on the car top, the Applicant shall develop, implement, and document a safety training program that shall provide training to Applicant employees. Components of the training shall include, but

*Proposed Variance Decision
Mitsubishi Elevators (Group IV)
Hearing Date: April 27, 2022*

not necessarily be limited to, the following: car blocking procedures; how examination, inspection, adjustment, repair, removal and replacement of elevator components are to be performed safely, consistent with the requirements of the variance conditions; applicable provisions of the law and other sources of safety practices regarding the operation of the elevator. A copy of the training program shall be located in the control room of each elevator that is the subject of this variance, and a copy of the training program shall be attached to a copy of this variance that shall be retained in any building where an elevator subject to this variance is located. The Applicant shall not allow Certified Qualified Conveyance Company (CQCC) or other contractor personnel to work on the top of any elevator subject to this variance unless the Applicant first ascertains from the CQCC or other contractor that the personnel in question have received training equivalent to, or more extensive than, the training components referred to in this condition.

12. Any CQCC performing inspections, maintenance, servicing, or testing of the elevators shall be provided a copy of this variance decision.
13. The Division shall be notified when the elevator is ready for inspection. The elevator shall be inspected by the Division, and a Permit to Operate shall be issued before the elevator is placed in service.
14. The Applicant shall notify its employees or their authorized representative(s), or both, of this order in the same way and to the same extent that employees and authorized representatives are to be notified of docketed permanent variance applications pursuant to California Code of Regulations, title 8, sections 411.2 and 411.3.
15. This Decision and Order shall remain in effect unless modified or revoked upon application by the Applicant, affected employee(s), the Division, or by the Board on its own motion, in the manner prescribed for its issuance.

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

Dated: April 28, 2022



Autumn Gonzalez, Hearing Officer

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

In the Matter of Application for
Permanent Variance regarding:

Otis Elevators Gen2S (Group IV)

OSHSB File No.: See section A Table of
Proposed Decision Dated: April 28, 2022

DECISION

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

DAVID THOMAS, Chairman

BARBARA BURGEL, Member

KATHLEEN CRAWFORD, Member

DAVID HARRISON, Member

NOLA KENNEDY, Member

CHRIS LASZCZ-DAVIS, Member

LAURA STOCK, Member

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD

Date of Adoption: May 19, 2022

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

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

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

<p>In the Matter of Application for Permanent Variance Regarding:</p> <p style="text-align: center;">Otis Elevators Gen2S (Group IV)</p>	<p>OSHSB File Nos.: See section A table below</p> <p style="text-align: center;"><u>PROPOSED DECISION</u></p> <p>Hearing Date: April 27, 2022</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
22-V-047	Camdaily, LLC	The Barringway Place 11701 S Gateway Blvd Los Angeles, CA	2
22-V-048	Pine LLC	3434 Wesley Street Culver City, CA	1
22-V-055	1136/1142 La Cienega LLC	1136 N. La Cienega Blvd. West Hollywood, CA	1
22-V-056	Bryson II Partners, LP	2721 Wilshire Blvd. Los Angeles, CA	1
22-V-057	Labrea9 LLC	850 S. La Brea Ave. Los Angeles, CA	1
22-V-058	SCP Horton Owner 1, LLC	300 Horton San Diego, CA	1
22-V-059	SCP Horton Owner 1, LLC	500 Horton San Diego, CA	1
22-V-068	Ortega Gardens LLC	Ortega Garden Apartments 510 E Ortega St. Units A-E Santa Barbara, CA	1

*Proposed Variance Decision
 Otis Gen2S Elevators (Group IV)
 Hearing Date: April 27, 2022*

22-V-073	843 N. Spring Owner LLC	Redcar CT-7 843 N. Spring Street Los Angeles, CA	2
22-V-076	Sun King LP	9190 N. Telfair Ave Sun Valley, CA	1
22-V-086	18331 Von Karman Irvine, LLC	Milani Apartments 3100 Martin Irvine, CA	1
22-V-087	18331 Von Karman Irvine, LLC	Milani Apartments - Parking Structure 3180 Martin Irvine, 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 April 27, 2022, in Sacramento, California, and via teleconference, by Occupational Safety and Health Standards Board (“Board”), with Hearing Officer Autumn Gonzalez, both presiding and hearing the matter on its merit, as a basis of proposed decision to be advanced to the Board for its consideration, in accordance with California Code of Regulations, title 8, section 426.
3. At the hearing, Dan Leacox of Leacox & Associates, and Wolter Geesink with Otis Elevator, appeared on behalf of each Applicant; Mark Wickens 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.
4. Oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence:

*Proposed Variance Decision
Otis Gen2S Elevators (Group IV)
Hearing Date: April 27, 2022*

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

Official notice is taken of the Board’s rulemaking records, and variance files and decisions, concerning the Elevator Safety Order standards at issue. At close of hearing on April 27, 2022, the record was closed, and the matter taken under submission by the Hearing Officer.

C. Findings and Basis:

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

1. Each Applicant intends to utilize Otis 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

*Proposed Variance Decision
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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.

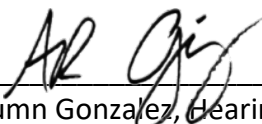
12. The governor speed-reducing switch function shall comply with the following:
 - a. It shall be used only with direct drive machines; i.e., no gear reduction is permitted between the drive motor and the suspension means.
 - b. The velocity encoder shall be coupled to the driving machine motor shaft. 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.

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Otis Gen2S Elevators (Group IV)
Hearing Date: April 27, 2022*

- b. The governor rope shall have a factor of safety of 8 or greater as related to the strength necessary to activate the safety.
 - c. The governor sheaves shall have a pitch diameter of not less than 180 mm (7.1 in.).
14. Any Certified Qualified Conveyance Company performing inspections, maintenance, servicing, or testing of the elevators shall be provided a copy of this variance decision.
15. The Division shall be notified when the elevator is ready for inspection. The elevator shall be inspected by the Division, and a Permit to Operate shall be issued before the elevator is placed in service.
16. The Applicant shall be subject to the Suspension Means – Replacement Reporting Condition stated in Addendum 2, as hereby incorporated by this reference.
17. The Applicant shall notify its employees or their authorized representative(s), or both, of this order in the same way and to the same extent that employees and authorized representatives are to be notified of docketed permanent variance applications pursuant to California Code of Regulations, title 8, sections 411.2 and 411.3.
18. This Decision and Order shall remain in effect unless modified or revoked upon application by the Applicant, affected employee(s), the Division of Occupational Safety and Health, or by the Board on its own motion, in accordance with procedures per title 8, Division 1, Chapter 3.5.

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

Dated: April 28, 2022



Autumn Gonzalez, Hearing Officer

ADDENDUM 1

October 6, 2010

CIRCULAR LETTER E-10-04

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

SUBJECT: Coated Steel Belt Monitoring

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

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

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

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

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

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

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

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

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

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

Debra Tudor
Principal Engineer
DOSH-Elevator Unit HQS

ADDENDUM 2

Suspension Means – Replacement Reporting Condition

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

Further:

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

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Otis Gen2S Elevators (Group IV)
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- 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:

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

OSHSB File No.: see Section 1 table of
Proposed Decision Dated: April 28, 2022

DECISION

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

DAVID THOMAS, Chairman

BARBARA BURGEL, Member

KATHLEEN CRAWFORD, Member

DAVID HARRISON, Member

NOLA KENNEDY, Member

CHRIS LASZCZ-DAVIS, Member

LAURA STOCK, Member

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD

Date of Adoption: May 19, 2022

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

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

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

<p>In the Matter of Application for Permanent Variance Regarding:</p> <p>Schindler 3300 with SIL-Rated Drive to De-energize Drive Motor (Group IV)</p>	<p>OSHSB File Nos.: Per table, in Jurisdictional and Procedural Matters below</p> <p><u>PROPOSED DECISION</u></p> <p>Hearing Date: April 27, 2022</p>
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Jurisdictional and Procedural Matters

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

Variance No.	Applicant Name	Variance Location Address	No. of Elevators
22-V-049	GB Commercial LLC	4850 Duckhorn Drive Sacramento, CA	3
22-V-072	22nd Street, LLC	1114 22nd Street Sacramento, CA	1
22-V-088	Ranjeet K. Pancholy and Vijay J. Pancholy 2004 Revocable Trust	115 El Camino Real Menlo Park, CA	1
22-V-089	Rona Concord, LLC	2325 Clayton Rd. Concord, CA	1

- 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 April 27, 2022, in Sacramento, California, via teleconference, by Occupational Safety and Health Standards Board (“Board”), with Hearing Officer Autumn Gonzalez, both presiding and hearing the matter on its merit, as a basis of proposed decision to be advanced to the Board for its consideration, in accordance with California Code of Regulations, title 8, section 426.
- At the hearing, Jennifer Linares, with the Schindler Elevator Corporation, appeared on behalf of each Applicant; Mark Wickens appeared on behalf of the Division of Occupational Safety and Health (“Division”), and Michael Nelmda appeared on behalf of Board staff, in a technical advisory role apart from the Board.

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

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

Official notice taken of the Board’s rulemaking records, and variance decisions concerning the safety order requirements from which variance is requested. At close of hearing on April 27, 2022, the record was closed, and the matter taken under submission by the Hearing Officer.

Relevant Safety Order Provisions

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

1. Suspension Means

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

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

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

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

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

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

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

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

[...]

(f) whether the ropes were non preformed or preformed

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

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

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

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

where:

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

S= manufacturer's rated breaking strength of one rope

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

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

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

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

Proposed Variance Decision

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

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

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

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

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

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

2. Inspection Transfer Switch

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

When machine room inspection operation is provided, it shall conform to 2.26.1.4.1, and the transfer switch shall be

(a) located in the machine room[.]

3. Seismic Reset Switch

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

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

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

(2) seismic zone 2 or greater:

(a) a displacement switch for each elevator

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

4. Car-top Railings

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

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

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

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

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

Findings of Fact

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

1. Applicant intends to utilize Schindler model 3300 MRL elevator cars at the locations listed in Jurisdictional and Procedural Matters, section 1.
2. The installation contract for these elevator was or will be signed on or after May 1, 2008, thus making the elevator subject to the Group IV Elevator Safety Orders.
3. The Schindler model 3300 MRL elevator cars are not supported by circular steel wire ropes, as required by the Elevator Safety Orders (ESO). They utilize non-circular elastomeric-coated steel belts and specialized suspension means fastenings.

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4. No machine room is provided, preventing the inspection transfer switch from being located in the elevator machine room. The lack of machine room also prevents the seismic reset switch from being located in the elevator machine room.
5. Applicant proposes to relocate the inspection transfer switch and seismic reset switch in an alternative enclosure.
6. The driving machine and governor are positioned in the hoistway and restrict the required overhead clearance to the elevator car top.
7. Applicant proposes to insert the car-top railings at the perimeter of the car top.
8. Applicant intends to use an elevator control system, model CO NX100NA, with a standalone, solid-state motor control drive system that includes devices and circuits having a Safety Integrity Level (SIL) rating to execute specific elevator safety functions.

Conclusive Findings:

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

Decision and Order:

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

Elevator Safety Orders:

- Suspension Means: 2.20.1, 2.20.2.1, 2.20.2.2(a), 2.20.2.2(f), 2.20.3, 2.20.4, 2.20.9.3.4, and 2.20.9.5.4 (Only to the extent necessary to permit the use of the Elastomeric-coated Steel Belts proposed by the Applicant, in lieu of circular steel suspension ropes.);
- Inspection transfer switch: 2.26.1.4.4(a) (Only to the extent necessary to permit the inspection transfer switch to reside at a location other than the machine room);

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- Seismic reset switch: 8.4.10.1.1(a)(2)(b) (Only to the extent necessary to permit the seismic reset switch to reside at a location other than the machine room. room);
- Car-Top Railing: 2.14.1.7.1 (Only to the extent necessary to permit the use of the car-top railing system proposed by the Applicant, where the railing system is located inset from the elevator car top perimeter);
- Means of Removing Power: 2.26.9.6.1 (Only to the extent necessary to permit the use of SIL-rated devices and circuits as a means to remove power from the AC driving motor, where the redundant monitoring of electrical protective devices is required by the Elevator Safety Orders).

Conditions:

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

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

2.20.4.3 – Minimum Number of Suspension Members

2.20.3 – Factor of Safety

2.20.9 – Suspension Member Fastening

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

STM member mandatory replacement criteria shall include:

- i. Any exposed wire, strand or cord;
 - ii. Any wire, strand or cord breaks through the elastomeric coating;
 - iii. Any evidence of rouging (steel tension element corrosion) on any part of the elastomeric-coated steel suspension member;
 - iv. Any deformation in the elastomeric suspension member such as, but not limited to, kinks or bends;
- c. Traction drive sheaves must have a minimum diameter of 72 mm. The maximum speed of STM members running on 72 mm, 87 mm and 125 mm drive sheaves shall be no greater than 2.5 m/s, 6.0 m/s and 8.0 m/s respectively.

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

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- d. If any one STM member needs replacement, the complete set of suspension members on the elevator shall be replaced. Exception: if a new suspension member is damaged during installation, and prior to any contemporaneously installed STM having been placed into service, it is permissible to replace the individual damaged suspension member. STM members that have been installed on another installation shall not be re-used.
- e. A traction loss detection means shall be provided that conforms to the requirements of ASME A17.1-2013, section 2.20.8.1. The means shall be tested for correct function annually in accordance with ASME A17.1-2013, section 8.6.4.19.12.
- f. A broken suspension member detection means shall be provided that conforms to the requirements of ASME A17.1-2013, section 2.20.8.2. The means shall be tested for correct function annually in accordance with ASME A17.1-2013, section 8.6.4.19.13(a).
- g. An elevator controller integrated bend cycle monitoring system shall monitor actual STM bend cycles, by means of continuously counting, and storing in nonvolatile memory, the number of trips that the STM makes traveling, and thereby being bent, over the elevator sheaves. The bend cycle limit monitoring means shall automatically stop the car normally at the next available landing before the bend cycle correlated residual strength of any single STM member drops below 80 percent of full rated strength. The monitoring means shall prevent the car from restarting. The bend cycle monitoring system shall be tested annually in accordance with the procedures required by condition 1b above.
- h. The elevator shall be provided with a device to monitor the remaining residual strength of each STM member. The device shall conform to the requirements of Division Circular Letter E-10-04, a copy of which is attached hereto as Exhibit 1 and incorporated herein by reference.
- i. The elevator crosshead data plate shall comply with the requirements of ASME A17.1-2013, section 2.20.2.1.
- j. A suspension means data tag shall be provided that complies with the requirements of ASME A17.1-2013, section 2.20.2.2.
- k. Comprehensive visual inspections of the entire length of each and all installed suspension members, to the criteria developed in condition 1b, shall be conducted and documented every six months by a CCCM.
- l. The Applicant shall be subject to the requirements set out in Exhibit 2 of this Decision and Order, "Suspension Means Replacement Reporting Condition," Incorporated herein by this reference.

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- m. Records of all tests and inspections shall be maintenance records subject to ASME A17.1-2004, sections 8.6.1.2 and 8.6.1.4, respectively.
2. If the inspection transfer switch required by ASME A17.1-2004, section 2.26.1.4.4 does not reside in a machine room, that switch shall not reside in the elevator hoistway. The switch shall reside in the control/machinery room/space containing the elevator's control equipment in an enclosure secured by a lock openable by a Group 1 security key. The enclosure is to remain locked at all times when not in use.
3. If the seismic reset switch does not reside in the machine room, that switch shall not reside in the elevator hoistway. The switch shall reside in the control/machinery room/space containing the elevator's control equipment in an enclosure secured by a lock openable by a Group 1 security key. The enclosure is to remain locked at all times when not in use.
4. If there is an inset car-top railing:
 - a. Serviceable equipment shall be positioned so that mechanics and inspectors do not have to climb on the railings to perform adjustments, maintenance, repairs or inspections. The Applicant shall not permit anyone to stand or climb over the car-top railing.
 - b. The distance that the railing can be inset shall be limited to not more than 6 inches.
 - c. All exposed areas of the car top outside the car-top railing where the distance from the railing to the edge of the car top exceeds 2 inches, shall be beveled with metal, at an angle of not less than 75 degrees with the horizontal, from the mid or top rail to the outside of the car top, such that no person or object can stand, sit, kneel, rest, or be placed in the exposed areas.
 - d. The top of the beveled area and/or car top outside the railing shall be clearly marked. The markings shall consist of alternating 4-inch diagonal red and white stripes.
 - e. The applicant shall provide durable signs with lettering not less than 1/2 inch on a contrasting background on each inset railing. Each sign shall state:

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

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

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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.

Proposed Variance Decision

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

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- i. Any repairs to the SIL-rated devices and circuits shall be made in compliance with the Elevator Safety Orders. If the Elevator Safety Orders do not contain specific provisions for the repair of SIL-rated devices, the repairs shall be made in conformance with ASME A17.1-2013, section 8.6.2.6.
 - j. Any space containing SIL-rated devices and circuits shall be maintained within the temperature and humidity range specified by Schindler Elevator Corporation. The temperature and humidity range shall be posted on each enclosure containing SIL-rated devices and circuits.
 - k. Field changes to the SIL-rated system are not permitted. Any changes to the SIL-rated system's devices and circuitry will require recertification and all necessary updates to the documentation and diagrams required by conditions d. and e. above.
6. The Division shall be notified when the elevator is ready for inspection. The elevator shall be inspected by the Division, and all applicable requirements met, including conditions of this permanent variance, prior to a Permit to Operate the elevator being issued. The elevator shall not be placed in service prior to the Permit to Operate being issued by Division.
 7. The Applicant shall notify its employees or their authorized representative(s), or both, of this order in the same way that the Applicant was required to notify them of the docketed application for permanent variance per California Code of Regulations, title 8, sections 411.2 and 411.3.
 8. This Decision and Order shall remain in effect unless modified or revoked upon application by the Applicant, affected employee(s), the Division of Occupational Safety and Health, or by the Board on its own motion, in the procedural manner prescribed per title 8, Chapter 3.5, Subchapter 1.

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

DATED: April 28, 2022



Autumn Gonzalez, Hearing Officer

*Proposed Variance Decision
Schindler 3300 with SIL-Rated Drive to De-energize Drive Motor (Group IV)
Hearing Date: April 27, 2022*

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.

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Hearing Date: April 27, 2022

- 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 Elevators Gen2(O) and/or Gen2L
(Group IV)

OSHSB File No.: see table in Item A.1 of
Proposed Decision Dated: April 28, 2022

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

Date of Adoption: May 19, 2022

BARBARA BURGEL, 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.

KATHLEEN CRAWFORD, Member

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 style="text-align: center;">Otis Elevators Gen2(O) and/or Gen2L (Group IV)</p>	<p>OSHSB File Nos.: See section A.1 table below</p> <p style="text-align: center;"><u>PROPOSED DECISION</u></p> <p>Hearing Date: April 27, 2022</p>
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A. Subject Matter:

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

Variance No.	Applicant Name	Variance Location Address	No. of Elevators
22-V-060	SCP Horton Owner 1, LLC	500 Horton San Diego, CA	3
22-V-062	SCP Horton Owner 1, LLC	600 Horton San Diego, CA	1
22-V-063	SCP Horton Owner 2, LLC	200 Horton San Diego, CA	3

- The safety orders at issue are stated in the portion of section F that precedes the variance conditions.

B. Jurisdiction:

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

C. Procedural:

- This hearing was held on April 27, 2022, in Sacramento, California, and via teleconference, by Occupational Safety and Health Standards Board (“Board”) with Hearing Officer Autumn Gonzalez, both presiding and hearing the matter on its merit, as a basis of proposed decision to be advanced to the Board for its consideration, in accordance with California Code of Regulations, title 8, section 426.

Proposed Variance Decision

Otis Gen2(O) and/or Gen2L Elevators (Group IV)

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

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

Official notice is taken of the Board’s rulemaking recordings and variance decisions concerning the safety order requirements at issue. At close of hearing on April 27, 2022, the record was closed, and the matter taken under submission by the Hearing Officer.

D. Findings:

1. Each Applicant intends to utilize Otis Gen2(O) and/or Otis Gen2L elevators at the location and in the numbers stated in the section A.1 table (as used in this Proposed Decision, the term “Gen2(O)” refers to the original type of Gen2 elevator, as distinguished from other types with such designations as “Gen2L” or “Gen2S” or “Gen2 at 150”).
2. The installation contract for these elevators was, or will be, signed on or after May 1, 2008, making the elevators subject to the Group IV Elevator Safety Orders.
3. The Board incorporates by reference the findings stated in: (a) Items 3 through 5.c, 5.e, and 5.f of the “Findings of Fact” section of the Proposed Decision adopted by the Board on February 19, 2009, regarding OSHSB File No. 08-V-247; (b) Item D.3 of the Proposed Decision adopted by the Board on July 16, 2009, regarding OSHSB File No. 09-V-042; (c) Item D.4 of the Proposed Decision adopted by the Board on September 16, 2010, regarding OSHSB File No. 10-V-029; (d) Items D.4, D.5, and D.7 of the Proposed Decision adopted by the Board on July 18, 2013 regarding OSHSB File No. 12-V-146; and (e) Items D.4 and D.5 of the Proposed Decision adopted by the Board on September 25, 2014, in OSHSB File No. 14-V-170.

Proposed Variance Decision

Otis Gen2(O) and/or Gen2L Elevators (Group IV)

Hearing Date: April 27, 2022

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

E. Conclusive Findings:

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

F. Decision and Order:

Each permanent variance application that is the subject of this proceeding is conditionally GRANTED, as below specified, and to the extent that, as of the date the Board adopts this Proposed Decision, each Applicant listed in the section A.1 table of this Proposed Decision shall have a permanent variance from California Code of Regulations, title 8, section 3141 [ASME A17.1-2004, 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), 2.20.1, 2.20.2.1(b), 2.20.2.2(a), 2.20.2.2(f), 2.20.3, 2.20.4, 2.20.9.3.4, 2.20.9.5.4, (only to the extent necessary to permit the use of Otis Gen2 flat coated steel suspension belts [the belts proposed for use on these Gen2(O) and/or Gen2L elevators] in lieu of conventional steel suspension ropes), 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 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)], regarding car top railings, switches, and suspension ropes and connections, for the location and number of elevators listed in the section A.1 table (so long as the elevators are Gen2(O) or Gen2L Group IV devices that are designed, equipped, and installed in accordance with, and are otherwise consistent with, the representations made in the Otis Master File [referred to in previous

Proposed Variance Decision

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Proposed Decisions as the “Gen2 Master File”] maintained by the Board, as that file was constituted at the time of this hearing), subject to the following conditions:

The variance shall be subject to the following additional conditions:

1. Each elevator subject to this variance shall comply with all applicable Group IV Elevator Safety Orders and with all ASME provisions made applicable by those Group IV Elevator Safety Orders, except those from which variances are granted, as set forth in the prefatory portion of this Decision and Order.
2. The suspension system shall comply with the following:
 - a. The coated steel belt shall have a factor of safety at least equal to the factor of safety that ASME A17.1-2004, section 2.20.3, would require for wire ropes if the elevator were suspended by wire ropes rather than the coated steel belt.
 - b. Steel-coated belts that have been installed and used on another installation shall not be reused.
 - c. The coated steel belt shall be fitted with a monitoring device which has been accepted by the Division and which will automatically stop the car if the residual strength of any single belt drops below 60 percent. If the residual strength of any single belt drops below 60 percent, the device shall prevent the elevator from restarting after a normal stop at a landing.
 - d. Upon initial inspection, the readings from the monitoring device shall be documented and submitted to the Division.
 - e. A successful test of the monitoring device’s functionality shall be conducted at least once a year (the record of the annual test of the monitoring device shall be a maintenance record subject to ASME A17.1-2004, section 8.6.1.4).
 - f. The coated steel belts used shall be accepted by the Division.
 - g. The installation of belts and connections shall be in conformance with the manufacturer’s specifications, which shall be provided to the Division.
3. With respect to each elevator subject to this variance, the applicant shall comply with Division Circular Letter E-10-04, a copy of which is attached hereto as Addendum 1 and incorporated herein by this reference.
4. The Applicant shall not utilize the elevator unless the manufacturer has written procedures for the installation, maintenance, inspection, and testing of the belts and

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

5. The flat coated steel belts shall be provided with a metal data tag that is securely attached to one of those belts. This data tag shall bear the following flat steel coated belt data:
 - a. The width and thickness in millimeters or inches;
 - b. The manufacturer's rated breaking strength in (kN) or (lbf);
 - c. The name of the person who, or organization that, installed the flat coated steel belts;
 - d. The month and year the flat coated steel belts were installed;
 - e. The month and year the flat coated steel belts were first shortened;
 - f. The name or trademark of the manufacturer of the flat coated steel belts;
 - g. Lubrication information.
6. There shall be a crosshead data plate of the sort required by section 2.20.2.1, and that plate shall bear the following flat steel coated belt data:
 - a. The number of belts,
 - b. The belt width and thickness in millimeters or inches, and
 - c. The manufacturer's rated breaking strength per belt in (kN) or (lbf).
7. If the seismic reset switch does not reside in a machine room, that switch shall not reside in the elevator hoistway. The switch shall reside in the inspection and test control panel located in one upper floor hoistway door jamb or in the control space (outside the hoistway) used by the motion controller.
8. If the inspection transfer switch required by ASME A17.1, rule 2.26.1.4.4(a), does not reside in a machine room, that switch shall not reside in the elevator hoistway. The switch shall reside in the inspection and test control panel located in one upper floor hoistway door jamb or in the control space (outside the hoistway) used by the motion controller.
9. When the inspection and test control panel is located in the hoistway door jamb, the inspection and test control panel shall be openable only by use of a Security Group I restricted key.

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10. The opening to the hoistway shall be effectively barricaded when car top inspection, maintenance, servicing, or testing of elevator equipment in the hoistway is required. If service personnel must leave the area for any reason, the hoistway and control room doors shall be closed.
11. If there is an inset car top railing:
 - a. Serviceable equipment shall be positioned so that mechanics and inspectors do not have to climb on railings to perform adjustment, maintenance, repairs, or inspections. The applicant shall not permit anyone to stand on or climb over the car top railing.
 - b. The distance that the car top railing may be inset from the car top perimeter shall be limited to no more than 6 inches.
 - c. All exposed areas of the car top outside the car top railing shall preclude standing or placing objects or persons which may fall and shall be beveled from the mid- or top rail to the outside of the car top.
 - d. The top of the beveled area and/or the car top outside the railing, shall be clearly marked. The markings shall consist of alternating four-inch diagonal red and white stripes.
 - e. The Applicant shall provide, on each inset railing, durable signs with lettering not less than ½ inch on a contrasting background. Each sign shall state:

CAUTION

DO NOT STAND ON OR CLIMB OVER RAILING

- f. The Group IV requirements for car top clearances shall be maintained (car top clearances outside the railing shall be measured from the car top, and not from the required bevel).
12. The elevator shall be serviced, maintained, adjusted, tested, and inspected only by Certified Competent Conveyance Mechanics who have been trained to, and are competent to, perform those tasks on the Gen2(O) and/or Gen2L elevator system the Applicant proposes to use, in accordance with the written procedures and criteria required by Condition No. 4 and the terms of this permanent variance.
13. Any Certified Qualified Conveyance Company performing inspections, maintenance, servicing, or testing of the elevators shall be provided a copy of this variance decision.

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14. 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.
15. The Applicant shall be subject to the suspension means replacement reporting condition stated in Addendum 2; that condition is incorporated herein by this reference.
16. The applicant shall notify its employees or their authorized representative(s), or both, of this order in the same way that the Applicant was required to notify them of the application for permanent variance, per California Code of Regulations, title 8, sections 411.2 and 411.3.
17. This Decision and Order shall remain in effect unless modified or revoked upon application by the Applicant, affected employee(s), the Division of Occupational Safety and Health, or by the Board on its own motion, in accordance with 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: April 28, 2022



Autumn Gonzalez, Hearing Officer

ADDENDUM 1

October 6, 2010

CIRCULAR LETTER E-10-04

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

SUBJECT: Coated Steel Belt Monitoring

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

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

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

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

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

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

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

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

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

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

Debra Tudor
Principal Engineer
DOSH-Elevator Unit HQS

ADDENDUM 2

Suspension Means – Replacement Reporting Condition

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

Further:

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

Proposed Variance Decision

Otis Gen2(O) and/or Gen2L Elevators (Group IV)

Hearing Date: April 27, 2022

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

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

In the Matter of Application for
Permanent Variance regarding:

Otis Radar Sleepmode Escalators
(Otis Controller)

OSHSB File No.: See Section A.1 Table of
Proposed Decision Dated: April 28, 2022

DECISION

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

DAVID THOMAS, Chairman

BARBARA BURGEL, Member

KATHLEEN CRAWFORD, Member

DAVID HARRISON, Member

NOLA KENNEDY, Member

CHRIS LASZCZ-DAVIS, Member

LAURA STOCK, Member

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD

Date of Adoption: May 19, 2022

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

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

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

<p>In the Matter of Application for Permanent Variance regarding:</p> <p style="padding-left: 40px;">Otis Radar Sleepmode Escalators (Otis Controller)</p>	<p>OSHSB File Nos. See Section A.1 Table below</p> <p style="text-align: center;">PROPOSED DECISION</p> <p>Hearing Date: April 27, 2022</p>
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A. Procedural Matters

1. Each of the following entities applied for a permanent variance from provisions of the Elevator Safety Orders, found at title 8 of the California Code of Regulations, for the listed number of conveyances at the listed location:

Variance No.	Applicant Name	Variance Location Address	No. of Escalators
22-V-061	SCP Horton Owner 1, LLC	600 Horton San Diego, CA	1

2. The safety orders at issue are set forth in the prefatory portion of the Decision and Order.
3. This proceeding is conducted in accordance with Labor Code section 143, and California Code of Regulations, title 8, section 401, et seq.
4. This hearing was held on April 27, 2022, in Sacramento, California, via teleconference, by Occupational Safety and Health Standards Board (“Board”), with Hearing Officer Autumn Gonzalez, both presiding and hearing the matter on its merit, as a basis of proposed decision to be advanced to the Board for its consideration, in accordance with California Code of Regulations, title 8, section 426.
5. At the hearing, Dan Leacox of Leacox & Associates, and Wolter Geesink with Otis Elevator, appeared on behalf of the Applicants’ representative, the Otis Elevator Company; Mark Wickens appeared on behalf of the Division of Occupational Safety and Health (“Division”), and Michael Nelmida appeared on behalf of Board staff, in a technical advisory role apart from the Board.
6. Documentary and oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence:

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Hearing Date: April 27, 2022

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

Official notice is taken of the Board's files, records, recordings and decisions concerning the Elevator Safety Order requirements from which variance shall issue. On April 27, 2022, the hearing and record closed, and the matter was taken under submission by the Hearing Officer.

B. Findings

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

1. Applicant seeks variance from certain California Code of Regulations, title 8, Elevator Safety Orders, toward the stated purpose of installing new escalators that include a "sleep mode" capability that will cause the escalator to run at a reduced speed when not in use, thus resulting in conservation of electrical energy.
2. The Applicant's proposed sleep mode feature is not compliant with existing California Code of Regulation title 8, Elevator Safety Orders, which prohibits the intentional variation of an escalator's speed after start-up.
3. In order to install escalators that include a sleep mode capability, Applicant requires a permanent variance from the provisions of California Code of Regulations, title 8, Elevator Safety Orders, Group IV, section 3141.11 [ASME A17.1-2004, section 6.1.4.1] regarding the variation of escalator speed.
4. Concerning variance in escalator speed, Code of Regulations, title 8, section 3141.11 [ASME A17.1-2004, section 6.1.4.1] states:

"6.1.4.1 Limits of Speed. The rated speed shall be not more than 0.5 m/s (100 ft/min), measured along the centerline of the steps in the direction of travel. The speed attained by an escalator after start-up shall not be intentionally varied."

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5. As quoted above, an intent of section 3141.11 is to ensure that the speed of the escalator during normal operation is kept constant to prevent passengers from losing their balance.
6. The Applicant contends that equivalent safety is achieved through use of a "Otis" controller that is capable of varying the escalator drive motor speed in conjunction with dual redundant sensors strategically placed at each end of the unit to detect passenger traffic. Per the Applicant's proposed design, if one of the paired passenger detection sensors is disconnected from the control system, the control system shall, without intentional delay, generate a fault while causing the escalator to exit the Sleep Mode and remain at the normal run speed until the reconnected sensor begins to function properly. Also per this design, when passenger traffic is detected while the escalator is in "Sleep Mode", a signal would be sent to the controller to "wake up" resulting in the escalator accelerating to normal operating speed within 1.5 seconds at a rate no greater than 1 ft/sec².
7. Applicant proposes using passenger traffic sensors capable of detecting passengers at a distance greater than a walking person could travel in 2 seconds, thereby causing the escalator to be running at normal speed prior to passenger boarding.
8. Applicant proposes design features such that if a passenger detected approaching the escalator opposite the motion of the escalator steps on it while it is in "sleep mode", an alarm will sound and the escalator will exit "sleep mode" and accelerate until it reaches normal operating speed at a rate no greater than 1 ft/sec². Applicant contends this arrangement will safely discourage passengers from entering the escalator opposite the motion of the steps while it is idling at reduced speed.
9. The Applicant proposes sensors used to detect passenger traffic being installed and arranged in a double redundant, fail-safe fashion with 2 sensors installed at each end of the escalator providing the same coverage field.
10. Applicant's proposed sensor arrangement and redundancy can be reasonably expected to provide for passenger traffic detection in the event of any single sensor failure and provide for signal comparison by the controller to detect sensor failure.

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Hearing Date: April 27, 2022

11. Applicant proposes a design in which detected failure of any one of the passenger traffic sensors, result in a disabling of “sleep mode” such that the escalator would remain at normal operating speed until all sensors have resumed normal function. In addition the proposed design would have passenger traffic sensors wired to the escalator controller in a fail-safe manner that prevents “sleep mode” activation if the sensor wiring is cut or disconnected.

12. As evidenced by written Review of Application (Exhibit PD-4), as well as statements at hearing, it is the well informed opinion of Division that the Applicant proposed “sleep mode” function meets the requirements of ASME A17.1-2010, section 6.1.4.1.2 regarding the varying the speed of an escalator after start-up.

13. ASME A17.1-2010, section 6.1.4.1.2 states:

“Variation of the escalator speed after start-up shall be permitted provided the escalator installation conforms to all of the following:

(a) The acceleration and deceleration rates shall not exceed 0.3 m/s² (1.0 ft/sec²).

(b) The rated speed is not exceeded.

(c) The minimum speed shall be not less than 0.05 m/s (10 ft/min).

(d) The speed shall not automatically vary during inspection operation.

(e) Passenger detection means shall be provided at both landings of the escalator such that

(1) detection of any approaching passenger shall cause the escalator to accelerate to or maintain the full escalator speed conforming to 6.1.4.1.2(a) through (d)

(2) detection of any approaching passenger shall occur sufficiently in advance of boarding to cause the escalator to attain full operating speed before a passenger walking at normal speed [1.35 m/s (270 ft/min)] reaches the combplate

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(3) passenger detection means shall remain active at the egress landing to detect any passenger approaching against the direction of escalator travel and shall cause the escalator to accelerate to full rated speed and sound the alarm (see 6.1.6.3.1) at the approaching landing before the passenger reaches the combplate

(f) Automatic deceleration shall not occur before a period of time has elapsed since the last passenger detection that is greater than 3 times the amount of time necessary to transfer a passenger between landings.

(g) Means shall be provided to detect failure of the passenger detection means and shall cause the escalator to operate at full rated speed only.”

14. The Applicant’s proposed “sleep mode” function is similar to other installations for which a permanent variance has been granted (OSHSB File No. 14-V-129). In these previous variance decisions it was concluded that a variance was required from ASME A17.1-2004, section 6.1.6.4 regarding handrail speed monitoring. Conditions set forth in the previous variance decisions allow for the disabling of the handrail speed monitoring device while the escalator is operating in slow speed “sleep mode.”
15. Concerning handrail speed monitoring, section 3141.11 [ASME A17.1-2004, section 6.1.6.4] states:

“6.1.6.4 Handrail Speed Monitoring Device. A handrail speed monitoring device shall be provided that will cause the activation of the alarm required by 6.1.6.3.1(b) without any intentional delay, whenever the speed of either handrail deviates from the step speed by 15% or more. The device shall also cause electric power to be removed from the driving machine motor and brake when the speed deviation of 15% or more is continuous within a 2 s to 6 s range. The device shall be of the manual reset type.”

16. It is the well informed professional opinion of Division (see Exhibit PD-4), and Board staff (See Exhibit PD-3), that that the escalator “sleep mode” function design, as proposed by the Applicant, subject to certain conditions and limitations, will provide occupational safety and health equivalent or superior to the Code of Regulations, title 8, Elevator Safety Order requirements from which variance is being sought, and recommends that the applied for

permanent variance issue subject to conditions and limitations in material conformity with those incorporated into the Decision and Order below.

C. Basis of Decision

The preceding procedural elements, legal authority, and factual findings, supported by hearing testimony, and documents entered into evidence in this case, lead the Board to conclude that the Applicant has complied with the statutory and regulatory requirements that must be met before an application for a permanent variance may be granted and that a preponderance of the evidence establishes that the Applicant's proposals, combined with the conditions set forth in the Decision and Order, will provide employment and a place of employment that are as safe and healthful as those that would prevail if the Applicant complied with the safety orders at issue.

D. Decision and Order

Each above section A.1 table specified Applicant is conditionally GRANTED permanent variance, at the respectively specified location, as to respectively specified number of conveyances, subject to all below enumerated conditions and limitations:

Permanent variance is granted, as conditionally limited below, from the following sections of ASME A17.1-2004 made applicable by CCR title 8, section 3141.11:

- 6.1.4.1, to allow intentionally varied speed; and
- 6.1.6.4, to allow the disabling of handrail speed monitoring at reduced speeds.

1. The Applicant may intentionally vary the escalator speed and install proximity sensors for traffic detection subject to the following:

- (a) The rate of acceleration and deceleration shall not exceed 0.3 m/s^2 (1 ft/sec^2) when transitioning between speeds.
- (b) Failure of a single proximity sensor including its associated circuitry, shall cause the escalator to revert to its normal operating speed at an acceleration of not more than 0.3 m/s^2 (1 ft/sec^2).
- (c) Automatic deceleration shall not occur before a period of time of not less than three times the time it takes a passenger to ride from one landing to the other at normal speed has elapsed.

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- (d) Detection of any passenger shall cause the escalator to reach full speed before a passenger, walking at 4.5 ft/sec, reaches the comb plate.
- (e) The passenger detection means shall detect a person within a sufficient distance along all possible paths to the escalator that do not require climbing over barriers or escalator handrails to assure that the escalator attains full operating speed before a person walking at 4.5 ft/sec reaches the escalator comb plate. The minimum detection distance shall be calculated according to the following formula or alternatively according to Exhibit 1 (Detection Distance Sleep Mode Operation) attached hereto and incorporated herein by this reference:

$$d = (V_f - V_s) \times (V_w / a)$$

where:

d = detection distance (ft)

V_f = normal speed (ft/min) [not to exceed 100 ft/min]

V_s = slow "sleep" speed (ft/min) [not less than 10 ft/min]

V_w = passenger walking speed (4.5 ft/sec)

a = acceleration/deceleration rate (ft/sec²) [not to exceed 1 ft/sec²]

- (f) Detection of any passenger approaching against the direction of escalator travel shall cause the escalator to reach full speed before a passenger, walking at 4.5 ft/sec, reaches the comb plate and shall cause the escalator alarm to sound. The sounding of the alarm may include a 3 to 5 second alarm or three 1 second alarm soundings.
- (g) The minimum speed of the escalator shall not be less than 0.05 m/s (10 ft/min). The "Sleep Mode" functionality shall not affect the escalator inspection operation. The speed of the escalator shall not vary during Inspection Mode.
- (h) There shall be two means of detecting passengers at each end of the escalator for redundancy and for detection of failure in the passenger detection means.

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Hearing Date: April 27, 2022

- (i) The passenger sensors (detectors) at each end of the escalator must be verified by the control system for proper operation in the following manner:
 - 1. If one of the paired passenger detection sensors is disconnected from the control system, the control system shall, without intentional delay, generate a fault while causing the escalator to exit the Sleep Mode and remain at the normal run speed until the reconnected sensor begins to function properly.
 - 2. If one of the paired sensors at either end of the escalator does not trip while the other paired sensor trips, the control system shall, without intentional delay, generate a fault to indicate which sensor has faulted while causing the escalator to exit the Sleep Mode and remain at the normal run speed until the faulted sensor begins to function properly.
 - (j) The handrail speed monitoring device required by section 6.1.6.4 may be disabled while the escalator is operating in the slow speed (Sleep Mode) condition.
- 2. The Applicant shall have the controller schematic diagrams available in the control space together with a written explanation of the operation of the controller.
 - 3. An annual test shall be conducted by a Certified Competent Conveyance Mechanic (CCCM) employed by a Certified Qualified Conveyance Company (CQCC) which maintains and services the escalators, to demonstrate that the escalator is transitioning between "Normal Mode" and "Sleep Mode" and back in conformance with the terms of this variance. The instrumentation used shall be capable of allowing the CCCM to determine the acceleration and deceleration rates of the escalator.
 - 4. The results of each annual test required by Condition No. 3 shall be submitted to the appropriate Elevator Unit District Office in tabular and graphic form (speed vs. time).
 - 5. Whenever practicable, as determined by the Applicant and subject to the concurrence of Division, the variable speed system is to be installed without the installation of new bollards or other such new structures, if the bollards or other structures would impede passenger movement at the destination end of the

*Proposed Variance Decision
Otis Radar Sleep Mode Escalators, Otis Controller
Hearing Date: April 27, 2022*

escalator. If new bollards or other such structures of that sort are constructed in connection with the variable speed system, the Applicant will take all practicable steps to minimize the impact of same on the movement of passengers at the destination end of the escalator.

6. Any CQCC performing inspection, maintenance, servicing or testing of the escalators shall be provided a copy of the variance decision.
7. Division shall be notified when each subject conveyance is ready for inspection to determine compliance with the permanent variance pursuant to this Decision and Order. Each subject conveyance shall have been inspected by Division to determine compliance with this Decision and Order, and a Permit to Operate shall have been issued and in effect, before the conveyance is placed in service.
8. The Applicant shall notify its employees or their authorized representative(s), or both, of this order in the same way that the Applicant was required to notify them of the docketed application for permanent variance per California Code of Regulations, title 8, sections 411.2 and 411.3.
9. This Decision and Order shall remain in effect unless modified or revoked upon application by the Applicant, affected employee(s), Division of Occupational Safety and Health, or by the Board on its own motion, in the manner prescribed pursuant to title 8, Chapter 3.5, Subchapter 1.

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

Dated: April 28, 2022



Autumn Gonzalez, Hearing Officer

Proposed Variance Decision

Otis Radar Sleep Mode Escalators, Otis Controller

Hearing Date:

Exhibit 1
 Detection Distance Sleep Mode Operation
 Acceleration Rate (ft./sec²) vs. Escalator Sleep Mode Speed (ft./min)

	10	15	20	25	30	35	40	45	50	55	60	65	70	75	80	85	90	95	100
1.00	6.76	6.39	6.01	5.64	5.26	4.88	4.51	4.13	3.76	3.38	3.01	2.63	2.25	1.88	1.50	1.13	0.75	0.38	0.00
0.95	7.12	6.72	6.33	5.93	5.54	5.14	4.75	4.35	3.96	3.56	3.16	2.77	2.37	1.98	1.58	1.19	0.79	0.40	0.00
0.90	7.52	7.10	6.68	6.26	5.85	5.43	5.01	4.59	4.18	3.76	3.34	2.92	2.51	2.09	1.67	1.25	0.84	0.42	0.00
0.85	7.96	7.52	7.07	6.63	6.19	5.75	5.30	4.86	4.42	3.98	3.54	3.09	2.65	2.21	1.77	1.33	0.88	0.44	0.00
0.80	8.45	7.98	7.52	7.05	6.58	6.11	5.64	5.17	4.70	4.23	3.76	3.29	2.82	2.35	1.88	1.41	0.94	0.47	0.00
0.75	9.02	8.52	8.02	7.52	7.01	6.51	6.01	5.51	5.01	4.51	4.01	3.51	3.01	2.51	2.00	1.50	1.00	0.50	0.00
0.70	9.66	9.13	8.59	8.05	7.52	6.98	6.44	5.90	5.37	4.83	4.29	3.76	3.22	2.68	2.15	1.61	1.07	0.54	0.00
0.65	10.41	9.83	9.25	8.67	8.09	7.52	6.94	6.36	5.78	5.20	4.62	4.05	3.47	2.89	2.31	1.73	1.16	0.58	0.00
0.60	11.27	10.65	10.02	9.39	8.77	8.14	7.52	6.89	6.26	5.64	5.01	4.38	3.76	3.13	2.51	1.88	1.25	0.63	0.00
0.55	12.30	11.61	10.93	10.25	9.56	8.88	8.20	7.52	6.83	6.15	5.47	4.78	4.10	3.42	2.73	2.05	1.37	0.68	0.00
0.50	13.53	12.78	12.02	11.27	10.52	9.77	9.02	8.27	7.52	6.76	6.01	5.26	4.51	3.76	3.01	2.25	1.50	0.75	0.00
0.45	15.03	14.20	13.36	12.53	11.69	10.86	10.02	9.19	8.35	7.52	6.68	5.85	5.01	4.18	3.34	2.51	1.67	0.84	0.00
0.40	16.91	15.97	15.03	14.09	13.15	12.21	11.27	10.33	9.39	8.45	7.52	6.58	5.64	4.70	3.76	2.82	1.88	0.94	0.00
0.35	19.32	18.25	17.18	16.10	15.03	13.96	12.88	11.81	10.74	9.66	8.59	7.52	6.44	5.37	4.29	3.22	2.15	1.07	0.00
0.30	22.55	21.29	20.04	18.79	17.54	16.28	15.03	13.78	12.53	11.27	10.02	8.77	7.52	6.26	5.01	3.76	2.51	1.25	0.00
0.25	27.05	25.55	24.05	22.55	21.04	19.54	18.04	16.53	15.03	13.53	12.02	10.52	9.02	7.52	6.01	4.51	3.01	1.50	0.00
0.20	33.82	31.94	30.06	28.18	26.30	24.42	22.55	20.67	18.79	16.91	15.03	13.15	11.27	9.39	7.52	5.64	3.76	1.88	0.00
0.15	45.09	42.59	40.08	37.58	35.07	32.57	30.06	27.56	25.05	22.55	20.04	17.54	15.03	12.53	10.02	7.52	5.01	2.51	0.00
0.10	67.64	63.88	60.12	56.36	52.61	48.85	45.09	41.33	37.58	33.82	30.06	26.30	22.55	18.79	15.03	11.27	7.52	3.76	0.00
0.05	135.27	127.76	120.24	112.73	105.21	97.70	90.18	82.67	75.15	67.64	60.12	52.61	45.09	37.58	30.06	22.55	15.03	7.52	0.00

$$d = (V_f - V_s) \times \frac{V_w}{a}$$

d Detection distance (ft.)

V_f Escalator Rated Speed (Escalators with rated speeds of 100 ft./min.)

V_s Slow Speed[“Sleep mode” Speed] (ft./min.)

V_w Passenger Walking Speed of 4.5 ft./sec.

a Acceleration/Deceleration Rate (ft./sec.²)

Note: 1 ft./min. = 0.0167 ft

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

In the Matter of Application for
Permanent Variance regarding:

KONE Monospace 300 Elevators (Group IV)

OSHSB File No.: See section A.1 Table of
Proposed Decision Dated: April 28, 2022

DECISION

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

DAVID THOMAS, Chairman

BARBARA BURGEL, Member

KATHLEEN CRAWFORD, Member

DAVID HARRISON, Member

NOLA KENNEDY, Member

CHRIS LASZCZ-DAVIS, Member

LAURA STOCK, Member

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD

Date of Adoption: May 19, 2022

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

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

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

<p>In the Matter of Application for Permanent Variance Regarding:</p> <p style="text-align: center;">KONE Monospace 300 Elevators (Group IV)</p>	<p>OSHSB File Nos.: See Section A.1 Table Below</p> <p style="text-align: center;"><u>PROPOSED DECISION</u></p> <p>Hearing Date: April 27, 2022</p>
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A. Subject Matter:

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

Variance No.	Applicant Name	Variance Location Address	No. of Elevators
22-V-069	Elk Grove Unified School District	Elk Grove High School 9800 Elk Grove-Florin Road Elk Grove, CA	1

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

B. Procedural:

- This hearing was held on April 27, 2022, in Sacramento, California, via teleconference, by delegation of the Occupational Safety and Health Standards Board (“Board”), with Hearing Officer Autumn Gonzalez, both presiding and hearing the matter on its merit, as a basis of proposed decision to be advanced to the Board for its consideration, in accordance with California Code of Regulations, Title 8, Section 426.
- At the hearing, Manish Sablok, with KONE, Inc., appeared on behalf of each Applicant; 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 capacity apart from the Board.

*Proposed Variance Decision
KONE Monospace 300 Elevators (Group IV)
Hearing Date: April 27, 2022*

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

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

Official notice is taken of the Board’s files, records, recordings and decisions concerning the Elevator Safety Order requirements from which variance shall issue. On April 27, 2022 , the hearing and record closed, and the matter was taken under submission by the Hearing Officer.

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

1. Each respective Applicant intends to utilize the KONE Inc. Monospace 300 type elevator, in the quantity, at the location, specified per the above Section A.1 table.
2. The installation contract for this elevator was or will be signed on or after May 1, 2008, thus making the elevator subject to the Group IV Elevator Safety Orders.
3. Each Applicant proposes to use hoisting ropes that are 8 mm in diameter which also consist of 0.51 mm diameter outer wires, in variance from the express requirements of ASME A17.1-2004, Section 2.20.4.
4. In relevant part, ASME A17.1-2004, Section 2.20.4 states:

2.20.4 Minimum Number and Diameter of Suspension Ropes

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

5. An intent of the afore cited requirement of ASME A17.1-2004, Section 2.20.4, is to ensure that the number, diameter, and construction of suspension ropes are adequate to provided safely robust and durable suspension means over the course of the ropes’ foreseen service life.
6. KONE has represented to Division and Board staff, having established an engineering practice for purposes of Monospace 300 elevator design, of meeting or exceeding the

minimum factor of safety of 12 for 8 mm suspension members, as required in ASME A17.1-2010, Section 2.20.3—under which, given that factor of safety, supplemental broken suspension member protection is not required.

7. Also, each Applicant proposes as a further means of maintaining safety equivalence, monitoring the rope in conformity with the criteria specified within the *Inspector's Guide to 6 mm Diameter Governor and 8 mm Diameter Suspension Ropes for KONE Elevators* (per Application attachment "B", or as thereafter revised by KONE subject to Division approval).
8. In addition, each Applicant has proposed to utilize 6 mm diameter governor ropes in variance from Title 8, Section 3141, incorporated ASME A17.1-2004, Section 2.18.5.1.
9. ASME A17.1-2004, Section 2.18.5.1, specifies, in relevant part:

2.18.5.1 Material and Factor of Safety.

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

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

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

11. Applicants propose use of 6mm governor rope having a safety factor of 5 or greater, in conformity with Section 3141.7(a)(10), the specific parameters of which, being expressly set out within Title 8, Elevator Safety Orders, take precedence over more generally referenced governor rope diameter requirements per ASME A17.1-2004, Section 2.18.5.1. Accordingly, the governor rope specifications being presently proposed, inclusive of a factor of safety of 5 or greater, would comply with current Title 8, Elevator Safety Orders requirements, and therefore not be subject to issuance of permanent variance.
12. Absent evident diminution in elevator safety, over the past decade the Board has issued numerous permanent variances for use in KONE (Ecospace) elevator systems of 8 mm diameter suspension rope materially similar to that presently proposed (e.g. OSHSB File Nos. 06-V-203, 08-V-245, and 13-V-303).
13. As noted by the Board in OSHSB File Nos. 18-V-044, and 18-V-045, Decision and Order Findings, subpart B.17 (hereby incorporated by reference), the strength of wire rope

Proposed Variance Decision

KONE Monospace 300 Elevators (Group IV)

Hearing Date: April 27, 2022

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.

Proposed Variance Decision

KONE Monospace 300 Elevators (Group IV)

Hearing Date: April 27, 2022

17. Board staff and Division are in accord with Applicant, in proposing as a condition of safety equivalence, that periodic physical examination of the wire ropes be performed to confirm the ropes continue to meet the criteria set out in the (Application attachment) *Inspector's Guide to 6 mm Diameter Governor and 8 mm Diameter Suspension Ropes for KONE Elevators*. Adherence to this condition will provide an additional assurance of safety equivalence, regarding smaller minimum diameter suspension rope outer wire performance over the course of its service life.
18. Both Board staff, and Division, by way of written submissions to the record (Exhibits PD-3 and PD-4 respectively), and stated positions at hearing, are of the well informed opinion that grant of permanent variance, as limited and conditioned per the below Decision and Order will provide employment, places of employment, and subject conveyances, as safe and healthful as would prevail given non-variant conformity with the Elevator Safety Order requirements from which variance has been requested.

D. Conclusive Findings:

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

E. Decision and Order:

Each Application being the subject of this proceeding, per above Section A.1 table, is conditionally GRANTED, to the extent that each such Applicant shall be issued permanent variance from California Code of Regulations, Title 8, Section 3141 incorporated ASME A17.1-2004, Section 2.20.4, in as much as it precludes use of suspension rope of between 8 mm and 9.5 mm, or outer wire of between 0.51 mm and 0.56 mm in diameter, at such locations and numbers of Group IV KONE Monospace 300 elevators identified in each respective Application, subject to the following conditions:

1. The diameter of the hoisting steel ropes shall be not less than 8 mm (0.315 in) diameter and the roping ratio shall be two to one (2:1).
2. The outer wires of the suspension ropes shall be not less than 0.51 mm (0.02 in.) in diameter.

Proposed Variance Decision

KONE Monospace 300 Elevators (Group IV)

Hearing Date: April 27, 2022

3. The number of suspension ropes shall be not fewer than those specified per hereby incorporated Decision and Order Appendix 1 Table.
4. The ropes shall be inspected annually for wire damage (rouge, valley break etc.) in accordance with "KONE Inc. Inspector's Guide to 6 mm diameter and 8 mm diameter steel ropes for KONE Elevators" (per Application Exhibit B, or as thereafter amended by KONE subject to Division approval).
5. A rope inspection log shall be maintained and available in the elevator controller room / space at all times.
6. The elevator rated speed shall not exceed those speeds specified per the Decision and Order Appendix 1 Table.
7. The maximum suspended load shall not exceed those weights (plus 5%) specified per the Decision and Order Appendix 1 Table.
8. The opening to the hoistway shall be effectively barricaded when car top inspection, maintenance, servicing, or testing of the elevator equipment in the hoistway is required. If the service personnel must leave the area for any reason, the hoistway and control room doors shall be closed.
9. The installation shall meet the suspension wire rope factor of safety requirements of ASME A17.1-2013 Section 2.20.3.
10. Any Certified Qualified Conveyance Company performing inspections, maintenance, servicing or testing the elevators shall be provided a copy of this variance decision.
11. The Division shall be notified when the elevator is ready for inspection. The elevator shall be inspected by the Division and a "Permit to Operate" issued before the elevator is placed in service.
12. The Applicant shall comply with suspension means replacement reporting condition per hereby incorporated Decision and Order Appendix 2.
13. The Applicant shall notify its employees or their authorized representative(s), or both, of this order in the same way and to the same extent that employees and authorized representatives are to be notified of docketed permanent variance applications pursuant to California Code of Regulations, Title 8, Sections 411.2 and 411.3.
14. This Decision and Order shall remain in effect unless modified or revoked upon application by the Applicant, affected employee(s), the Division of Occupational Safety

Proposed Variance Decision
KONE Monospace 300 Elevators (Group IV)
Hearing Date: April 27, 2022

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: April 28, 2022



Autumn Gonzalez, Hearing Officer

Appendix 1

Monospace 300 Suspension Ropes Appendix 1 Table				
OSHSB File No.	Elevator ID	Minimum Quantity of Ropes (per Condition 3)	Maximum Speed in Feet per Minute (per Condition 6)	Maximum Suspended Load (per Condition 7)
22-V-069	1	7	150	12,247

Appendix 2

Suspension Means Replacement Reporting Condition

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

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

Proposed Variance Decision

KONE Monospace 300 Elevators (Group IV)

Hearing Date: April 27, 2022

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

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

In the Matter of Application for
Permanent Variance regarding:

TK Elevator Evolution (Group IV)

OSHSB File No.: See Section A.1 table of
Proposed Decision Dated: April 28, 2022

DECISION

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

DAVID THOMAS, Chairman

BARBARA BURGEL, Member

KATHLEEN CRAWFORD, Member

DAVID HARRISON, Member

NOLA KENNEDY, Member

CHRIS LASZCZ-DAVIS, Member

LAURA STOCK, Member

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD

Date of Adoption: May 19, 2022

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

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

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

<p>In the Matter of Application for Permanent Variance Regarding:</p> <p style="text-align: center;">TK Elevator Evolution (Group IV)</p>	<p>OSHSB File Nos.: Per Section A.1 table</p> <p style="text-align: center;"><u>PROPOSED DECISION</u></p> <p>Hearing Date: April 27, 2022</p>
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A. Procedural Matters

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

Variance No.	Applicant Name	Variance Location Address	No. of Elevators
22-V-070	CHF-Davis II, LLC	1401 Blue Ridge Rd. Davis, CA	1
22-V-071	CHF-Davis II, LLC	5006 Orchard Park Circle Davis, CA	1
22-V-080	CHF-Davis II, LLC	1271 Blue Ridge Rd. Davis, CA	1
22-V-081	CHF-Davis II, LLC	5014 Orchard Park Circle Davis, CA	1
22-V-082	CHF-Davis II, LLC	5016 Orchard Park Circle Davis, CA	1

2. These proceedings are conducted in accordance with Labor Code section 143, and section 401, et. seq.
3. This hearing was held on April 27, 2022, in Sacramento, California via teleconference, by delegation of the Occupational Safety and Health Standards Board (“Board”), with Hearing Officer Autumn Gonzalez, both presiding and hearing the matter on its merit, as a basis of proposed decision to be advanced to the Board for its consideration, in accordance with California Code of Regulations, Title 8, Section 426.

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

4. At the hearing, Kathleen E. Finnerty of Finnerty Law Offices, Inc. appeared on behalf of the Applicant, Mark Wickens appeared on behalf of the Division of Occupational Safety and Health (“Division”), and Michael Nelmidia appeared on behalf of Board staff acting in a technical advisory role apart from the Board.
5. Documentary and oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence:

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

6. Official notice is taken of the Board’s files, records, recordings and decisions concerning the Elevator Safety Order requirements from which variance shall issue. On April 27, 2022, the hearing and record closed, and the matter was taken under submission by the Hearing Officer.

B. Relevant Safety Orders

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

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

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

2.20.1 Suspension Means

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

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

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

2.20.2.1 On Crosshead Data Plate.

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

(a) the number of ropes

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

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

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

2.20.2.2 On Rope Data Tag.

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

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

[...]

(f) whether the ropes were nonpreformed or preformed

[...]

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

2.20.3 Factor of Safety

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

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

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

where

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

number of ropes used, etc.

S = manufacturer's rated breaking strength of one rope

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

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

2.20.4 Minimum Number and Diameter of Suspension Ropes

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

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

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

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

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

2.20.9 Suspension-Rope Fastening

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

Fastening shall be

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

(1) such fastenings conform to 2.20.9.2 and 2.20.9.3;

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

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

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

rope fastenings.

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

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

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

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

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

2.26.1.4.1 General Requirements

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

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

8.4.10.1.1 Earthquake Equipment (See Also Fig. 8.4.10.1.1)

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

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

(2) seismic zone 2 or greater:

(a) a displacement switch for each elevator

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

C. Findings

1. Applicant proposes to utilize inset car top railings and guards in compliance with ASME 17.1-2013, section 2.14.1.7.1 and the *Vivante Westside, LLC* File No. 18-V-364 (Nov. 20, 2020) decision (*Vivante*). Applicant further claims that the request is consistent with the *Vivante*, the *Mack Urban, LLC*, File No. 15-V-349 (Nov. 17, 2016), and the *Patton Equities, LLC* File No. 20-V-128 (Nov. 12, 2020) decisions (*Patton Equities*).
2. Applicant proposes to utilize noncircular elastomeric-coated steel belts (“ECSBs”) rather than steel ropes in a machine room-less (“MRL”) elevator installation, with updated data plates, data tags, and wedge sockets designed for use with ECSBs, as well as the appropriate factor of safety criteria conforming to ASME 17.1-2013, with a continuous residual strength detection device (“RSDD”) compliant with the *San Francisco Public Works (File No. 21-V-061, et al.)* decisions.
3. The installation shall utilize the TK Elevator Model 104DP001 RSDD, accepted by the Division on May 4, 2021.
4. Applicant proposes to comply with ASME A17.1-2013 sections 2.26.9.3, “Protection Against Failures”, rather than the requirements of 2.26.9.3 and 2.26.9.4 in the ASME 2004 code.
5. Applicant proposes to use TKE’s control systems, using the TKE TAC32T Controller with SIL3 rated elements, to provide equivalent safety to ASME A17.1-2004, section 2.26.9.4 as a means to inhibit flow of Alternating Current to the Driving Motor in compliance with ASME A17.1-2013, section 2.26.9.6.
6. Applicant proposes to locate the Inspection Transfer Switch within the machinery/control room/space in the MRL installation, in compliance with ASME 17.1-2013, section 2.26.1.4.
7. Applicant proposes to locate the Seismic-Operation Reset Switch in the machinery/control room/space in the MRL installation.

D. Decision and Order

Applicant is hereby conditionally GRANTED Permanent Variance as specified below, and to the limited extent, as of the date the Board adopts this Proposed Decision, with respect to the section A specified number of TKE EVO 200 elevator(s), at the specified location, each shall conditionally hold permanent variance from the

following subparts of ASME A17.1-2004, currently incorporated by reference into section 3141 of the Elevator Safety Orders:

- Car-Top Railing: 2.14.1.7.1 (Limited to the extent necessary to permit the use of an inset car-top railing)
- Suspension Means: 2.20.1, 2.20.2.1, 2.20.2.2(a), 2.20.2.2(f), 2.20.3, 2.20.4, and 2.20.9.1 (Limited to the extent necessary to permit the use of the elastomeric-coated steel belts in lieu of circular steel suspension ropes)
- Inspection transfer switch: 2.26.1.4.4(a) (Limited to the extent necessary to permit the inspection transfer switch to reside at a location other than the machine room)
- Software Reliant Means to Remove Power: 2.26.9.4 (Limited to the extent necessary to permit the exclusive use of SIL-rated software systems as a means to remove power from the driving machine motor and brake)
- SIL-Rated Circuitry to Inhibit Current Flow: 2.26.9.6.1 (Limited to the extent necessary to permit the use of SIL-rated circuitry in place of an electromechanical relay to inhibit current flow to the drive motor)
- Seismic reset switch: 8.4.10.1.1(a)(2)(b) (Limited to the extent necessary to permit the seismic reset switch to reside at a location other than the machine room)

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

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

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

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

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

Suspension Means (Variance Request No. 2):

- 2.0 The elevator suspension system shall comply with the following:
 - 2.1 The elastomeric coated steel belts (ECSBs) and their associated fastenings shall conform to the applicable requirements of ASME A17.1-2013, sections:
 - 2.20.4.3 – Minimum Number of Suspension Members
 - 2.20.3 – Factor of Safety
 - 2.20.9 – Suspension Member Fastening
 - 2.2 Additionally, ECSBs shall meet or exceed all requirements of ASME A17.6 2010, Standard for Elevator Suspension, Compensation, and Governor Systems, Part 3 Noncircular Elastomeric Coated Steel Suspension Members for Elevators.
 - 2.3 The Applicant shall not utilize the elevator unless the manufacturer has written procedures for the installation, maintenance, inspection and testing of the ECSBs and fastenings and related monitoring and detection systems and criteria for ECSB replacement, and the Applicant shall make those procedures and criteria available to the Certified Competent Conveyance Mechanic (CCCM) at the location of the elevator, and to the Division of Occupational Safety and Health (Division) upon request.
 - 2.4 ECSB mandatory replacement criteria shall include:
 - 2.4.1. Any exposed wire, strand or cord;
 - 2.4.2. Any wire, strand or cord breaks through the elastomeric coating;
 - 2.4.3. Any evidence of rouging (steel tension element corrosion) on any part of the elastomeric coated steel suspension member;

- 2.4.4. Any deformation in the elastomeric suspension member such as, but not limited to, kinks or bends.
- 2.5 Traction drive sheaves must have a minimum diameter of 112 mm. The maximum speed of ECSBs running on 112 mm drive sheaves shall be no greater than 6.1 m/s.
- 2.6 If any one (1) ECSB needs replacement, the complete set of suspension members on the elevator shall be replaced. Exception: If a new suspension member is damaged during installation, and prior to any contemporaneously installed ECSB having been placed into service, it is permissible to replace the individual damaged suspension member. ECSBs that have been installed on another installation shall not be re used.
- 2.7 A traction loss detection means shall be provided that conforms to the requirements of ASME A17.1-2013, section 2.20.8.1. The means shall be tested for correct function annually in accordance with ASME A17.1-2013, section 8.6.4.19.12.
- 2.8 A broken suspension member detection means shall be provided that conforms to the requirements of ASME A17.1-2013, section 2.20.8.2. The means shall be tested for correct function annually in accordance with ASME A17.1-2013, section 8.6.4.19.13(a).
- 2.9 An elevator controller integrated bend cycle monitoring system shall monitor actual ECSB bend cycles, by means of continuously counting, and storing in nonvolatile memory, the number of trips that the ECSB makes traveling, and thereby being bent, over the elevator sheaves. The bend cycle limit monitoring means shall automatically stop the car normally at the next available landing before the bend cycle correlated residual strength of any single ECSB member drops below (60%) sixty percent of full rated strength. The monitoring means shall prevent the car from restarting. Notwithstanding any less frequent periodic testing requirement per Addendum 2 (Division Circular Letter), the bend cycle monitoring system shall be tested semiannually in accordance with the procedures required per above Conditions 2.3 and 2.4.
- 2.10 The elevator crosshead data plate shall comply with the requirements of ASME A17.1-2013, section 2.20.2.1.
- 2.11 A suspension means data tag shall be provided that complies with the requirements of ASME A17.1-2013, section 2.20.2.2.
- 2.12 Comprehensive visual inspections of the entire length of each and all installed suspension members, in conformity with above Conditions 2.3 and 2.4 specified criteria, shall be conducted and documented every six (6) months by a CCCM.
- 2.13 The Applicant shall be subject to the requirements per hereto attached, and inhere

incorporated, Addendum 1, "Suspension Means Replacement Reporting Condition."

- 2.14 Records of all tests and inspections shall be maintenance records subject to ASME A17.1-2004, sections 8.6.1.2, and 8.6.1.4, respectively.
- 2.15 The subject elevators(s) shall be equipped with a TK Elevator Model 104DP001 Residual Strength Detection Device accepted by the Division on May 4, 2021 or Division accepted equivalent device.

Control and Operating Circuits

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

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

- 3.0 The SIL rated circuitry used to provide device/circuit redundancy and to inhibit electrical current flow in accordance with ASME A17.1-2004, sections 2.26.9.4 and 2.26.9.6.1 shall comply with the following:
 - 3.1 The SIL rated systems and related circuits shall consist of:
 - 3.1.1. ELGO LIMAX33 RED, (aka LIMAX3R-03-050-0500-CNXTG-RJU), Safe Magnetic Absolute Shaft Information System, labeled or marked with the SIL rating (not less than SIL 3), the name or mark of the certifying organization, and the SIL certification number (968/A 163), followed by the applicable revision number (as in 968/A 163.07/19).
 - 3.1.2 Printed circuit board assembly SSOA (6300 AHE001), labeled or marked with the SIL rating (not less than SIL 3), the name or mark of the certifying organization, and the SIL certification number (968/FSP 1347), followed by the applicable revision number (as in 968/FSP 1347.00/16).
 - 3.1.3 Two circuit board components (Serializer S3I and S3O), each labeled or marked with the SIL rating (not less than SIL 3), the name or mark of the certifying organization and the SIL certification number (968/A 162), followed by the applicable revision number (as in 968/A 162.04/18)
 - 3.2 The software system and related circuits shall be certified for compliance with the applicable requirements of ASME A17.1-2013, section 2.26.4.3.2.

- 3.3 The access door or cover of the enclosures containing the SIL rated components shall be clearly labeled or tagged on their exterior with the statement:

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

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

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

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

Proposed Decision
TK Elevator Evolution (Group IV)
Hearing Date: April 27, 2022

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: April 28, 2022



Autumn Gonzalez, Hearing Officer

ADDENDUM 1

SUSPENSION MEANS REPLACEMENT REPORTING REQUIREMENTS

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

Further:

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

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

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

ADDENDUM 2

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

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

SUBJECT: Coated Steel Belt Monitoring

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

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

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

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

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

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

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

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

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

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

Debra Tudor
Principal Engineer
DOSH-Elevator Unit HQ

ADDENDUM 3

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

The RSDD must be properly installed and functional. A functioning device may be removed only after a determination has been made that the residual strength of each belt exceeds 60%. These findings and the date of removal are to be conspicuously documented in the elevator machine room or controller location. The removed RSDD must be replaced or returned to proper service within 30 days. If upon routine inspection, the RSDD device is found to be in a non-functional state, the date and findings are to be conspicuously documented in the elevator machine room or controller location.

If upon inspection by the Division, the RSDD is found to be non-functional or removed, and the required documentation is not in place, the elevator will be removed from service. If the device is removed to facilitate belt replacement, it must be properly installed and functional before the elevator is returned to service.

(B) On or before November 21 2021, and thereafter, the above specified and documented RSDD shall be installed and operational on the subject elevator.

(C) A successful functionality test of each RSDD shall be conducted once a year, and a copy of completed testing documentation conspicuously located in the machine room or within proximity of the controller.

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

In the Matter of Application for
Permanent Variance by:

200 North Vermont QOZB, LP

OSHSB File No.: 22-V-077
Proposed Decision Dated: April 28, 2022

DECISION

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

DAVID THOMAS, Chairman

BARBARA BURGEL, Member

KATHLEEN CRAWFORD, Member

DAVID HARRISON, Member

NOLA KENNEDY, Member

CHRIS LASZCZ-DAVIS, Member

LAURA STOCK, Member

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD

Date of Adoption: May 19, 2022

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

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

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

In the Matter of Application for Permanent Variance by: 200 North Vermont QOZB, LP	OSHSB File No.: 22-V-077 Proposed Decision Hearing Date: April 27, 2022
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A. Procedural Matters

1. 200 North Vermont QOZB, LP (“Applicant”) has applied for a permanent variance from provisions of title 8 of the California Code of Regulations regarding vertical platform (wheelchair) lifts, with respect to one vertical platform (wheelchair) lift proposed to be located at:

200 N. Vermont Ave.
Los Angeles, CA

2. The safety orders at issue are stated in the prefatory part of the Decision and Order. This proceeding is conducted in accordance with Labor Code section 143, and California Code of Regulations, title 8, section 401, et. seq.
3. This hearing was held on April 27, 2022, in Sacramento, California, via teleconference, by delegation of the Occupational Safety and Health Standards Board (“Board”), with Hearing Officer Autumn Gonzalez, both presiding and hearing the matter on its merit, as a basis of proposed decision to be advanced to the Board for its consideration, in accordance with California Code of Regulations, title 8, section 426.
4. Appearing at hearing were Craig Fiore with McKinley Elevator Corporation appearing on behalf of the Applicant; Mark Wickens appeared on behalf of the Division of Occupational Safety and Health (“Division”); and Michael Nelmidia appeared on behalf of Board staff acting in a technical advisory role apart from the Board.
5. Documentary and oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence:

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

Official notice is taken of the Board's files, records, recordings and decisions concerning the Elevator Safety Order requirements from which variance shall issue. On April 27, 2022, the hearing and record closed, and the matter was taken under submission by the Hearing Officer.

B. Findings of Fact

Based on the record of this proceeding, and officially noticed Board records per (above section A.5) stipulation of Applicant and Division—inclusive of permanent variance file records of sworn testimony, findings and decisions in OSHSB File No. 15-V-297, the Board finds the following:

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

200 N. Vermont Ave.
Los Angeles, CA

2. Applicant requests variance solely from title 8, section 3142(a) and section 3142.1.
3. The subject vertical lift is proposed to be a Garaventa Lift, Model GVL-168, with a vertical travel range of approximately 168 inches. That range of travel exceeds the 12-foot maximum vertical rise allowed by ASME A18.1-2003, section 2.7.1—the State of California standard in force at the time of this Decision.
4. The Division's evaluation in this Matter, states that the more recent consensus code, ASME A18.1-2005, allows for vertical platform lifts to have a travel not exceeding 14 feet (168 in.).
5. Permanent variances regarding the extended travel of vertical platform lifts, of similar configuration to that of the subject proposed model, have been previously granted, without subsequent safety problems attributable to such variance being reported. (e.g. OSHSB File Nos. 13-V-260, 15-V-097, 15-V-297, 18-V-069)
6. It is the well informed professional opinion of Board staff and Division (per Exhibits PD-3, and PD-4, respectively) that equivalent safety will be achieved upon grant of presently requested permanent variance, subject to conditions materially equivalent to those imposed by Board adopted Decision and Order, In Matters of Application for Permanent Variance Nos. 15-V-297, and 18-V-069. Board Staff concurs with Division (per Exhibit PD-3) in recommending such conditional grant.

7. With respect to the equivalence or superior of safety, conditions and limitations of the below Decision and Order are in material conformity with those of previously issued Permanent Variance Nos. 15-V-297, and 18-V-069.

C. Conclusive Findings

On the basis of the above procedural matters, legal authority, and findings of fact, the Board finds that Applicant has complied with the statutory and regulatory requirements that must be met before an application for a permanent variance may be granted and that a preponderance of the evidence establishes that the Applicant's proposal, subject to all limiting conditions set forth in the below Decision and Order, will provide both conveyance safety, and employment and a place of employment that are as safe and healthful as those that would prevail if the Applicant complied with the safety orders at issue.

D. Decision and Order

The Application for Permanent Variance of 200 North Vermont QOZB, LP, OSHSB File No. 22-V-077, is conditionally GRANTED to the limited extent, upon the Board's adoption of this Proposed Decision, 200 North Vermont QOZB, LP, shall have permanent variance from California Code of Regulations, title 8, sections 3142(a) and 3142.1 incorporated ASME A18.1-2003, section 2.7.1, inasmuch as each restricts the vertical rise of a wheelchair lift to a maximum of 12 feet, with respect to one (1) Garaventa Lift, Model GVL-168 Vertical Platform Lift, to be located at:

200 N. Vermont Ave.
Los Angeles, CA

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

1. This lift may travel up to 168 inches, unless the manufacturer's instructions provide for a lesser vertical travel limit, or lesser total elevation change, in which case, travel shall be limited to the lesser limit or elevation change.
2. The wheelchair lift shall be installed and operated in accordance with the manufacturer's instructions, unless the provisions of this variance or applicable provisions of the law provide or require otherwise.
3. Durable signs with lettering not less than 5/16 inch on a contrasting background shall be permanently and conspicuously posted inside the car and at all landings indicating that the lift is for the exclusive use of persons with physical impairments

and that the lift is not to be used to transport material or equipment. The use of the lift shall be limited in accordance with these signs.

4. A maintenance contract shall be executed between the owner/operator and a Certified Qualified Conveyance Company (CQCC). The contract shall stipulate that the routine preventive maintenance required by section 3094.5(a)(1) shall be performed at least quarterly and shall include but not be limited to:
 - (a) Platform driving means examination;
 - (b) Platform examination;
 - (c) Suspension means examination;
 - (d) Platform alignment;
 - (e) Vibration examination;
 - (f) Door/gate electrical; and
 - (g) Mechanical lock examination.
5. The lift shall be tested annually for proper operation under rated load conditions. The Division's Elevator Unit District Office shall be provided written notification in advance of the test, and the test shall include a check of car or platform safety device.
6. The lift shall be shut down immediately if the lift experiences unusual noise and vibration, and the Applicant shall notify the CQCC immediately. The lift shall only be restarted by the CQCC.
7. The Applicant shall notify the CQCC if the lift shuts down for any reason. The lift shall only be restarted by the CQCC.
8. Service logs including, but not limited to, the device shutdown(s) shall be kept in the maintenance office and shall be available to the Division. The shutdown information shall contain the date of the shutdown, cause of the shutdown, and the action taken to correct the shutdown.
9. The Applicant shall provide training on the safe operation of the lift in accordance with section 3203. Such training shall be conducted annually for all employees using or who will be assisting others in using the lift. The Applicant shall notify the Division in writing that training has been conducted. A copy of the training manual

(used for the subject training), and documentation identifying the trainer and attendees shall be maintained for at least 1 year and provided to the Division upon request.

10. Any CQCC performing inspections, maintenance, servicing or testing of the elevators shall be provided a copy of this variance decision.
11. The Division shall be notified when the lift is ready for inspection, and the lift shall be inspected by the Division and a Permit to Operate shall be issued before the lift is put into service.
12. The Applicant shall notify its employees or their authorized representative(s), or both, of this order in the same way and to the same extent that employees and authorized representatives are to be notified of docketed permanent variance applications pursuant to California Code of Regulations, title 8, sections 411.2 and 411.3.
13. This Decision and Order shall remain in effect unless modified or revoked upon application by the Applicant, affected employee(s), the Division, or by the Board on its own motion, in the procedural manner prescribed per title 8, Division 1, Chapter 3.5.

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

Dated: April 28, 2022



Autumn Gonzalez, Hearing Officer

Occupational Safety and Health Standards Board

Business Meeting
Legislative Update

Legislative Update
Prepared May 6, 2022 for the May 19, 2022
Meeting of the Occupational Safety and Health Standards Board

SUMMARY OF CHANGES

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

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

AB 1733 State bodies: open meetings. (2021-2022) **UPDATED**

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

AB 1993 Employment: COVID-19 vaccination requirements.(2021-2022) **UPDATED**

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

AB 2243 Occupational safety and health standards: heat illness: wildfire smoke. (2021-2022)
NO UPDATE

SB 831 Entertainment Productions: Firearms: Safety. (2021-2022) **UPDATED**

SB 1102 Occupational safety and health. (2021-2022) **UPDATED**

Legislative Update
Prepared May 6, 2022 for the May 19, 2022
Meeting of the Occupational Safety and Health Standards Board

AB-257 Food Facilities and Employment. (2021-2022)

(Holden, Carrillo, Low, and Luz Rivas)

Date	Action
05/04/22	Referred to Coms. on L., P.E. & R. and JUD
2/01/22	In Senate. Read first time. To Com. on RLS. for assignment.
01/31/22	Read third time. Passed. Ordered to the Senate.
01/27/22	Read third time and amended. Ordered to third reading. (Ayes 44. Noes 16.)
01/20/22	Read third time and amended. Ordered to third reading.
01/20/22	Ordered to third reading.

Summary:

AB-257

AB 257, as amended, Holden. Food facilities and employment.

Enacts the Fast Food Accountability and Standards (FAST) Recovery Act that establishes the Fast Food Sector Council (Council) and tasks the council with conducting a full review every three years on the adequacy of fast food restaurant health, safety, and employment standards and establishing sectorwide minimum health, safety, wage, working hours, and employment standards. Requires a report be provided to the Legislature at least 60 days before a standard is effective.

Major Provisions

- 1) Establishes a Fast Food Sector Council (Council), comprised of 11 members appointed by the Governor, Speaker of the Assembly and Senate Rules Committee, to set sectorwide standards on wages and working conditions in the fast food industry.
- 2) Authorizes the Council to issue standards, rules or regulations to carry out its purpose, and provides that the Council's standards prevail in application to fast food restaurant workers, franchisees and franchisors if there is a conflict with regulations issued by another state agency, except the Division of Occupational Safety and Health (DOSH). The Council must review adopted standards every three years and hold public hearings every six months.

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3) Requires the Council to recommend standards to OSHSB to protect restaurant worker health and safety, and requires OSHSB to adopt and enforce the Council's recommendations, unless OSHSB finds the recommendation is outside DOSH's statutory authority or unlawful.

4) Grants a cause of action to any fast food restaurant worker discharged, discriminated or retaliated against for exercising their rights, creates a rebuttable presumption of unlawful discrimination or retaliation for any adverse action taken against the worker within 90 days of the franchisor or franchisee having knowledge of the worker exercising their rights and allows the Labor Commissioner (LC) to enforce violations without receiving a complaint.

5) Requires a fast food restaurant franchisor to ensure a franchisee complies with worker and public health laws, including standards issued by the Council. This bill makes a franchisor jointly and severally liable for any penalties or fines for a violation incurred by the franchisee, and provides that any agreement by a franchisee to indemnify the franchisor for liability is contrary to public policy, void and unenforceable.

6) States that nothing in this bill is intended to encroach on the Legislature's ability to establish workplace standards for workers including fast food restaurant workers. The intent of the Legislature is to ensure that legislators have sufficient time to review and take legislative action, if appropriate, with respect to fast food standards promulgated under the bill pursuant to notice-and-comment rulemaking procedures.

7) Provides that a standard, repeal or amendment of a standard shall not take effect until the submission of a report to the Legislature, as specified, that contains the standard, repeal or amendment and the reasons for it.

8) Specifies that the standard, repeal or amendment shall not take effect until at least 60 days have passed from the Legislature's receipt of the Council's report.

9) States that nothing in this bill shall be construed to give the Council the authority to create or amend statutes.

Board staff is monitoring for potential impacts on Board operations.

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AB-1643 ~~Department of Industrial Relations~~ State government: extreme heat: advisory committees. (2021-2022)

(Rivas)

Date	Action
04/21/22	From committee: Do pass and re-refer to Com. on APPR. (Ayes 6. Noes 0.) (April 20). Re-referred to Com. on APPR.
04/21/22	Coauthors revised.
04/18/22	Re-referred to Com. on L. & E.
04/07/22	From committee chair, with author's amendments: Amend, and re-refer to Com. on L. & E. Read second time and amended.

Summary:

AB-1643 AB 1643, as amended, Robert Rivas. State government: extreme heat: ~~advisory committees~~ *committee study*.

Existing law establishes the Labor and Workforce Development Agency under the supervision of an executive officer known as the Secretary of Labor and Workforce Development. Existing law requires the secretary to perform specified duties, including advising the Governor with respect to establishing major policy and program matters affecting each department, office, or other unit within the agency. Existing law authorizes officers or employees within the agency to exercise powers designated to them by the secretary.

This bill would require the agency, on or before July 1, 2023, to establish an advisory committee to study the effects of extreme heat and humidity on California’s workers, businesses, and the economy. The bill would require the committee to make recommendations on how to improve the state’s identification, tracking, and responses to these effects. The bill would require the committee, in considering the effects of extreme heat and humidity on California’s workers, businesses, and the economy, to consider, at a minimum, all of specified factors, including the number of workdays canceled due to extreme heat or humidity and the amount of wages lost due to extreme heat or humidity events. The bill would require the committee to be comprised of specified representatives from state agencies, labor and business entities, and academia. The bill would authorize the advisory committee to contract with public institutions to complete this study and to issue a

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report of its findings to the Legislature no later than January 1, 2025. The bill would repeal these provisions on January 1, 2026.

~~Existing law grants the Division of Occupational Safety and Health, which is within the Department of Industrial Relations, jurisdiction over all employment and places of employment, with the power necessary to enforce and administer all occupational health and safety laws and standards. The Occupational Safety and Health Standards Board, an independent entity within the Department of Industrial Relations, has the exclusive authority to adopt occupational safety and health standards within the state. Under existing law, certain violations of a standard, order, or special order pursuant to these provisions are crimes.~~

~~Existing regulations of the division protect employees in outdoor places of employment from heat illness and prescribe requirements to prevent heat illness from occurring.~~

~~This bill would require the division to establish an advisory committee to evaluate its current reporting practices relating to illness and death in the workplace caused by exposure to extreme heat or humidity and to recommend changes to the division's regulations that would ensure accurate reporting of illness and death in the workplace caused by exposure to extreme heat or humidity. The bill would prescribe topics for the committee to consider in evaluating the division's reporting practices and making recommendations, including the best practices to improve education and encourage reporting of health related illnesses, especially for low income and uninsured populations. The bill would require the division to adopt the regulatory changes recommended by the committee.~~

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

~~Existing law establishes the Employment Development Department (EDD) within the Labor and Workforce Development Agency and designates an executive officer known as the Director of Employment Development to head EDD. Existing law vests the director with the duties, purposes, responsibilities, and jurisdiction over, among other things, job creation activities.~~

~~This bill would require EDD to establish an advisory committee to study the effects of extreme heat and humidity on California's workers and economy and to recommend changes to EDD's regulations that would improve the state's understanding of the effects of extreme heat and humidity on California's workers and economy. The bill would prescribe topics for the committee to consider in studying the effects of extreme heat and humidity and making recommendations, including the best practices for conducting data collection on the impacts of extreme heat and humidity on the workforce, businesses, and the~~

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~~economy. The bill would also require the committee to evaluate and publish data on prescribed topics, including the total cost of extreme heat and humidity to California businesses. The bill would require EDD to adopt the regulatory changes recommended by the committee.~~

~~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 Board is monitoring this bill.

AB-1733	AB-1733 State Bodies: Open Meetings. (2021-2022) (Quirk)	
	Date	Action
	04/20/22	In committee: Hearing postponed by committee.
	02/18/22	Referred to Coms. on G.O. and B. & P.
	02/01/22	From printer. May be heard in committee March 3.
	01/31/22	Read first time. To print.
	<p><u>Summary:</u></p> <p>AB 1733, as introduced, Quirk. State bodies: open meetings.</p> <p>Existing law, the Bagley-Keene Open Meeting Act, requires, with specified exceptions, that all meetings of a state body be open and public and all persons be permitted to attend any meeting of a state body. The act defines a “meeting” to include any congregation of a majority of the members of a state body at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the state body to which it pertains. The act authorizes teleconferenced meetings under specified circumstances, provided that at least one member of the state body is physically present at the location specified in the notice of the meeting, and all votes taken during a teleconferenced meeting are taken by rollcall. The act provides that if the state body elects to conduct a meeting or proceeding by teleconference, the state body is required to post agendas at all teleconference locations and conduct teleconference meetings in a manner</p>	

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that protects the rights of any party or member of the public appearing before the state body. The act requires each teleconference location to be identified in the notice and agenda of the meeting or proceeding, and each teleconference location to be accessible to the public, and the agenda to provide an opportunity for members of the public to address the state body at each teleconference location.

Existing law requires a state body to provide notice of its meeting to any person who requests that notice in writing and to provide notice of the meeting of its internet website at least 10 days in advance of the meeting, as prescribed. Existing law exempts from the 10-day notice requirement, special meetings and emergency meetings in accordance with specified provisions. Existing law authorizes a state body to adjourn any regular, adjourned regular, special, or adjourned special meeting to a time and place specified in the order of adjournment, and authorizes a state body to similarly continue or recontinue any hearing being held, or noticed, or ordered to be held by a state body at any meeting.

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

If a state body discovers that a means of remote participation, as defined, required by these provisions has failed during a meeting and cannot be restored, the state body would be required to end or adjourn the meeting and take specified actions to notify participants and

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communicate when the state body intends to reconvene the meeting and how a member of the public may hear audio of, or observe, the meeting.

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

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

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

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

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

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

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

This bill would also make conforming changes.

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

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

The Board is monitoring this bill.

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AB-1775	AB-1775 Occupational safety: live events. (2021-2022) (Ward)	
	Date	Action
	04/21/22	From committee: Do pass and re-refer to Com. on APPR. (Ayes 7. Noes 0.) (April 20). Re-referred to Com. on APPR.
	03/28/22	Re-referred to Com. on L. & E.
	03/24/22	From committee chair, with author's amendments: Amend, and re-refer to Com. on L. & E. Read second time and amended.
	03/24/22	Referred to Com. on L. & E.
	02/04/22	From printer. May be heard in committee March 6.
	02/03/22	Read first time. To print.
	<p><u>Summary:</u></p> <p>AB 1775, as amended, Ward. Occupational safety: live events.</p> <p>Existing law establishes the Division of Occupational Safety and Health in the Department of Industrial Relations, and charges the division with the enforcement of various laws affecting safe working conditions, including the California Occupational Safety and Health Act of 1973.</p> <p>This bill would require a contracting entity, as defined, to require an entertainment events vendor to certify for their employees and subcontractors that those individuals have complied with specified training, certification, and workforce requirements, including that employees involved in setting up, tearing down, or the production of a live event at the venue have completed prescribed trainings of the United States Department of Labor's Occupational Safety and Health Administration. The bill would impose a civil penalty of up to \$1,000 for each serious violation of those provisions, and would require the division to deposit those funds in the Occupational Safety and Health Fund.</p> <p>The Board is monitoring this bill.</p>	

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AB-1993	AB-1993 Employment: COVID-19 vaccination requirements. (2021-2022) (Wicks, Aguiar-Curry, Low, and Akilah Weber <i>Wicks and Low</i>)	
	Date	Action
	04/18/22	Coauthors revised.
	03/29/22	In committee: Set, first hearing. Hearing canceled at the request of author.
	03/17/22	Referred to Coms. on L. & E. and JUD.
	02/11/22	From printer. May be heard in committee March 13.
	02/10/22	Read first time. To print.
<p><u>Summary:</u></p> <p>AB 1993, as introduced, Wicks. Employment: COVID-19 vaccination requirements.</p> <p>Existing law, the California Fair Employment and Housing Act (FEHA), establishes the Department of Fair Employment and Housing within the Business, Consumer Services, and Housing Agency and sets forth its powers and duties relating to the enforcement of civil rights laws with respect to housing and employment.</p> <p>Existing federal law, the Federal Food, Drug, and Cosmetic Act, authorizes the United States Secretary of Health and Human Services to approve new drugs and products, including vaccines, for introduction into interstate commerce, and authorizes the secretary to authorize vaccines for use in an emergency upon declaring a public health emergency. On February 4, 2020, the secretary determined that there is a public health emergency and declared circumstances exist justifying the authorization of emergency use of drugs and biological products. The secretary subsequently authorized the emergency use of 3 vaccines for the prevention of COVID-19, and on August 23, 2021, the secretary approved a vaccine for the prevention of COVID-19.</p> <p>The California Emergency Services Act authorizes the Governor to declare a state of emergency during conditions of disaster or extreme peril to persons or property, including epidemics. On March 4, 2020, the Governor declared a state of emergency relating to the COVID-19 pandemic. Pursuant to this authority, the Governor issued several executive orders requiring individuals in specified employment, health care, school, or other settings to provide proof of a COVID-19 vaccination status, unless specified exceptions are met.</p> <p>This bill would require an employer to require each person who is an employee or independent contractor, and who is eligible to receive the COVID-19 vaccine, to show proof</p>		

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

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

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

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

This bill would declare that its provisions are severable.

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

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AB-2076	AB 2076 Extreme Heat and Community Resilience Program: Extreme Heat Hospitalization and Death Reporting System. (2021-2022)	
	(Rivas, Garcia)	
	Date	Action
	05/02/22	Re-referred to Com. on APPR.
	04/28/22	Read second time and amended.
	04/27/22	From committee: Amend, and do pass as amended and re-refer to Com. on APPR. (Ayes 13. Noes 0.) (April 26).
	04/19/22	In committee: Hearing postponed by committee.
	03/24/22	Re-referred to Com. on HEALTH.
	03/23/22	Read second time and amended.
03/22/22	From committee: Amend, and do pass as amended and re-refer to Com. on HEALTH. (Ayes 10. Noes 0.) (March 21).	
<p><u>Summary:</u></p> <p>AB 2076, as amended, Luz Rivas. Extreme Heat and Community Resilience Program: Extreme Heat Hospitalization and Death <i>and Health</i> Reporting System.</p> <p>(1) Existing law establishes the Office of Planning and Research in state government in the Governor’s office. Existing law establishes the Integrated Climate Adaptation and Resiliency Program (ICARP), to be administered by the office, to coordinate regional and local efforts with state climate adaptation strategies to adapt to the impacts of climate change, as prescribed.</p> <p>This bill would establish the Extreme Heat and Community Resilience Program in the office, to be administered by the office through ICARP, for the purpose of coordinating state efforts and supporting local and regional efforts to prevent or mitigate the impacts of, and reduce the public health risks of, heat. The bill would require the Director of State Planning and Research to appoint a Chief Heat Officer in the office to, among other things, implement the program and establish the Interagency Heat Taskforce, as provided. Upon appropriation by the Legislature, the bill would authorize the program to award grants and provide technical assistance to eligible entities, as defined, for specified projects that support local and regional efforts to mitigate the impacts and reduce the public health risks of heat. The bill</p>		

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would require the office, in the awarding of grants, to prioritize projects that serve disadvantaged or vulnerable communities, as specified, that demonstrate participation in a regional climate collaborative program, or that are a component of a comprehensive heat action plan. The bill would authorize the director to make advance payments, not to exceed 25% of the total award amount, from a grant awarded pursuant to the program. The bill would require the office, in administering the program, to review and consider climate science research and publications, as specified, and to minimize greenhouse gas emissions and electricity grid stress, avoid maladaptation, and maximize job growth and other cobenefits, as provided.

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

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

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

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

This bill would require the department, on or before July 1, 2024, upon appropriation by the Legislature, and in consultation with the Chief Heat Officer in the Office of Planning and Research, to establish and maintain the Extreme Heat ~~Hospitalization and Death and Health Reporting System, a syndromic surveillance system, to assist local interventions and to identify and protect heat-vulnerable or other at-risk populations.~~ The bill would require the department to collect data on hospitalization and death determined to be resultant from extreme heat, as specified, and to post the collected data on its internet website. The bill would require the department to include specified data in the system, including, but not limited to, data identifying neighborhoods or other groups in need of priority intervention. receive notice and data from local health departments, clinics, emergency

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rooms, hospitals, and other sources on illnesses, including emergency room visits, and deaths resulting from exposure to extreme heat, as specified. The bill would require the department to publish the data on its internet website as near to real-time as possible, including data identifying neighborhoods and subgroups in need of priority interventions, and to publish on its internet website an annual report on heat illness and deaths that includes findings regarding individual and community and neighborhood risk factors. The bill would require all personal information obtained or maintained by the system to be confidential, the system and this information to be exempt from disclosure except as provided, and only deidentified aggregate patient or other consumer data to be included in the data and annual report published on the department's internet website.

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

This bill would make legislative findings to that effect.

Board staff is monitoring this bill for impacts on the Standards Board.

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AB-2243	AB-2243 Occupational safety and health standards: heat illness: wildfire smoke. (2021-2022)	
	(Garcia, Rivas)	
	Date	Action
	03/31/22	From committee: Do pass and re-refer to Com. on APPR. (Ayes 4. Noes 2.) (March 30). Re-referred to Com. on APPR.
	03/31/22	Coauthors revised.
	03/22/22	Re-referred to Com. on L. & E.
	03/21/22	From committee chair, with author's amendments: Amend, and re-refer to Com. on L. & E. Read second time and amended.
	03/03/22	Referred to Com. on L. & E.
	02/17/22	From printer. May be heard in committee March 19.
02/16/22	Read first time. To print.	
<u>Summary:</u>		
<p>AB 2243, as introduced, Eduardo Garcia. Occupational safety and health standards: heat illness: wildfire smoke.</p> <p>Existing law grants the Division of Occupational Safety and Health, which is within the Department of Industrial Relations, jurisdiction over all employment and places of employment, with the power necessary to enforce and administer all occupational health and safety laws and standards. The Occupational Safety and Health Standards Board, an independent entity within the department, has the exclusive authority to adopt occupational safety and health standards within the state. Existing law, the California Occupational Safety and Health Act of 1973 (OSHA), requires employers to comply with certain safety and health standards, as specified, and charges the division with enforcement of the act. Under OSHA, certain knowing, negligent, or willful violations of safety and health standards are punishable as a misdemeanor. The existing Maria Isabel Vasquez Jimenez heat illness standard provides for the prevention of heat-related illness of employees in outdoor places of employment, as prescribed. There is also an existing standard for workplace protection from wildfire smoke.</p>		

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This bill would require the division, before January 1, 2024, to submit to the standards board a rulemaking proposal to revise the heat illness standard to include an ultrahigh heat standard for employees in outdoor places of employment for heat in excess of 105 degrees Fahrenheit, as ~~prescribed.~~ *prescribed, and require employers to distribute copies of the Heat Illness Prevention Plan, as provided.* The bill would similarly require a rulemaking proposal to revise the wildfire smoke standard to reduce the existing air quality index threshold for PM2.5 particulate matter at which control by respiratory protective equipment becomes ~~mandatory.~~ *mandatory, and remove the requirement that an employer reasonably anticipate employees may be exposed to wildfire smoke.* The bill would require the standards board to review the proposed changes and adopt revised standards before July 1, 2024. *The bill would further require the division to consider regulations relating to protections related to acclimatization to higher temperatures, training programs for outdoor employees in administering first aid, and additional protections for piece-rate workers, as provided.*

Because this bill would require the adoption of additional safety standards, the violation of which would be a misdemeanor, it 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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SB-831	SB-831 Entertainment Productions: Firearms: Safety.(2021-2022) (Cortese)	
	Date	Action
	04/27/22	From committee: Do pass and re-refer to Com. on APPR. (Ayes 9. Noes 2.) (April 26). Re-referred to Com. on APPR.
	04/20/22	Read second time and amended. Re-referred to Com. on JUD.
	04/19/22	From committee: Do pass as amended and re-refer to Com. on JUD. (Ayes 5. Noes 0.) (April 18).
	04/08/22	Set for hearing April 26 in JUD. pending receipt.
	04/07/22	Set for hearing April 18.
	<p><u>Summary:</u></p> <p>SB 831, as amended, Cortese. Motion picture productions: set safety: firearms: ammunition..</p> <p>Existing law grants the Division of Occupational Safety and Health, which is within the Department of Industrial Relations, jurisdiction over all employment and places of employment, with the power necessary to enforce and administer all occupational health and safety laws and standards. The Occupational Safety and Health Standards Board, an independent entity within the department, has the exclusive authority to adopt occupational safety and health standards within the state. Existing law, the California Occupational Safety and Health Act of 1973, requires employers to comply with certain standards ensuring healthy and safe working conditions, as specified, and charges the division with enforcement of the act. Other existing law relating to occupational safety imposes special provisions on certain industries and charges the division with enforcement of these provisions.</p> <p>This bill would require a motion picture production employer to hire a qualified set safety supervisor for all motion picture productions to perform an overall risk assessment <i>a risk assessment, as specified</i>, to be completed prior to the first day of production <i>on a feature, an episode of a series, or a program</i>, and to be on set daily to ensure cast and crew are not engaged in or exposed to an environment or activity that puts workers' health and safety at risk. The bill would allow the use of a firearm, a functioning firearm-like device, <i>firearm</i> and blank ammunition containing gunpowder or other explosive charge on motion picture productions only for specified purposes and under specified safety conditions. The bill</p>	

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would require a qualified armorer, property master, or designee handling a firearm in the course of *the* motion picture production to have *a specified state permit, to have completed certain training in ~~firearms~~ firearms*, and *to have a specified ~~permit~~ federal document* for the possession and custody of the firearm. The bill would require an employer to document and report to certain entities any incident involving a firearm or blank ammunition that occurs during a film or television production, as prescribed.

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

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

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

Legislative Update
Prepared May 6, 2022 for the May 19, 2022
Meeting of the Occupational Safety and Health Standards Board

SB-1102	SB-1102 Occupational safety and health.(2021-2022) (Glazer)	
	Date	Action
	04/27/22	April 27 set for first hearing canceled at the request of author.
	04/20/22	From committee with author's amendments. Read second time and amended. Re-referred to Com. on L., P.E. & R.
	04/14/22	Set for hearing April 27.
	<p><u>Summary:</u></p> <p>SB 1102, as amended, Glazer. Occupational safety and health.</p> <p>Existing law establishes the Occupational Safety and Health Standards Board within the Department of Industrial Relations as the only agency in the state authorized to adopt occupational safety and health standards. <i>standards, and provides for the enforcement of those standards by the Division of Occupational Safety and Health.</i> Existing law requires the board, at each of its meetings, to make time available to interested persons to propose new or revised orders or standards appropriate for adoption or other items concerning occupational safety and health. Existing law requires the board to consider a proposed order or standard and reports its decision no later than 6 months following receipt.</p> <p>This bill would require the board to post information on any proposed order or standard on the board's internet website no later than 5 calendar days following the meeting. <i>The bill would require the board, in conjunction with the division, to report to the Legislature as soon as practicable on the need to update regulations governing agricultural equipment that comply with specified standards.</i></p> <p>Board staff are monitoring this legislation.</p>	

Occupational Safety and Health Standards Board

Business Meeting Executive Officer's Report