



Mr. Martin M Tamayo

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Thank you for your suggestion in your email dated December 10, 2014 which you indicated would be moved forward for rule making upon the consent of the subcommittee members. After good faith review, Alimak cannot agree to this alternative. It does not adequately address the safety concerns we have identified in the Petition process and it does not address the conflict between the applicable statute, Cal Labor Code Section 7300, and 1604.1 as well as the other regulations you reference as pertains to sealed safety brakes.

Cal Labor Code 7300 makes ASME 17.1 the minimum standard (Code 7300 (b) and (c). This statute by its express terms applies to all elevators (Code 7300.2). Construction elevators are not included in the list of the equipment excluded by the statute (Code 7300.3). We recognize there are a number of OSHA regulations that apply ASME 10.4 to construction elevators and ASME 17.1 to permanent elevators but the statute does not make that distinction. It applies to all elevators by its express terms. Conflicting OSHA regulations cannot trump the statute and any "spirit" of the law cannot trump the express language of the statute. We hope you will consult with OSHA attorneys about this position. We would like to avoid the time and expense for having the courts decide this issue.

The statute, by incorporating ASME 17.1 as the minimum standard, provides for a restrictive regulation of sealed safety brakes. ASME 17.1.8.6.1 requires sealed safety brakes to be returned to the manufacturer for replacement at intervals recommended by the manufacturer. Section 1604.1 allowing for a private engineer to approve a different process is in conflict with this minimum standard and the statute. That OSHA has other situations where private engineers have approval authority is not relevant. For sealed safety brakes, the statute and ASME 17.1, not other situations, are the standard.

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Under Cal Labor Code 7300 (c), other methods cannot be prevented “provided that there is technical documentation to demonstrate that the equivalency of the...method or device is at least as effective as that prescribed in ASME A17.1.” This is exactly the language of Alimak’s proposed alternative below. All Alimak is proposing is that OSHA regulations for sealed safety brakes follow the statute.

Alimak hereby amends its Petition as follows:

Section 1604.1 shall remain as written.

Section 1604.27 shall be amended to add a subsection (c) as follows:

“(c) Notwithstanding the provisions of Section 1604.1, where the safety device on any construction or permanent elevator is sealed as delivered by the original equipment manufacturer, such safety device shall be returned to the manufacturer for replacement at the interval recommended by the manufacturer; provided , however, if any interested person submits to the Division an alternative safety brake replacement process and resulting replacement brake that , as shown by technical documentation satisfactory to the Division , is equivalent or superior in quality, strength, fire resistance , code effectiveness, durability and safety as that replacement process and resulting replacement brake described in ASME A17.1, then the Division shall not prevent the use of that alternative process or replacement brake.”

This alternative follows (basically repeats) the language of the statute which, by incorporating ASME 17.1, essentially provides a special provision and minimum standard for sealed safety brakes. Also, Alimak believes this alternative provides a reasonable method for third parties to have their alternatives approved by the Division and it also provides alternatives to insufficient manufacturers. It should not be expected that the Division would spend any more time in assessing such proposed alternatives than it spent in evaluating the Access Equipment process presented by Mr. Bland. More importantly it is in compliance with statutory law.

Respectfully

Dale Stoddard
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