

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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**INITIAL STATEMENT OF REASONS****CALIFORNIA CODE OF REGULATIONS****TITLE 8: Section 1630 of the Construction Safety Orders****Elevators for Hoisting Workers****SPECIFIC PURPOSE AND FACTUAL BASIS OF PROPOSED ACTION**

The Occupational Safety and Health Standards Board (Board) staff is initiating a rulemaking in response to the Board's decision to grant Petition 587 (Zampa and McClelland), and a Request for New, or Change in Existing, Safety Order (Form 9) from the Division of Occupational Safety and Health (Cal/OSHA) dated April 3, 2019. The proposed rulemaking makes changes to title 8, section 1630 which regulates construction safety orders for elevators used for hoisting workers. These changes are necessary to address concerns raised in the petition and Form 9, including provisions for alternate access to a structure where a construction passenger elevator (CPE) is infeasible, conditions that must be present to allow the CPE to be removed from a building, and other clarifying amendments.

The specific changes are as follows:

Subsection 1630(a)

A new subsection 1630(a) containing definitions for "ground level," "operating", and "primary construction entrance" will be added to section 1630 to aid the public in understanding the requirements of the regulation. The definitions are necessary to add clarity to the requirements so that compliance can be more uniformly achieved.

Subsection 1630(b)

Existing subsection (a) will be relabeled (b).

Newly labeled subsection 1630(b) will be modified to require "at least one" CPE, replacing "a" CPE, and to clarify that the requirements of this subsection are inclusive of buildings or structures 48 feet "or more" in depth below ground level. Other information in the subsection regarding when the CPE must be installed and how an employer is expected to determine the height or depth of a building or structure has been relocated and modified to provide better detail about the requirements.

Subsection (b)(1) clarifies that a CPE is required to be installed and operating before employees work above a height of 36 feet.

Subsection (b)(2) provides instructions for determining the height of a building or structure, measuring from ground level to the highest structural levels. Attachments such as mechanical screens and flag poles are listed as exceptions to measurements for the height of a building or structure.

Requirements for determining the depth of a building or structure are unchanged, though the information has been relocated and identified as subsection 1630(b)(2)(B) to make it more prominent and easier to find within the regulation. Information describing “ground level” has been modified to address excavations and relocated to the definitions section.

Requirements for buildings or structures that can be considered to have measurements for both height and depth are proposed to be relocated and identified as subsection 1630(b)(2)(C). The proposal also clarifies that service to the underground landings and service to the above ground landings must be provided by at least one CPE. An employer may choose to serve both above ground and below ground landings with a single CPE.

Subsection (b)(3) clarifies that excavations 48 feet or more below ground level must have the CPE installed and operational as soon as practicable once any portion of the excavation has reached its total depth.

The proposed amendments to newly labeled subsection 1630(b) are necessary to clarify the requirements for providing CPE access to buildings or structures.

Exceptions to newly labeled subsection 1630(b)

Exception 1 is proposed to be modified to add that slip and climbing forms, which are considered falsework, are not excepted from the requirements for providing CPE access.

Exception 2 is proposed to be reworded to clarify conditions for allowing alternate means of access in lieu of a CPE.

Proposed exception 3 allows a permanent passenger or freight elevator to be used in lieu of a CPE.

The proposed exceptions are necessary to clarify conditions where a CPE is not required.

The note and list of examples below the exceptions listed in existing subsection 1630(a) are proposed for relocation to subsection 1630(d). The relocation is necessary to keep

the information near the part of the regulation where it is most applicable, helping to improve the clarity of the requirements.

Subsection 1630(c)

Existing subsection (b) will be relabeled (c).

Subsection 1630(d)

Existing subsection (c) will be deleted and replaced with proposed subsection (d).

Proposed subsection (d) clarifies the phrase “unusual site conditions or structure configurations” in existing Exception 2 of subsection 1630(b). This subsection requires that employers provide written substantiation to Cal/OSHA explaining why the use of a CPE is infeasible. The list of examples of unusual site conditions or structure configurations currently found at the end of existing subsection (a) is proposed to be relocated to proposed subsection (d) with some minor grammatical changes.

Proposed subsection (d) is necessary to establish consistency in requesting and providing alternate means of access in lieu of a CPE.

Proposed subsections (d)(1)(A)-(I) provide requirements for employers who elect to use vehicles to provide employee access instead of a CPE in the latter stages of parking garage projects. The amendments are necessary to alert employers to the requirements for using vehicles in lieu of a CPE in limited situations.

Subsection 1630(e)

Existing subsection (d) will be deleted and replaced with proposed subsection (e).

Proposed subsection (e) contains requirements for landings to provide access to the working levels of buildings and structures. The subsection also requires that the first landings installed for work in an excavation are at the top and bottom of the excavation. Finally, subsection (e) requires that the travel distance between an elevator landing and the employee’s work location is not to exceed one-quarter mile.

Proposed subsection (e) is necessary to ensure that landings provide safe access to working levels.

Proposed subsection (e)(1) requires that the landing provides access to the working level. The proposed subsection is necessary to ensure that the landing provides safe access to working levels. Further, the landing is required to be no smaller than 15 feet wide by 15 feet long. The proposal is necessary to ensure that employees embarking or disembarking from the elevator car can do so with enough clearance to accommodate other riders.

Proposed subsection (e)(2) (previously, existing subsection (d)) requires a CPE landing must be designated at intervals of not greater than 3 floors for the entire height of the building. Additionally, (e)(2) requires that a CPE landing is to be located at the uppermost floor. Nothing in this proposal precludes providing landings on every floor. Subsection (e)(2) also adds as regulatory text the existing note previously under subsection (d). This addition of the pre-existing subsection ensures that employers may select substitute landing locations when accepted by Cal/OSHA. This proposal is necessary to regulate the minimum number of landing locations accessible by the CPE. Subsection (e)(2) adds as regulatory text the existing note previously under subsection (d). The proposal is necessary to ensure that substitute locations for landing locations do not result in undue hazards to employees.

Proposed subsection (e)(3) prohibits work above three floors from the next lowest elevator landing. This proposal is necessary to ensure that employees are not subject to ascending to or descending from more than two levels of stairs to reach a CPE landing area.

Proposed subsection (e)(4) establishes the first two landing areas provided to a CPE providing access to underground locations. These two landings are the surface level or grade level and the bottom of the excavation. This is necessary to ensure the first landings (at the top and bottom of the excavation) are completed and accessible by the CPE before any additional landings are installed.

Proposed subsection (e)(5) allows employers to omit a landing on levels where no working level exists. This is necessary to ensure that employers are not compelled to install unnecessary landing areas.

Proposed subsection (e)(6) provides a maximum distance from an elevator landing area to employee work locations. This proposal is necessary to ensure that the distance an employee must travel to reach a CPE is not burdensome.

Proposed subsection (e)(7) requires the roof of the building or structure to be provided with a safe means of access until a permanent elevator can be accessed as a construction elevator consistent with section 1604.4. This proposal is necessary to facilitate early removal of the CPE when a permanent elevator has been completed and permitted.

Exceptions to proposed subsection 1630(e)

Exception 1 is proposed to clarify that landings are not required at roofs of certain rooftop structures, nor on steep roofs, nor on roofs of materials or configurations that will not allow a landing due to structural or functional limitations.

Exception 2 is proposed to clarify that landings on cast-in-place concrete structures are not required until the concrete reaches sufficient strength for the formwork to be removed.

The proposed exceptions to subsection (e) are necessary to clarify the requirements for landings on buildings and structures and aid in compliance with the intent of the regulation.

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

1. Petition 587 submitted by Don Zampa and Greg McClelland, received October 15, 2020. <https://www.dir.ca.gov/oshsb/petition-587.html>.
2. Request for New, or Change in Existing, Safety Order (Form 9) from the Division of Occupational Safety and Health, dated April 3, 2019.
3. Division of Occupational Safety and Health Review of Petition 587, dated April 6, 2020. <https://www.dir.ca.gov/oshsb/petition-587.html>.
4. Occupational Safety and Health Standards Board Decision on Petition 587, dated July 15, 2021. <https://www.dir.ca.gov/oshsb/petition-587.html>.
5. August 31, 2022, list of advisory committee members, advisory committee roster and minutes. <https://www.dir.ca.gov/oshsb/Elevators-for-Hoisting-Workers-2022-AC.html>.
6. March 22, 2023, list of advisory committee members, advisory committee roster and minutes. <https://www.dir.ca.gov/oshsb/Elevators-for-Hoisting-Workers-2023-2nd-AC.html>.

These documents are available for review BY APPOINTMENT Monday through Friday, from 8:00 a.m. to 4:30 p.m., at the Standards Board's office at 2520 Venture Oaks Way, Suite 350, Sacramento, California 95833. Appointments can be scheduled via email at oshsbulemaking@dir.ca.gov or by calling (916) 274-5721.

PETITION

Petitioner: Don Zampa and Greg McClelland

File No.: 587

The Occupational Safety and Health Standards Board received a petition on October 15, 2020, to amend section 1630 of the Construction Safety Orders contained in title 8 of the California Code of Regulations regarding elevators for hoisting workers. On July 15, 2021, the Occupational Safety and Health Standards Board granted the petition to the extent that the Petitioner's proposal would be referred to a representative advisory committee for consideration.

A copy of the petition, the Cal/OSHA evaluation, and the Board's petition decision are included as Documents Relied Upon.

ADVISORY COMMITTEE

This proposal was developed with the assistance of an advisory committee. A list of advisory committee members, advisory committee roster, and minutes are included as Documents Relied Upon.

FIRE PREVENTION STATEMENT

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

SPECIFIC TECHNOLOGY OR EQUIPMENT

This proposal will not mandate the use of specific technologies or equipment.

ECONOMIC IMPACT ANALYSIS/ASSESSMENT

The proposed amendments will not affect the: (1) creation or elimination of California jobs, (2) creation of new businesses or elimination of existing California businesses or (3) expansion of existing California businesses because they were developed with the assistance of an advisory committee made up of industry and labor representatives discussing the least burdensome means for accomplishing the necessary objectives. Most of the proposed changes clarify when certain requirements of the existing regulation must be implemented, but do not impose new requirements. Although additional CPEs will be required in rare instances for some larger footprint construction projects, employers typically choose to install the additional CPEs voluntarily due to improvements in the efficiencies of moving employees and materials. Additionally, requirements for installing a landing on the roof of a building or structure have been practiced in the past but will now apply more uniformly to buildings.

Employers affected by the proposed amendments to section 1630 work in the construction industry. While any contractor licensed by the State Contractors License Bureau can perform work requiring the use of a CPE, most of the construction work in California does not require a CPE. The Board anticipates an annual cost impact of \$6,679,081 or \$15,771 per small business (\$6,592,253 divided by 418). The cost per small business is incurred as an annual cost. The cost of high-rise buildings in the Western US is \$557 per square foot on the low end and \$730 on the high end.

BENEFITS OF THE PROPOSED ACTION

The proposal promotes worker safety by clarifying requirements regarding employee access to workplaces using construction passenger elevators. Employers and Cal/OSHA personnel will have clearer requirements allowing for simpler and more

uniform compliance and enforcement of existing regulations. No significant environmental impact is anticipated from the proposed action.

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

The Board has made an initial determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses/individuals, including the ability of California businesses to compete with businesses in other states. Although the proposal contains clarifying amendments to the existing language, the practices of the affected stakeholders are not expected to significantly change because of the amendments.

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

Alternative #1: Keep the regulation as written but remove the option for employers to provide vehicle access to working levels in lieu of a CPE in the latter stages of parking garage construction.

The committee discussed requiring all buildings, including parking structures and similar buildings in the latter stages of construction with ramped access to working levels, to utilize a CPE. Employers raised concerns that the construction of parking structures could not be fully completed until the CPE and the structural accommodations for the elevator are removed. They also said that when the CPE is removed to allow for the building construction to continue, power companies can take several months to provide power to the permanent elevators in the parking structures, leaving employees without access to the working levels by CPE or permanent building elevators. Instead of requiring the CPE to remain in operation until the permanent elevators are in operation, employers suggested allowing the use of vehicles to drive employees to the working levels of the structure during the latter stages of construction until the permanent elevators are available for use.

Costs for operating a CPE while awaiting power to a building's permanent elevator is estimated to be about \$11,606 per month. Carts can be rented for about \$1,435 per month, but stakeholders estimate that two or more carts would be needed to replace the occupant transport capacity of the CPE, incurring a cost of at least \$2,870 per month. If the option of using the carts or vehicles in lieu of a CPE is removed, staff estimates that the cost impact of the proposal would increase by about \$8,736 per month that the employer could have chosen to use the carts or vehicles. Stakeholders estimated that the carts or vehicles can be used in place of the CPE for about three months on average, for a cost difference of \$26,208 per instance. Stakeholders also provided that less than two percent of the construction work requiring the use of a CPE involves the

construction of a parking garage or similar structure. The anticipated statewide annual cost impact of Alternative #1 is \$7,121,522, an increase of \$235,872.

Alternative #1 is rejected because it limits the choices offered to business stakeholders to provide employee access to the working levels. Allowing stakeholders to choose similarly effective means for accomplishing the intent of a regulation is preferred by the Legislature, as stated in Government Code section 11340.1 "Legislative Intent." Requiring employers to use a CPE for access in all situations would likely impose a greater cost impact on employers as well.