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MINUTES FROM THE ADVISORY COMMITTEE FOR  
CONSTRUCTION SAFETY ORDERS,  
SECTION 1630,  
ELEVATORS FOR HOISTING WORKERS  
March 22, 2023 – Day 2  
Sacramento, CA

1. Call to Order.

The meeting was called to order by the Advisory Committee Chair (Chair), David Kernazitskas, Senior Safety Engineer, Occupational Safety and Health Standards Board (Board), at 9:30 am on Wednesday, March 22, 2023. The Chair was assisted by Bernie Osburn, Associate Governmental Program Analyst, OSHSB.

2. Opening remarks.

The Chair welcomed the attendees and started the introductions of those who intended to speak during the committee meeting. The Chair then reviewed the Standards Board policy regarding the use of advisory committees, explaining that the Board has found advisory committees to be an effective way to develop a proposal because of the expertise of the attendees. The Chair also provided general information about the rulemaking process.

3. Discussion of the proposed rulemaking.

Background

The Chair explained that the advisory committee was convened in response to Petition 587 and a request from Cal/OSHA dated April 3, 2019. The Chair explained that the discussion would continue from where the first day of discussion ended, but that the committee would have the opportunity to comment on the entire discussion draft if time allowed.

*1630(e)(6) Where a landing location is impractical due to the design of the building or structure, the employer shall substantiate in written form the need for an alternate landing location acceptable to the Division prior to installation of the alternate landing.*

**Justin Wheaton** (AGC Safety & Health Council / Skanska USA Civil) asked if the intent of the text was to require an alternate access plan be submitted in writing.

**Mike Donlon** (Construction Employers Association (CEA)) said that when constructing a mezzanine, there is no need for a landing and an alternate landing location wouldn't make sense.

**Jason Denning** (Cal/OSHA) said that the intent of the text is to require a landing at all working levels. **Jason Denning** said that subsection (e)(5) might cover the intent of (e)(6).

**Larry Fabbro** (Level 10 Construction) would like the language to be clear to avoid having to hold discussions with Cal/OSHA before making a decision. **Larry Fabbro** asked what is meant by a working level.

**Mike Donlon** said that as long as there was a landing above or below the work area, stairs could be made to access the levels. **Mike Donlon** said that jobs are bid a year or more in advance so getting the requirements clearly in place would prevent delays from having to contact Cal/OSHA.

**Jason Denning** stated that (e)(3) was related to (e)(6), which requires landings every 36 feet.

**Brian Miller** (Rudolf and Sletten) said that every level installed has work done so every level is a working level. The Chair asked if there was a way to make (e)(6) clearer or if it would already be covered by proposed text elsewhere.

**Jason Denning** said that another reason for alternate landings would be to cover large distances between floors.

**Mike Donlon** said that (e)(5) was simpler to understand. In cases where a landing is impossible, such as in an atrium, **Mike Donlon** said that a landing shouldn't be required. **Mike Donlon** said that the existing language has a note that says "Other landing locations acceptable to the Division may be substituted where the design of the building or structure make the above impractical." The Chair pointed out that "notes" are not enforceable and would prefer not to have them in the regulation if they can be turned into enforceable language instead. The Chair asked the committee if the decisions about alternate landings would be better decided during the permit conferences long before construction begins.

**Mike Holland** (Clark Construction) said that (e)(6) is already included in (e)(5). **Mike Holland** said that we should get rid of the notes and rely on (e)(5) for direction.

**Mike Donlon** said that (e)(6) was also closely tied to (e)(2).

**Jason Denning** agreed with **Mike Donlon**. **Jason Denning** said that both parties need to be reasonable in following the requirement for a landing every 3 floors or 36 feet. **Jason Denning** suggested that we keep some text to preserve the right of an employer to place a landing in an alternate location when the 3 floors or 36 feet rule doesn't work. **Jason Denning** suggested relocating the existing note to follow (e)(2), alerting employers that alternate landing locations acceptable to Cal/OSHA may be considered. The Chair asked if anyone had any concerns with **Jason Denning's** suggestion to relocate the note and to keep it as a note.

**Russell McCrary** (Ironworkers Workers Compensation Program) agreed that the note should be added to below (e)(2).

**Jason Denning** agreed to leave the note in place and delete proposed (e)(6).

1630(e)(7) *Elevator access shall be provided such that employees are able to travel to a required landing from any point in the building or structure within five minutes.*

**Mike Donlon** said that “five minutes” was vague. **Mike Donlon** said that it would depend on who was walking the distance and how quickly.

**Jason Denning** said that some buildings are very large and a single construction personnel elevator (CPE) is not adequate to cover the entire building. **Jason Denning** said that distance doesn’t work easily because there can be different paths that an employee can take to exit an area. **Jason Denning** said that the time was based upon an average walking speed of 2.5 miles per hour. **Jason Denning** said that airport terminals, museums and other large footprint buildings are examples of buildings that could be affected by the requirement. **Jason Denning** also said that **Jason Denning** did not expect the requirement to apply to many buildings.

**Brian Miller** commented that (e)(7) is unnecessary because the work can’t be done on large buildings without multiple CPEs. **Brian Miller** said that **Brian Miller’s** company worked on a large building for Apple and they used up to 16 CPEs. **Brian Miller** said that the work would require the CPEs because **Brian Miller** had to move 5,500 employees and using a single CPE would be impossible. **Brian Miller** said that the building schedule would dictate the number of CPEs needed.

**Larry Fabbro** agreed with **Brian Miller** and cited a building **Larry Fabbro** built for Facebook where they installed three CPEs not because the regulation required it, but because the job required it. **Larry Fabbro** said that during steel erection, it could take employees more than five minutes to climb down the steel and ladders to get to the deck with a CPE. **Larry Fabbro** said that **Larry Fabbro** would not want to tell employees to hurry up to meet a time requirement.

**Mike Donlon** said the requirement was too subjective. **Mike Donlon** said that employers focus on productivity and that would encourage them to install enough CPEs to allow the job to progress efficiently.

**Justin Wheaton** said that the proposed text could conflict with the requirement for CPE access within three floors or 36 feet of any point on the building because it could take longer than five minutes to walk to a CPE, even though an employee is within the stated distances. **Justin Wheaton** said that one measurement could come before the other and create conflict. **Justin Wheaton** said that tunnels would also cause problems with the five minute time requirements due to the limited availability of access points in a several mile long underground tunnel.

**Jason Denning** said that time is used in other regulations, such as for access to water. **Jason Denning** explained that field sanitation requirements included mention of a five minute walk or one-quarter mile. **Jason Denning** asked for other suggestions from the committee.

**Larry Fabbro** asked why the requirement is necessary.

**Russell McCrary** said that Amazon warehouses are 1200 feet long and they only use one CPE. **Russell McCrary** said that other projects **Russell McCrary** has seen will have two buildings with a bridge connecting them and a single CPE to service the project. **Russell McCrary** said that the regulation needed something to ensure that contractors did more than install only a single CPE when necessary. **Russell McCrary** stated that five minutes could be a problem because on a high-rise it could take 15 minutes to get down from the top of a column of structural steel. **Russell McCrary** said a straight-line distance might work better.

**Mike Holland** was in favor of a horizontal distance requirement because it would be easier for estimators to use. **Mike Holland** said that 1,000 feet of horizontal travel would work for him.

**Jason Denning** said that at 2.5 miles per hour, a person can walk 1,000 feet in about 4.5 minutes.

**Mike Donlon** suggested using one-quarter mile as the distance, or about 1,300 feet. The committee agreed that straight-line distance would be preferable to a requirement based upon the square footage of the building.

**Jason Denning** said that the proposed text should not include structures because in the case of tunnels that are several miles long, employers would never be able to comply. **Jason Denning** suggested limiting the regulation to buildings only.

**Justin Wheaton** suggested arranging the text to state “the distance between the elevator landing and the employee work location shall not exceed one-quarter mile.” The committee discussed the text and agreed that the following text should be proposed: “For buildings, the distance between the elevator landing and the employee work location shall not exceed one-quarter mile.”

*1630(e)(8) For the purposes of this section, a roof is an upper-most floor.*

**Jason Denning** said the roof of a building has a lot of work that takes place on it and sometimes supports other structures. **Jason Denning** said it serves as a floor in many instances and needs CPE access.

**Mike Donlon** said that a roof and a floor are different and need to be treated differently. **Mike Donlon** said that for many roofs, it does not make sense to provide elevator access. **Mike Donlon** said that where a landing can be installed easily, it makes sense, but requiring elevator access for all roofs is problematic.

**Jason Denning** said that some roofs are used to access other structures so they could serve as a floor. **Jason Denning** said that exceptions could be used to limit where elevator access is required. **Jason Denning** said that it could make sense to refer to working levels instead of floors and roofs.

**Len Welsh** (Attorney representing Western Steel Council) agreed with **Jason Denning** that the name of the area is not as important as the type of work going on in the area. **Len Welsh** said that working level could be helpful in describing the area.

**Mike Donlon** said that the concept of the working level did not specify if more work was taking place on the roof than would be required to build the roof. **Mike Donlon** said that clearer language was needed if mentioning the roof was even necessary at all. **Mike Donlon** said that some landings are built to the roof because it is required, but employees only access the level below because no significant work is performed on the roof.

**Brian Miller** said that there are some buildings where an elevator can't go to the roof. **Brian Miller** said that some buildings have architectural overhangs that block access to the roof. **Brian Miller** said that for cost savings, elevators go to as many floors as possible, but sometimes going to the roof is not possible. **Brian Miller** also said that every inch of the building is a work location and can be considered a working level.

**Larry Fabbro** said that many buildings don't have elevator access to the roof when completed. **Larry Fabbro** asked if there was a need to install an elevator to install a new air handler or change out filters. **Larry Fabbro** said adding an elevator in many cases would increase costs and expose an employee to hazards.

**Len Welsh** said that at some point a roof becomes a roof and the elevator is no longer needed. **Len Welsh** suggested focusing on the timing of the building or on specific tasks to determine when CPE access is needed.

**Mike Holland** said that the exceptions will be helpful to limit where an elevator is required.

**Mike Donlon** agreed with **Len Welsh**. **Mike Donlon** said that there is a time during construction where the elevator needs to come down to complete the building, and where work still takes place on the roof. **Mike Donlon** said that in order to balance air handlers, the building must be sealed up and the elevator removed. **Mike Donlon** said that the exceptions do not address these situations, but other parts of section 1630 could. **Mike Donlon** warned that employers could be in violation of subsection (e)(8) while seeking to comply with other subsections.

**Len Welsh** said that some of the processes discussed are for maintenance and would not require an elevator.

**Jason Denning** said that replacing an HVAC system would require an elevator because installation of the equipment is considered construction. **Jason Denning** said that performing maintenance work in connection with construction work is still considered construction and would require an elevator.

**Brian Miller** said that contractors want to get rid of the elevator as soon as possible because of the costs involved. **Brian Miller** said that installing the permanent elevator under temporary use inside the building is a priority because it significantly reduces costs. **Brian Miller** said that in some cases there is still a lot of work to be done on the roof after the permanent elevator is installed.

**Larry Fabbro** said that a lot of work done on the roofs of existing buildings can be considered construction, including installing skylights and vents. **Larry Fabbro** said that the permanent elevator does not go to the roof and it doesn't make sense to install a CPE to go to the roof. **Larry Fabbro** suggested that the requirement for a roof landing depend on the number of employees working on the roof.

**Jason Denning** said that employers have been required to provide elevators for these construction projects since the 1970s and they should be able to plan for many of the situations described. **Jason Denning** said that **Jason Denning** wanted CPE access when substantial work is performed on the roof. **Jason Denning** said that when a roof is treated like a floor and leads to other structures, a CPE should be required.

**Brian Miller** said that **Brian Miller** had a building that was mostly complete, but **Brian Miller** had to seek permission to remove the CPE. **Brian Miller** said that we need clarity. **Brian Miller** said that many buildings are upgrading their HVAC systems and need the work done over the weekend while they are empty. **Brian Miller** said that it would be impossible to install a CPE and have it removed before the building is occupied the following Monday. **Brian Miller** said that **Brian Miller** used large crews of people to complete the work, which would trigger the requirement for a CPE if it was based upon crew size. **Brian Miller** said that the CPE should be allowed to come down once the permanent elevator is operational.

The Chair asked the committee to consider requiring a CPE landing on the roof until the permanent elevator was installed.

**Jason Denning** said that the idea could be better than nothing.

**Mike Donlon** said that air handling units are replaced all the time and that adding a CPE is more dangerous than the exposure from replacing the units.

**Brian Miller** queried that once a CPE is removed, what happens if the permanent elevator is more than one-quarter mile from the work. **Brian Miller** said that a building cannot be

completed until a CPE comes down. **Brian Miller** said that **Brian Miller** would like to avoid basing the requirement on the volume of work because of his previous example where the HVAC was replaced over the weekend.

**Len Welsh** asked **Jason Denning** if **Jason Denning** wanted to require a CPE for work to replace an air handler unit or to install solar panels.

**Jason Denning** said that the regulation as written requires the CPE for those processes, but **Jason Denning** does not think that is reasonable and would support a change to the regulation.

**Jason Denning** said that **Jason Denning** could consider the permanent elevator as a compromise to having a CPE for all work on the roof.

**Mike Donlon** said that the language here should mirror the language used in Exception 4 under section 1604(a), which allows an employer to use a permanent elevator instead of a CPE where a permanent elevator exists.

**Len Welsh** said that we should not imply that a permanent elevator must service the roof in instances where the finished building will not have elevator access to the roof.

**Jason Denning** said that some permanent elevators might only go to a few floors of a finished multi-story building. **Jason Denning** said that **Jason Denning** wanted a landing on the roof when feasible. **Jason Denning** said that a lot of work still needs to be done after a permanent elevator is installed. **Jason Denning** further explained that the requirement for a CPE should not be understood to be only for emergency rescue purposes. **Jason Denning** said that the CPE was required for general access to the building and movement of materials, as well as for emergency access.

**Russell McCrary** said that typically once the permanent elevator is completed, the CPE comes down. **Russell McCrary** agreed that a lot of work still goes on after the permanent elevator is completed, but said that permanent elevators that do not service the roof usually still service one or two floors below the roof. **Russell McCrary** said that basing the requirement on the number of workers on the roof did not make sense. **Russell McCrary** said that **Russell McCrary** was comfortable having CPE access to the roof until the permanent elevator was available because it would mean that the roof was accessible for at least some of the work.

**Brian Miller** said that sometimes jobs experience delays due to supply shortages or other situations beyond **Brian Miller's** control. **Brian Miller** said leaving a CPE up during those delays would be very expensive. **Brian Miller** said that **Brian Miller** did not want to be required to leave up a CPE because an air handler was delayed and work was still required to be done on the roof. **Brian Miller** said that **Brian Miller** agreed with requiring a CPE to the roof until the permanent elevator was in operation.

Exception 1 subsection 1630(e)

*(1) Landings are not required at roofs of mechanical rooms, elevator penthouses and similar rooms located on the roof of a building or structure, nor on buildings with steep roofs, barrel roofs or terra cotta tile roofs, cement tile roofs, mansard roofs or configurations that will not allow for a landing due to structural or functional limitations.*

**Jason Denning** said that “steep” roofs needed to be further defined. **Jason Denning** said “4:12” is a reasonable pitch to be considered steep.

**Mike Donlon** agreed, saying that 4:12 was consistent with other regulations addressing roofing safety.

Exception 2 subsection 1630(e)

*(2) On cast-in-place concrete structures, the installation of landings may be delayed if the formwork system interferes with the installation and/or use of the temporary construction passenger elevator.*

**Russell McCrary** said cast in place concrete was typically done for core work, which could mean that the work is being done four or five floors above the CPE landing. **Russell McCrary** said that a CPE should be available within three floors of the work.

**Mike Donlon** explained that not all cast in place work is for cores. **Mike Donlon** said that the concrete needed to cure before the forms could be removed. **Mike Donlon** said that on core work, the forms can be moved along with the work, but in other cast in place work, it must be removed.

**Russell McCrary** said that the CPE cannot be run to the floor you are working on in these cases, but that is why the regulation allows the CPE to be within three floors of the work.

**Andrew Siersma** (McClone Construction) said that during core work on some jobs, **Andrew Siersma** is able to utilize a CPE because it does not interfere with the form work. **Andrew Siersma** said that if the form work interferes with the CPE, it should not be required. **Andrew Siersma** said that non-core work jobs would probably need an exception.

**Justin Wheaton** agreed and said that in many instances with cast in place concrete **Justin Wheaton** is able to bring the CPE to within a floor or two of the work. **Justin Wheaton** said that there was still a need to delay CPE service if the concrete that the CPE needs to attach to is not cured.

**Jason Denning** said that **Jason Denning** was concerned with language that allowed an open ended delay. **Jason Denning** said that in most cases, it was possible to provide CPE access in accordance with the regulation.

**Len Welsh** said that a delay could be justified until some type of interference was removed. **Len Welsh** said that examples could be used to describe the situations where a delay would be acceptable. **Len Welsh** pointed out that as an exception, the employer would be responsible to demonstrate that there was a need to delay the CPE access.

**Andrew Siersema** said that if the concrete is cured and the forms can be stripped, the CPE access should be provided.

**Len Welsh** suggested using the curing of the concrete as the point until which the installation of the CPE can be delayed.

**Mike Donlon** suggested that landings could be delayed until the concrete is sufficiently cured.

**David Montijo** (USA Hoist) said that formwork can block the path of the CPE regardless of the strength of the concrete.

**Russell McCrary** said that employers already know when the concrete is cured enough to keep its strength. **Russell McCrary** said that allowing the required delay to be an exception would require the employer to demonstrate the need for the delay, which could be acceptable.

**Russell McCrary** said that providing access within three floors was his concern.

**Larry Fabbro** said that the engineers provide the information on when the forms can be stripped and how long the concrete needs to cure before it has sufficient strength to continue the work.

**Brian Miller** said that **Brian Miller** agreed with the text as proposed and requiring the contractor to demonstrate the need for a delay through the exception. **Brian Miller** said that jumping the form work was required to move on to the next stage of construction and that employers had incentives to not delay the CPE access unreasonably.

**Jason Denning** said that the delay should only last until the concrete is strong enough to remove the formwork.

**Mike Donlon** suggested the text read that landings may be delayed until the concrete is strong enough for the formwork to be removed. **Mike Donlon** said that the engineer of record would provide the information on the concrete strength that could be used to determine when the landing should be in place.

**Jason Denning** said that relying upon the strength of the concrete was more specific than relying upon it being “safe” to remove the formwork. **Jason Denning** said that the landing could be delayed until the concrete reached sufficient strength for the formwork to be removed.

**Andrew Siersema** agreed with **Jason Denning’s** wording. **Andrew Siersema** said that there was no benefit to keeping formwork in place longer than was necessary.

The Chair asked if anyone had any concerns with the proposed exception. Nobody expressed any concerns with the text as drafted.

The Chair reminded attendees of the homework items from the first day of discussion:

- 1) **Jason Denning** will consider language to address excavations that are continually dug.
- 2) **Mike Donlon** will consider text to allow concrete parking structures to use alternate means of access instead of a CPE.
- 3) **Kevin Bland** will consider text for when alternate access is permissible.

#### Definition for “operating”

The Chair reviewed the discussion draft from the beginning, starting with the definitions.

**Andrew Siersema** would like to see a definition for “operating” to prevent contractors from installing a CPE, but not using it. **Andrew Siersema** said that they should be available for use.

**Brian Miller** has also seen the situation.

**Jason Denning** pointed out that an operator is not always required to be present because of situations where the permanent elevator is used for access. **Jason Denning** suggested a definition for operating which included “actively servicing” the required landings.

**Mike Donlon** said that the requirement to have an operator present in the CPE already exists in subsection 1604.26(c)(1) and suggested that we could refer to it if desired. The Chair said that the Chair would propose a definition for “operating” and send it the committee for review.

*After the meeting, the following is proposed by the Chair for consideration of the committee:*

“Operating – For the purposes of this section, ‘operating’ means that the CPE is capable of transporting employees and actively servicing the required landings in accordance with section 1604.26(c)(1).”

#### Definition for “primary construction entrance”

**Jason Denning** said that “primary construction entrance” needs a definition because it is currently only used in reference to buildings and not excavations.

**Brian Miller** suggested adding the word “excavation” to the draft definition for “ground level”.

**Mike Holland** said that when contractors excavate on a hillside, the construction entrance changes as the work progresses. **Mike Holland** suggested the discussion of the primary construction entrance take place during the permit conference.

**Mike Donlon** said that if one wants to know where the main construction entrance on a site is, they can arrive at the beginning of the shift and watch as the employees arrive. **Mike Donlon**

said that point should be used to determine the entrance and the height of the building or excavation.

**Justin Wheaton** said that for tunnel access, the primary construction entrance is where the CPE landing is located (at the top of the excavation). **Justin Wheaton** said that there was no building in a tunnel and it was confusing to talk about a building below grade level.

**Jason Denning** suggested that it may be necessary to have two definitions for “primary construction entrance:” one for buildings and structures, and one for excavations.

**Mike Donlon** didn’t see the need to define the construction entrance. **Mike Donlon** said that the existing regulation can be used to require CPEs as construction moves from excavations to above ground structures.

The Chair asked **Jason Denning** to send the Chair a definition for consideration after **Jason Denning** had time to consider the issue further.

The Chair reviewed the definitions and deleted the ones that weren’t discussed for definitions. The Chair reminded the committee that the Chair would provide a definition for “operating” and that **Jason Denning** would consider a definition for “primary construction entrance”. Regarding unusual site conditions and structural configurations, the Chair said the terms would be covered in the text and not defined in the definitions section.

*After the meeting, Jason Denning proposed the following as a definition for Primary Construction Entrance:*

“Primary Construction Entrance – For the purposes of this section, the ‘primary construction entrance’ is the access location where a majority of employees enter a building, structure or excavation. Structures include any temporary or permanent stairs or ramps used for access to buildings or other structures.”

#### Subsection 1630(b)

*(b) In addition to the stairways required in section 1629, at least one construction passenger elevator for hoisting workers shall be installed and in operation on or in any building, or structure, designed to be 60 feet or more in height above or 48 feet in depth below ground level when completed.*

The Chair reviewed the draft text for section 1630(b) and asked for comments.

**Mike Holland** suggested discussing a minimum landing size before the CPE is required to prevent someone from placing a small area of decking and then waiting for the CPE to be installed.

**Jason Denning** said that the logical time defense would prevent Cal/OSHA from requiring a CPE landing before a satisfactory landing can be installed. **Jason Denning** said that the concern could be discussed in the landings portion of the draft text. **Jason Denning** further suggested adding “or more” to section 1630(b) to address excavations intended to be 48 feet “or more” in depth below ground level.

**Russell McCrary** said that the CPE should be required before work is performed above 36 feet and not be based on a landing size.

**Larry Fabbro** would like the required landing size to be defined.

**Mike Donlon** said that a minimum landing size would be helpful.

Subsection 1630(b)(2)

*(2) Determining the building or structure height or depth:*

*(A) The building or structure height shall be determined by measuring from ground level to the highest structural level including the parapet walls, mechanical rooms, stair towers and elevator penthouse structures, but excluding antennas, smokestacks, mechanical screens, flag poles or similar attachments.*

*(B) The building or structure depth shall be determined by measuring from ground level to the lowest floor level excluding local depression such as sumps and elevator pits.*

*(C) When computing the height of the building or structure, the depth shall not be considered; when computing the depth of the building or structure, the height shall not be considered. If the height is at 60 feet or more above, or the depth is at 48 feet or more below ground level, at least one construction elevator shall be installed to serve both locations.*

The Chair read the text regarding the determination of the structure or building height or the excavation depth.

**Russell McCrary** said that mechanical screens should not be excluded from the height of the building determination. **Russell McCrary** said that the screens were used to shield HVAC and other machinery from view.

**Larry Fabbro** wanted the wind screens or mechanical screens to be excluded because the work to install them is done from the roof or floor level.

**Mike Donlon** said that the existing examples currently included in the list of structures used to determine the building height are parts of the building and the building would not be considered complete until the parapet wall, mechanical room, or other structures are finished.

**Mike Donlon** explained that the mechanical screens were to protect the equipment from wind

damage. **Mike Donlon** said that they could be left off and the building would still be structurally complete. **Mike Donlon** said that they should not be included in the height of the building.

**Jason Denning** said that Cal/OSHA does not historically consider the mechanical screens in the height of a building. The Chair said that the Chair would leave the term as is and moved on to next item for discussion.

#### Subsection 1630(b)(3)

*(3) In excavations, the elevator shall be installed and operational as soon as practicable after any portion of the excavation has reached its total depth. The intent of this subsection is to...*

The Chair read subsection 1630(b)(3) and mentioned that, during the first day of discussion, **Kevin Bland** requested a statement of intent be placed into the text. The Chair asked if the phrase should be removed.

**Len Welsh** will work with **Kevin Bland** to propose the intent of the subsection. The Chair moved on to discuss the exceptions to subsection 1630(b).

#### Exception 1 to subsection 1630(b)

*(1) Scaffolds and falsework.*

**Jason Denning** said that slip and climbing forms are not considered falsework. **Jason Denning** said that the definition of falsework may include forms, but they shouldn't be included here. **Jason Denning** explained that the exception was intended to address the need for a CPE to access scaffolds or falsework and not necessarily using scaffolds and falsework to determine the height of the structure. **Jason Denning** said that a 60-foot scaffold did not require a CPE. **Jason Denning** said that the definition of falsework in section 1502 may need a change.

**Mike Donlon** asked why the exception for falsework is even mentioned. **Mike Donlon** said that the building requires the falsework to be built so they should be at about the same height.

**Jason Denning** said that scaffolds are considered structures and that is why the exception needs to exist.

*After the meeting, Jason Denning proposed the following as clarification to exception 1 to subsection 1630(b):*

*(1) Scaffolds and falsework not including slip and climbing forms.*

#### Exception 2 to subsection 1630(b)

*(2) Work locations with unusual site conditions or unusual structure configurations which provide alternate means of access in accordance with subsection (d).*

No concerns to Exception 2 to subsection 1630(b) were expressed. While preparing the minutes for the meeting, however, the Chair added the phrase “where alternate means of access are provided...” to replace “which provide alternate means of access...” and add clarity to the exception.

Exception 3 to subsection 1630(b)

*(3) Structures, such as parking structures, where the design allows vehicles to be driven to the upmost working level and a clear travel path is maintained.*

**Russell McCrary** said that parking structures are not unique and should have a CPE installed for access. **Russell McCrary** said that going up and down in a CPE was safer than going around and around in a cart for access and egress. Although there is a structural member that cannot be installed until after the CPE is removed, **Russell McCrary** said that most jobs require something to be left out in order to install the CPE. **Russell McCrary** said that there was no safety issue with leaving out the structural member until the CPE is removed from the building. **Russell McCrary** said that they are common in parking structures and should continue to be used. **Russell McCrary** said that the only benefit to a cart would be to the contractor because it is cheaper. **Russell McCrary** declared that workers will not wait for a cart to pick them up when they needed to leave the building. Instead, they would end up walking down the parking garage ramp if there was no CPE available for use.

**Mike Donlon** said that the carts were not significantly slower than a CPE. **Mike Donlon** said that the major concern was maintaining a clear path for the carts to travel. **Mike Donlon** said that it was a different tool to get the same job done.

**Len Welsh** saw a lot of concerns with this issue while **Len Welsh** was Chief of Cal/OSHA. **Len Welsh** said that it took a lot of coordination to operate correctly. Comparatively, **Len Welsh** said that a CPE is operated by one person and runs much more smoothly and effectively. **Len Welsh** said that the CPE leads to much better compliance. **Len Welsh** said that there was no reason to allow the use of carts just because they were another means of getting employees to the working levels.

**Jason Denning** agreed with **Len Welsh** and **Russell McCrary**. **Jason Denning** said that Cal/OSHA has not allowed carts for alternate access and that maintaining their use is very difficult because there are so many moving parts. **Jason Denning** said that **Jason Denning** was strongly opposed to allowing the use of carts in the place of a CPE.

**Larry Fabbro** said that maintaining the access for the carts was not as difficult as it is being made out to be. **Larry Fabbro** said that equipment is driven up ramps often and the path is maintained in those situations. **Larry Fabbro** said there should be a choice in these situations.

**Len Welsh** said that the best employers come to the advisory committees. **Len Welsh** said that it was important to remember that we are regulating to the lowest common denominator. **Len Welsh** explained that although it may be achievable for the present company to maintain the necessary path of travel, other contractors may not be as competent. **Len Welsh** said that the CPE is easier to depend on and more difficult to screw up. **Len Welsh** said that carts were too behavior dependent, whereas the CPE is like an engineering control that can be used independently of most employee actions.

**Larry Fabbro** said that installing a CPE adds risk to a job through its installation and use. **Larry Fabbro** said that we were focusing on the risks of the carts and that we should not assume there is no risk with the use of a CPE.

**Mike Donlon** said that when **Mike Donlon** worked at Cal/OSHA, **Mike Donlon** oversaw the use of carts regularly through **Mike Donlon's** duties as a compliance officer. **Mike Donlon** said that many Cal/OSHA requirements take competence, including fall protection and scaffolding. **Mike Donlon** said that it can be done safely and effectively. **Mike Donlon** said that keeping the ability to use carts for access and egress to a parking structure from the good actors because of potential abuse from bad actors did not make sense. **Mike Donlon** pointed out that allowing employers the option to use carts because it was so much less costly was not a bad thing because it helped combat rising construction costs in the state.

**Andrew Siersema** agreed with **Len Welsh**. **Andrew Siersema** said that allowing the use of carts would lead to abuse of the option.

The Chair asked if limiting the height of the parking structure or allowing carts only for concrete parking structures would soften the opposition to the use of carts for access. **Len Welsh** and **Jason Denning** said that it would not change their positions. The Chair suggested moving on to cover the remainder of the discussion draft, reminding the committee that there will be an opportunity for comment to the Board when the regulation is eventually proposed to the public.

**Cindy Sato** (CEA) said that sometimes buildings and structures can be delayed for up to a year while waiting for a utility company to supply the building with permanent power.

**Jason Denning** said that unusual situations like we are discussing could be addressed through alternate access discussions with Cal/OSHA. **Jason Denning** said that **Jason Denning** should be contacted for every alternate access discussion. **Jason Denning** said that **Jason Denning** did not believe that the carts provided the same level of access as a CPE and that they were more difficult to implement properly.

**Len Welsh** suggested that **Mike Donlon** work on specific language for **Jason Denning** to consider and provide feedback.

The Chair asked **Russell McCrary** if **Russell McCrary** would consider supporting the use of carts for the later stages of a building as we were discussing.

**Russell McCrary** said **Russell McCrary** would likely still be against the removal of a CPE because employees prefer them.

**Jason Denning** said **Jason Denning** would consider a proposal from the CEA if provided one. **Jason Denning** asked if there were any other means besides a cart that could provide the alternate access. **Jason Denning** said that using carts after all re-shores are gone is more acceptable than allowing unfettered use of the carts throughout the construction of the building.

**Andrew Siersema** said that using carts can be done properly, especially on structures with multiple ramps.

**Mike Donlon** agreed to contact **Jason Denning** directly to discuss allowing the use of carts at some point in the construction of parking structures.

*After the meeting, Mike Donlon proposed the following as criteria for exception 3 to subsection 1630(b), allowing the use of carts or vehicles on certain structures in lieu of a CPE:*

(3) Structures, such as parking structures, where the design allows vehicles to be driven to the upmost working level, and

(A) All shoring has been removed and a clear path of travel to the highest working level is maintained, or;

(B) There is more than one ramp and one ramp has a clear path of travel maintained to the highest working level, and;

(C) 1. At least two powered personnel carts or vehicles are provided and operated.

2. A sufficient number of designated personnel are trained to operate the carts or vehicles and are readily available to perform such duties during all working hours.

3. The cart or vehicle is designed to allow for transportation of injured personnel to the ground level if needed.

4. Designated locations with call boxes or equivalent are established at each level to allow workers to access the powered carts or vehicles.

5. Daily written inspections are performed to ensure clear, unobstructed and safe access for carts or vehicles at all times.

6. Two temporary stair towers or equivalent are available.

Exception 4 to subsection 1630(b)

*(4) A permanent passenger [or freight] elevator meeting the requirements of article 14, section 1604.4 provides service to all required landings and the uppermost level the elevator is designed to service.*

Exception 4 was acceptable to the committee as proposed.

Subsection (d)

*(d) Prior to use, the employer shall substantiate in written form alternate means of access acceptable to the Division for unusual site conditions or structure configurations. For the purposes of this section, unusual site conditions and structure configurations are considered to exist at those work locations where the installation or use of a construction passenger elevator is not feasible.*

*NOTE: Examples of unusual site conditions or structure configurations include bridges, steel tank erection, dams, water towers, antennas, cooling towers, refinery towers, stacks, prefabricated parking structures, tower cranes, etc.*

The Chair explained that **Kevin Bland**, who is not present, and **Len Welsh** had volunteered to propose amendments for subsection (d) regarding alternate access. The Chair said that the Chair would make a note to remind them to provide their input.

The Chair asked **Mike Donlon** to consider developing a definition for a safe landing as a homework assignment.

*After the meeting, Mike Donlon proposed the following criteria regarding landings:*

*(e)(1) Landings shall provide access to the working level. The least dimension of a landing shall not be less than 15 feet. Landings shall be secured to the building or structure.*

4. Economic Impact.

The Chair explained to the committee that an important and required part of the rulemaking process is the identification of the cost impact of the proposed rulemaking. The Chair said that the Chair would reach out to the committee for cost impact information while they reviewed the minutes.

5. Conclusion.

The Chair said that the Chair would reach out to the committee members who volunteered to propose specific text for the committee to review. The Chair said that the Chair would begin preparing the meeting minutes for review. The Chair explained that the committee would have an opportunity to comment on the minutes before the Chair moves forward with preparation of a formal rulemaking proposal. The Chair noted that there will be additional opportunities

for public comment on any forthcoming proposal. A formal rulemaking proposal will be noticed but is expected to be several months away. The notice will be emailed to the committee members, so the Chair urged them to be sure they have provided accurate contact information if they want to receive a copy. The notice will also be on the Board website for viewing.

There will be a 45-day public comment period, concluding with a public hearing. Anyone may attend the public hearing and provide oral comments. Comments may also be submitted by mail or email during the comment period. Changes may result from public comment and/or during the review process. If any substantive changes are made, there will be one or more additional comment period(s) for public review. After that, it will go to the Board for adoption at a Business Meeting. After adoption by the Board, the proposal will go to the Office of Administrative Law (OAL), which will have 30 working days to review it for compliance with the Administrative Procedures Act. Finally, the proposal will be filed with the Secretary of State and, unless otherwise specified, will become effective (enforceable) the first day of a subsequent quarter.

The Chair estimated that the rulemaking process will take up to a year from when the formal notice is published for public comment.

The Chair thanked the committee members for their attendance and participation and adjourned the meeting at about 4:00 p.m.