

## **Elevators for Hoisting Workers**

### Summary of and Response to Written and Oral Comments Resulting from the 45-Day Comment Period

#### **I. Written Comments**

1. Abby Lopez, CSP, Assistant Regional Administrator, Cooperative and State Programs on behalf of U.S. Department of Labor, Occupational Safety and Health Administration (OSHA), in a letter dated February 25, 2026.

##### Comment 1.1:

Federal OSHA has completed their review. The proposed standard appears to be at least as effective as the federal standard.

##### Response to Comment 1.1:

The Occupational Safety and Health Standards Board (Board) appreciates OSHA's support in amending these regulations.

2. David Montijo, Branch Manager, on behalf of USA Hoist Co., Inc., in a letter dated March 10, 2026.

##### Comment 2.1:

The commenter supports a majority of the proposal and expresses that much of the proposal is agreeable and represents meaningful improvements to the existing code.

##### Response to Comment 2.1:

The Board appreciates the commenter's support for the proposal.

##### Comment 2.2:

The commenter asserts section 1630(d)(1), vehicles as alternate access, does not provide equivalent safety comparable to a construction passenger elevator (CPE). The commenter asserts CPEs serve to provide: 1. vertical transport of employees; 2. transport of materials; and 3. emergency response. The commenter claims that a vehicle parked at an unspecified location within a structure cannot fulfill or provide constant, on-demand vertical access.

The commenter also notes that parking structures on active construction projects are congested environments and without identifying a person responsible for maintaining clear vehicle access routes throughout the structure, this standard would result in lack of accountability, be unrealistic, and unenforceable.

Comment 2.3:

The commenter claims section 1630(d)(1) has significant operational gaps, including: 1. lack of operator availability; 2. lack of designated “pick-up” points; 3. lack of requirements for vehicle fueling/charging, inspections and formal maintenance; and 4. uncontrolled access, which gives rise to liability for damages and accidents.

Comment 2.4:

The commenter claims the inclusion in section 1630(d)(1)(B) of “all structural work is complete” creates ambiguity that warrants clarification.

Comment 2.5:

The commenter claims the inclusion in section 1630(d)(1)(E) of “as soon as feasible” creates an unenforceable standard.

Comment 2.6:

The commenter asserts section 1630(d)(1)(G) offers a limited prohibition. The commenter claims the proposed requirements only require employers to tell workers that access may not be denied while allowing conditions necessary to provide access to be absent.

Response to Comments 2.2, 2.3, 2.4, 2.5 and 2.6:

The proposal has been amended to delete sections 1630(d)(1) and 1630(d)(1)(A-I) in their entirety.

The Board thanks David Montijo for the input and participation in the rulemaking process.

3. Michael J. Vlaming, Executive Director, on behalf of Construction Elevator Contractors Association in a letter dated March 16, 2026.

Comment 3.1:

The commenter supports a majority of the proposal. Further, the proposal is consistent with current industry’s best practices as identified by industry subject matter experts.

Response to Comment 3.1:

The Board appreciates the commenter’s support for the proposal.

Comment 3.2:

The commenter does not support the inclusion of section 1630(d)(1). The commenter argues that section 1630(d)(1) and presumptively 1630(d)(1)(A-I) are vague and would lead to inconsistent interpretation and enforcement.

Comment 3.3:

The commenter does not support the inclusion of “as soon as feasible” within subsection 1630(d)(1)(E).

Response to Comments 3.2 and 3.3:

See response to comments 2.2, 2.3, 2.4, 2.5 and 2.6.

The Board thanks Michael J. Vlaming for the input and participation in the rulemaking process.

4. Eric Berg, Deputy Chief of Health, Medical, Safety, Health, and Research Branch and Jason Denning, Principal Safety Engineer, Research and Standards Occupational Safety Unit, on behalf of the Division of Occupational Safety and Health (Division, Cal/OSHA) in a letter dated March 16, 2026.

Comment 4.1:

The commenter argues that the inclusion in subsection 1630(b)(3) of the word “practicable” should be replaced with “feasible.” The commenter argues that practicable allows for considerations such as convenience, scheduling, monetary costs to prevail over worker safety. Commenter asserts that “feasible” does not permit convenience and related issues to override employee safety.

Response to Comment 4.1:

The Board disagrees with the commenter’s statement. First, “feasible” and “practicable” are not defined in the regulation. Second, the common definition of “practicable” is “capable of being put into practice or of being done or accomplished: feasible.”<sup>1</sup> When used commonly, feasible and practicable are synonymous. Commenter’s assertion that “practicable allows for considerations such as convenience, scheduling, monetary costs, etc. to prevail over worker safety whereas the standard of feasible does not permit convenience and related issues to override employee safety” is unfounded [internal quotations removed for clarity].

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<sup>1</sup> [Merriam-Webster definition for “practicable”](#) (Accessed 5/15/2026)

Comment 4.2:

The commenter asserts that installing an elevator only after final depth would delay installation and weaken the current regulation. The commenter suggests requiring the elevator to be installed and operational after any portion of the excavation reaches 48 feet in depth.

Response to Comment 4.2:

The Board disagrees with the commenter's statement. First, section 1604.5(d)(1) requires construction passenger elevators to "be supported by a firm foundation of such dimensions as to adequately distribute the transmitted load so as not to exceed the safe load bearing capacity of the ground upon which such [construction passenger elevators] are erected." For the construction passenger elevator to remain stable, the firm foundation must be maintained. The design of the foundation is crucial to the stability and safe operation of the construction passenger elevator. Presumptively, the commenter's scenario is a shaftway for personnel to descend and perform construction work on a subterranean structure. The shaftway would host the construction passenger elevator. If the shaftway is intended to exceed the 48-foot depth, the commenter proposes a construction passenger elevator be provided upon exceeding the 48-foot trigger depth. A foundation consistent with section 1604.5 must be placed and somehow maintained stable where digging continues. Digging subjects the foundation to undermining, threatening the very structure intended to provide safe access to employees (a greater hazard).

Comment 4.3:

The commenter recommends section 1630(d)(1)(E) be clarified that employers may not prohibit employees from using a permanent elevator even if vehicle transport is available.

Response to Comment 4.3:

The commenter's recommendation no longer applies because the Board has removed sections 1630(d)(1) and 1630(d)(1)(A-I) in their entirety.

Comment 4.4:

The commenter recommends in section 1630(e)(6) to include the word "walking" before "distance." The commenter argues that the current language allows for the distance workers must travel to be measured "as the bird flies," resulting in an inaccurate measurement because the worker's location to an elevator may be interpreted as allowing up to a 1/4-mile straight line distance from the elevator landing without regard to obstacles that may impede the employees' path of travel.

Response to Comment 4.4:

The Board agrees with the commenter's recommendation and has modified the proposal accordingly.

The Board thanks Eric Berg and Jason Denning for their input and participation in the rulemaking process.

5. Troy Kussmaul, Vice President – Western Region, Bigge Crane and Rigging Co. in a letter dated March 17, 2026.

Comment 5.1:

The commenter does not support section 1630(d)(1). The commenter claims that the proposed language creates an ambiguous exception to the CPE requirements. The commenter argues that vehicles as an alternative to CPEs are impractical and create monitoring and enforcement issues. The commenter recommends section 1630(d)(1) be removed in its entirety.

Response to Comment 5.1:

See response to comments 2.2, 2.3, 2.4, 2.5 and 2.6.

Comment 5.2:

The commenter recommends deletion of "as soon as feasible" from section 1630(d)(1)(E) as an alternative to their recommendation under Comment 5.1.

Response to Comment 5.2:

See response to comments 2.2, 2.3, 2.4, 2.5 and 2.6.

Comment 5.3:

Notwithstanding comments 5.1 and 5.2, the commenter supports the proposed amendments to section 1630.

Response to Comment 5.3:

The Board appreciates the commenter's support for the proposal.

The Board thanks Troy Kussmaul for the input and participation in the rulemaking process.

6. Robby Bailey, President/CEO, USA Hoist/Mid-American Elevator in an email dated March 18, 2026.

Comment 6.1:

The commenter asserts that section 1630(d)(1) was a cost-saving compromise that leaves critical questions unanswered. The commenter argues four shortcomings (comments 6.2 – 6.5). Further the commenter argues the language is “permissive” rather than prescriptive. The commenter recommends the regulation should hold vehicle-based access to an equivalently high safety standard as the CPE access it replaces.

Response to Comment 6.1:

See response to comments 2.2, 2.3, 2.4, 2.5 and 2.6.

Comment 6.2:

The commenter claims the phrase “structural work is complete” is undefined. Additionally, the commenter questioned whether “structural work is complete” can mean a specific percentage of the construction is complete. Next, the commenter questioned whether the removal of the construction passenger elevator was a triggering event. Finally, the commenter questioned who would make the determination presumably of when “structural work is complete” has been achieved. The commenter summarizes that the proposed regulation offers no objective benchmark and concludes that enforcement would be inconsistent and compliance would be unpredictable.

Response to Comment 6.2:

See response to comments 2.2, 2.3, 2.4, 2.5 and 2.6.

Comment 6.3:

The commenter claims ramp conditions are not addressed. The commenter argues the language does not specify: 1. minimum ramp grade or surface conditions before vehicles can be used; 2. whether ramps must be cleared of obstructions and debris before transporting workers; 3. lighting requirements on ramps and access routes; and 4. requirements for traffic separation between vehicles transporting workers and those carrying materials.

Response to Comment 6.3:

See response to comments 2.2, 2.3, 2.4, 2.5 and 2.6.

Comment 6.4:

The commenter claims that the proposal is ambiguous regarding the provision for written substantiation. Specifically, whether the written substantiation pertains to vehicle substitution or only the unusual site conditions exception. The commenter

concludes that if the provision for using vehicle substitutes does not require written substantiation, the option to utilize vehicles could be implemented by employers without the scrutiny applied to provisions covered under the unusual site conditions exception.

Response to Comment 6.4:

See response to comments 2.2, 2.3, 2.4, 2.5 and 2.6. Additionally, the requirement for written substantiation and approval by the Division would apply to all provisions under section 1630(d).

Comment 6.5

The commenter claims that the regulation does not address circumstances where demand exceeds vehicle capacity. Additionally, the commenter's employees would be exposed to "unguarded edges or fall hazards" without the enclosed protection of a CPE. Finally, the requirements do not prescribe a "defined waiting area with fall protection while workers queue for pickup[.]"

Response to Comment 6.5:

See response to comments 2.2, 2.3, 2.4, 2.5 and 2.6.

The Board thanks Robby Bailey for the input and participation in the rulemaking process.

7. Eric Block, Vice President, USA Hoist Company in a letter dated March 18, 2026.

Comment 7.1:

The commenter argues that replacing construction passenger elevators with vehicle-based transport introduces variability and risk that construction passenger elevators are specifically designed to eliminate.

Response to Comment 7.1:

See response to comments 2.2, 2.3, 2.4, 2.5 and 2.6.

Comment 7.2:

The commenter raises safety concerns such as increased interaction between vehicles and pedestrians on active construction decks.

Response to Comment 7.2:

See response to comments 2.2, 2.3, 2.4, 2.5 and 2.6.

Comment 7.3:

The commenter raises safety concerns that parking structures under construction often lack completed guardrails, lighting and adequate surface conditions.

Response to Comment 7.3:

See response to comments 2.2, 2.3, 2.4, 2.5 and 2.6.

Comment 7.4:

The commenter explains that unlike construction passenger elevators operated by trained personnel, vehicle operation introduces human error and inconsistent behavior.

Response to Comment 7.4:

See response to comments 2.2, 2.3, 2.4, 2.5 and 2.6.

Comment 7.5:

The commenter claims that vehicles navigating ramps significantly increase emergency response times.

Response to Comment 7.5:

See response to comments 2.2, 2.3, 2.4, 2.5 and 2.6.

Comment 7.6:

The commenter raises that the proposal allows access distances up to 1,320 feet (1/4 mile) between landing areas and work locations. The commenter argues that construction hoists minimize travel distances and provide direct access to working levels. The commenter highlights increased worker fatigue from extended travel distances; reduced productivity leading to rushed work conditions; and higher slips, trips and falls due to longer exposure to incomplete walking surfaces.

Response to Comment 7.6:

The proposal adds a new distance requirement from the elevator landing to the furthest point accessible via the construction passenger elevator serving that work location. The 1/4 mile distance was raised by the advisory committee on this rulemaking and supported by committee consensus. The distance requirements are viewed as an improvement to safe access requirements. Additionally, see comment 4.4 and response to comment 4.4.

Comment 7.7:

The commenter argues that parking structures under construction cannot safely function as transportation corridors. Specifically, the commenter argues that decks (driving surface) are unfinished, uneven, or obstructed. Further, the commenter argues that structural work may still be ongoing overhead. Finally, lighting, signage and traffic controls are often temporary or inadequate.

Response to Comment 7.7:

See response to comments 2.2, 2.3, 2.4, 2.5 and 2.6.

Comment 7.8:

The commenter argues that “alternate means” should remain the exception, not the standard. The commenter argues that the proposed language broadens the existing language by permitting alternate access where employers provide justification or where site conditions exist. The commenter argues the proposal creates ambiguity and opens the door for cost-driven decisions rather than safety-driven ones. The commenter recommends that “construction hoist should remain the primary required method for vertical access on applicable projects. Additionally, alternative methods should be limited to clearly defined, exceptional cases. Finally, the commenter recommends strict oversight and justification.

Response to Comment 7.8:

The Board disagrees with the commenter’s comment. Construction passenger elevators are the **primary** required method for vertical access. See proposed section 1630(b). Alternative means of access **remains** an exception under exception 2 to subsection 1630(b). Under proposed subsection 1630(d), “Prior to use, the employer is to substantiate in written form alternate means of access acceptable to the Division[.]” Oversight and justification are the purview of the enforcement agency, specifically, the Cal/OSHA.

Comment 7.9:

The commenter highlights that the proposal states there is no significant economic impact. The commenter explains eliminating hoist requirements may incentivize lower-cost, higher-risk access methods. Additionally, contractors may prioritize cost savings over safety infrastructure. Finally, the long-term cost of increased incidents, injuries and delays will outweigh short-term savings.

Response to Comment 7.9:

The Board disagrees with the commenter’s comment. The proposal does not eliminate hoist requirements. The proposal clarifies the authority of Cal/OSHA to

approve, prior to use, alternative means of access. The commenter's assertion of long-term costs of increased incidents, injuries and delays outweighing short-term savings is unsubstantiated and speculative.

The Board thanks Eric Block for the input and participation in the rulemaking process.

## **II. Oral Comments**

Oral comments received at the March 19, 2026, Public Hearing in Palm Springs, California.

8. Brian K. Miller, representing Rudolph & Sletten/Construction Employers Association

Comment 8.1:

The commenter complimented the Board and the efforts of David Kernazitskas during the development of the proposal. The commenter supported the rulemaking and made no requests for changes to the proposal.

Response to Comment 8.1:

The Board thanks Brian K. Miller for supporting the rulemaking and participating in the rulemaking process.

9. Eric Berg, Deputy Chief of Health, Medical, Safety, Health, and Research Branch, on behalf of the Division of Occupational Safety and Health

Comment 9.1:

The commenter explained that for subsurface construction, the elevator must be installed when it reaches 48 feet. The proposed language allows construction projects to go to a depth deeper than 48 feet and not have to install the elevator. The commenter thought that it was less safe. The commenter recommended that the requirement should reflect installing a construction passenger elevator when a depth of 48 feet is reached.

Response to Comment 9.1:

See response to Comment 4.2.

The Board thanks Eric Berg for supporting the rulemaking and participating in the rulemaking process.