

Occupational Safety and Health Standards Board

Public Meeting and Business Meeting

June 17, 2021

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.

June 17, 2021 at 10:00 a.m.
TELECONFERENCE AGENDA

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

PLEASE NOTE: In accordance with [Executive Order N-29-20](#), and [Executive Order N-33-20](#), the June Board Meeting will be conducted via teleconference.

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:

Stakeholders who wish to comment on agenda items may submit a request to be added to the public comment queue. Please provide the following information*: 1) name; 2) affiliation; 3) comment topic; and 4) phone number (if not attending via Webex).

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

In advance of the meeting: Email the requested information to OSHSB@dir.ca.gov.

During the meeting: Email the requested information to OSHSB@dir.ca.gov, request to speak via Webex “Chat” function, or dial 916-274-5721 to be placed in the queue.

**NOTE: In accordance with [Executive Order N-29-20](#),
Board Members will participate via video-conference and/or teleconference.**

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 (Government Code Section 11125.7).

Any individual or group planning to make a presentation during the Public Meeting is requested to contact Sarah Money, Executive Assistant, or Christina Shupe, Executive Officer, 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. Rex and Judy Barton, Owners
LunarGlo LLC
[Petition File No. 586](#)

Petitioner requests to change existing portable restroom Illumination Guidelines to be consistent with feasible and most up to date technology for illumination levels provided by solar lighting manufacturers.

- B. PROPOSED EMERGENCY SAFETY ORDER FOR RE-ADOPTION (GOV. CODE SEC. 11346.1)
 - 1. TITLE 8: **GENERAL INDUSTRY SAFETY ORDERS**
Chapter 4, Subchapter 7, new sections 3205, 3205.1, 3205.2, 3205.3, and 3205.4
COVID-19 Prevention
- C. PROPOSED VARIANCE DECISIONS FOR ADOPTION
 - 1. **Consent Calendar**
- D. REPORTS
 - 1. Division Update
 - 2. COVID-19 Prevention ETS Subcommittee Update
 - 3. Legislative Update
 - 4. Executive Officer's Report
- E. 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. (Government Code sections 11125 & 11125.7(a).).
- F. CLOSED SESSION
 - 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
 - 3. National Retail Federation, et. al., v OSHSB, et. al., County of San Francisco, CA Superior Court Case No. CGC-20-588367

4. Western Growers Association, California Farm Bureau Federation, et. al. v OSHSB, et al., County of San Francisco, CA Superior Court Case No. CPF-21-517344
 5. Personnel
- G. RETURN TO OPEN SESSION
1. Report from Closed Session
- H. ADJOURNMENT OF THE BUSINESS MEETING

Next Meeting: July 15, 2021
Teleconference and Video-conference
(In accordance with Executive Orders [N-29-20](#) and [N-33-20](#))
10:00 a.m.

CLOSED SESSION

1. If necessary, consideration of personnel matters. (Government Code section 11126(a)(1)).
2. If necessary, consideration of pending litigation pursuant to Government Code 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, depending on the number of speakers. Three or more individuals who are present at the meeting may pool their time for one speaker.

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 Government Code 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. (Gov. Code, §11125.7, subd. (b).)

Pursuant to Executive Orders N-29-20 and N-35-20, certain provisions of the Bagley-Keene Open Meeting Act are suspended due to a State of Emergency in response to the COVID-19 pandemic. Consistent with the Executive Orders, this meeting of the Occupational Safety and Health Standards Board will be conducted remotely via video/teleconference only. None of the locations from which the Board Members will participate will be open to the public. 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
www.dir.ca.gov/oshsb



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 **June 17, 2021**, at 10:00 a.m. 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 **June 17, 2021**, at 10:00 a.m. 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 586**

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. 586
Rex and Judy Barton)
Owners)
LunarGlo LLC)
22385 Via Pompeii)
Elkhart, IN 46516)
)
_____) 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: June 17, 2021
Attachments

PETITION NO. 586

Petitioner requests to change existing portable restroom Illumination Guidelines to be consistent with feasible and most up to date technology for illumination levels provided by solar lighting manufacturers.

HYPERLINKS TO PETITION NO. 586 DOCUMENTS:

[PROPOSED PETITION DECISION](#)

[BOARD STAFF EVALUATION](#)

[DIVISION EVALUATION](#)

[ORIGINAL PETITION \(SUBMITTED 8/19/20\)](#)

Occupational Safety and Health Standards Board

Business Meeting
Proposed Emergency Safety Order
For Re-adoption
(GOV. CODE SEC. 11346.1)

COVID-19 Prevention

**TITLE 8
GENERAL INDUSTRY SAFETY ORDERS**

**PROPOSED EMERGENCY TEMPORARY STANDARD
FOR RE-ADOPTION**

**CHAPTER 4, SUBCHAPTER 7,
NEW SECTIONS 3205, 3205.1, 3205.2,
3205.3, AND 3205.4**

COVID-19 PREVENTION

**THE FOLLOWING DOCUMENTS CAN BE
FOUND UNDER THE HEADING
[READOPTION DOCUMENTS \(JUNE 17, 2021\)](#)**

- **NOTICE OF PROPOSAL FOR READOPTION OF EMERGENCY ACTION**
- **FINDING OF EMERGENCY/INFORMATIVE DIGEST**
- **PROPOSED REGULATORY TEXT FOR READOPTION**
- **PROPOSED REGULATORY TEXT FOR READOPTION (SHOWING CHANGES FROM CURRENT EMERGENCY REGULATION – COURTESY COPY)**

Occupational Safety and Health Standards Board

Business Meeting

Proposed Variance Decisions

**CONSENT CALENDAR—PROPOSED VARIANCE DECISIONS
JUNE 17, 2021, MONTHLY BUSINESS MEETING
OF THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD**

A. Air Products and Chemicals, Inc. — HEARD MAY 18, 2021

OSHSB FILE NUMBER	APPLICANT NAME	SAFETY ORDERS	PROPOSED DECISION
13-V-186M1	Air Products and Chemicals, Inc.	UPV	GRANT

B. The Irvine Company — HEARD MAY 26, 2021

OSHSB FILE NUMBER	APPLICANT NAME	SAFETY ORDERS	PROPOSED DECISION
19-V-502M1	The Irvine Company	Elevator	GRANT

C. Schindler Model 5500 Elevators (Group IV) — HEARD MAY 26, 2021

OSHSB FILE NUMBER	APPLICANT NAME	SAFETY ORDERS	PROPOSED DECISION
20-V-296	2401 Broadway Development Group, LLC	Elevator	GRANT
20-V-297	2401 Broadway Development Group, LLC	Elevator	GRANT
20-V-423	2719 K Street, LLC	Elevator	GRANT

D. KONE Monospace 500 Elevators (Group IV) — HEARD MAY 26, 2021

OSHSB FILE NUMBER	APPLICANT NAME	SAFETY ORDERS	PROPOSED DECISION
21-V-081	CA Sacramento Commons LLC	Elevator	GRANT
21-V-094	SI 55 LLC	Elevator	GRANT

E. Santa Monica Malibu Unified School District — HEARD MAY 26, 2021

OSHSB FILE NUMBER	APPLICANT NAM21-v-093E	SAFETY ORDERS	PROPOSED DECISION
21-V-093	Santa Monica Malibu Unified School District	Elevator	GRANT

F. Schindler 3300 with SIL-Rated Drive to De-energize Drive Motor (Group IV) — HEARD MAY 26, 2021

OSHSB FILE NUMBER	APPLICANT NAME	SAFETY ORDERS	PROPOSED DECISION
21-V-095	HiFi Collective LP	Elevator	GRANT
21-V-096	Comstock Realty Partners	Elevator	GRANT
21-V-097	Hollywood Arts Collective LP	Elevator	GRANT
21-V-098	Roots On Eucalyptus LLC	Elevator	GRANT
21-V-099	The One Investments LLC	Elevator	GRANT
21-V-100	4230 18th Street Partners LP	Elevator	GRANT
21-V-101	Depot at Hyde Park Partners, LP	Elevator	GRANT
21-V-102	Exdev Hotel 1 LLC	Elevator	GRANT
21-V-104	Linc-Avocado Heights LP	Elevator	GRANT
21-V-105	Gralgorex, LLC	Elevator	GRANT

G. Mitsubishi Elevators (Group IV) — HEARD MAY 26, 2021

OSHSB FILE NUMBER	APPLICANT NAME	SAFETY ORDERS	PROPOSED DECISION
21-V-103	Gilead Sciences, Inc.	Elevator	GRANT

H. Otis Gen2S Elevators (Group IV) — HEARD MAY 26, 2021

OSHSB FILE NUMBER	APPLICANT NAME	SAFETY ORDERS	PROPOSED DECISION
21-V-106	LMC North Park Holdings, LLC	Elevator	GRANT
21-V-107	R&V MQ Investment Corporation and ITF MQ Investment Holding, LLC	Elevator	GRANT
21-V-108	Market Street Ventures, LP	Elevator	GRANT
21-V-109	288 N. Santa Anita LLC	Elevator	GRANT
21-V-110	Hollywood Luxury Collection, LLC	Elevator	GRANT
21-V-111	Innovest Group LLC	Elevator	GRANT
21-V-112	SJBH, LLC	Elevator	GRANT
21-V-113	Juniper Grove Apartments, L.P.	Elevator	GRANT
21-V-114	Stanford University	Elevator	GRANT
21-V-115	Pulte Home Company 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 to Modify
Permanent Variance by:

Air Products and Chemicals, Inc.

OSHSB File No.: 13-V-186M1
Proposed Decision Dated: May 19, 2021

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: June 17, 2021

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 Modification of Permanent Variance by: Air Products and Chemicals, Inc.	OSHSB File No.: 13-V-186M1 <u>PROPOSED DECISION</u> Hearing Date: May 18, 2021
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A. Subject Matter:

The following person or entity (“Applicant”) has applied for a modification of permanent variance from provisions of title 8 of the California Code of Regulations.*

B. This proceeding is conducted in accordance with Labor Code section 143, and section 401, et. seq.

C. Procedural Matters:

1. This hearing was held on May 18, 2021, in Sacramento, California, and via audio/video conference link, by Occupational Safety and Health Standards Board (Board), with a hearing panel consisting of Board Members Kathleen Crawford, Nola Kennedy, 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.
2. At the hearing, Steve Hoffman, Senior Principal Product Engineer, Renay Jacob, P.E., and Avinash Uttha, Senior Product Engineer, appeared on behalf of Applicant; Gary Teel, Acting Principal Safety Engineer with the Pressure Vessel Unit appeared on behalf of the Division of Occupational Safety and Health (Division); and Maryrose Chan, Senior Safety Engineer, 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: 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, and official notice taken of the Board’s rulemaking records and variance decisions concerning the safety order provisions from which variance has

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

been requested. The hearing closed on May 18, 2021.

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

1. On July 17, 2014, the Board granted a permanent variance in File No. 13-V-186 with multiple conditions to permit the use of Department of Transportation (DOT) approved cylinders, rather than ASME-approved cylinders, as hydrogen storage vessels. The subject of the current application is to modify permanent variance condition number 3.b.

2. Condition 3 in permanent variance File No. 13-V-186 reads as follows:

As to the safety relief valve and overpressure:

a. An ASME constructed spring loaded safety relief valve shall be installed on the system to protect the pressure vessels from any overpressure event other than fire. A single safety relief valve may be placed in direct communication with the hydrogen gas as it flows into and out of the bank of pressure vessels.

b. The Applicant shall utilize a Sherwood fusible backed rupture disc model 3132SB9-XX manufactured in accordance with CGA S-1.1 with a pressure setting in accordance with 2013 Edition of the ASME Boiler and Pressure Vessel Code, UG-134 (b).

c. Overpressure protection shall comply with 2013 Edition of ASME Boiler and Pressure Vessel Code, UG-140(b).

3. The applicant is seeking to replace the pressure relief device (PRD) for DOT approved cylinders, model no. ALT 1015, manufactured by SCI under special permit SP14576. The applicant is seeking to replace the current PRD, Part no. 3132SB9-XX (brass PRD body), with 3132SB9-95-SS (stainless steel PRD body) with no changes to the burst disc and relief set pressure per the existing variance.

4. The Division has evaluated the Applicant's request for modification of the variance, and based on the documents provided by the Applicant, research, analysis, and the testing report of the rupture disc that complies with the applicable ASME Code, has no objection to the variance to OSHSB File No. 13-V-186M1. The Division concludes that the material modification will provide superior safety on the overpressure protection of the ALT 1015 SP 14576 high-pressure hydrogen cylinders.

5. Board staff has evaluated the request for modification of the relevant condition, Board staff is of the opinion that the Sherwood Safety Assembly 316L 3132SB9-95-SS provides equivalent safety as Sherwood Safety Assembly 3132SB9-95, therefore recommends that the variance modification of 13-V-186 be granted allowing the applicant to use either Sherwood Safety Assembly 316L 3132SB9-95-SS (stainless steel) or 3132SB9-95 (brass). All other conditions of variance 13-V-186 shall remain unchanged.

E. Decision and Order:

1. Permanent Variance Application No. 13-V-186M1 is conditionally GRANTED, thereby modifying Board records, such that, without other change, condition 3.b shall now read:

The applicant shall utilize a fusible disc model Sherwood Safety Assembly 316L 3132SB9-95-SS (stainless steel) or 3132SB9-95 (brass) manufactured in accordance with CGA S-1.1 with pressure relief setting in accordance with 2013 ASME Boiler and Pressure Vessel Code, UG-134(b).

2. Permanent Variance No.13-V-186, being only modified as to the terms of condition 3.b. 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. 13-V-186M1.

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: May 19, 2021



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:

The Irvine Company

OSHSB File No.: 19-V-502M1
Proposed Decision Dated: May 26, 2021

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: June 17, 2021

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;">The Irvine Company</p>	OSHSB File No.: 19-V-502M1 <p style="text-align: center;"><u>PROPOSED DECISION</u></p> Hearing Date: May 26, 2021
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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
19-V-502	The Irvine Company	Los Olivos II Bldg. 6 6000 Miramonte Irvine, 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 May 26, 2021, 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 and David Morris 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: 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 rulemaking records and variance decisions concerning the

safety order provisions from which variance has been requested. On May 26, 2021, 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 conveyance the subject of previously granted Permanent Variance 19-V-502.
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 19-V-502 is in effect, in fact is more completely, and correctly the different address information 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. 19-V-502.
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 19-V-502 was, in part, based.
5. The Board finds the correct address by which to designate the location of each conveyance the subject of Permanent Variance No. 19-V-502, to be:

Los Olivos II Bldg. 6
6100 Miramonte
Irvine, CA

E. Decision and Order:

1. Permanent Variance Application No. 19-V-502M1 is conditionally GRANTED, thereby modifying Board records, such that, without change in variance location, each conveyance being the subject of Permanent Variance Nos. 19-V-502, and 19-V-502M1, shall have the following address designation:

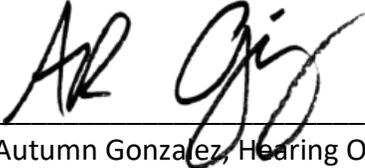
Proposed Variance Decision
OSHSB File No. 19-V-502M1
Hearing Date: May 26, 2021

Los Olivos II Bldg. 6
6100 Miramonte
Irvine, CA

2. Permanent Variance No. 19-V-502, 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. 19-V-502M1.

Pursuant to California Code of Regulations, title 8, 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: May 26, 2021



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:

Schindler Model 5500 Elevators
(Group IV)

OSHSB File No.: (See Section A.1 Table)
Proposed Decision Dated: May 26, 2021

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: June 17, 2021

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;">Schindler Model 5500 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: May 26, 2021</p>
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A. Subject Matter:

- 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
20-V-296	2401 Broadway Development Group, LLC	2455 Broadway Oakland, CA	2
20-V-297	2401 Broadway Development Group, LLC	421 25th Street Oakland, CA	1
20-V-423	2719 K Street, LLC	2719 K Street Sacramento, CA	2

- The safety orders at issue are set out in below Section C.1.

B. Process and Procedure:

- This proceeding is conducted in accordance with Labor Code section 143, and California Code of Regulations, title 8, section 401, et. seq.
- The installation contract for the subject elevators was signed after May 1, 2008. Therefore, the subject elevators fall within the scope of the Elevator Safety Orders (ESO) Group IV section 3141, and as incorporated by reference therein, ASME A17.1-2004.
- This hearing was held on May 26, 2021, in Sacramento, California, via teleconference, by Occupational Safety and Health Standards Board (“Board”) assigned Hearing Officer Autumn Gonzalez, both presiding and hearing the matter

Proposed Variance Decision
Schindler Model 5500 Elevators (Group IV)
Hearing Date: May 26, 2021

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, Jennifer Linares, with Schindler Elevator Corporation, appeared on behalf of each Applicant; Mark Wickens and David Morris 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.
5. Oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence: each respective permanent variance applications per Section A table as Exhibit PD-1, Notice of Hearing as Exhibit 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 is requested. At close of hearing on May 26, 2021, the record was closed, and the matter taken under submission by the Hearing Officer.

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

Requested Suspension Means Related Variance:

1. As each pertains to the non-circular elastomeric coated suspension means characteristic of the Schindler Model 5500 elevator, Applicant presently seeks permanent variance from the following Title 8, Elevator Safety Order incorporated ASME Safety Code for Elevators and Escalators (ASME Code) A17.1-2004 sections and subsections:

Section 2.20.1—Wire rope suspension means
Section 2.20.2.1—Crosshead data plate
Subsection 2.20.2.2(a)—Wire rope data tag
Subsection 2.20.2.2(f)—ID of steel wire rope as preformed or nonpreformed
Section 2.20.3—Wire rope safety factor
Section 2.20.4—Number and diameter of wire ropes
Section 2.20.9.3.4—Wire rope end connections
Section 2.20.9.5.4—Wire rope sockets

Requested Car Top Railing Inset Variance:

2. As it pertains to top of car railing placement requiring space occupied by upper hoistway mounted elevator machinery characteristic of the Schindler Model 5500

elevator, Applicant presently seeks permanent variance from the following Title 8, Elevator Safety Order incorporated ASME Code A17.1-2004 section:

Section 2.14.1.7.1—Top of Car Perimeter Railing Placement

Requested Seismic Reset Switch Placement Variance:

3. As it pertains to installation of the requisite seismic reset switch within a “machine room” location incompatible with machine-room-less design of the Schindler Model 5500 elevator, Applicant presently seeks permanent variance from the following Title 8, Elevator Safety Order incorporated ASME Code subsection:

Subsection 8.4.10.1.1(a)(2)(b)--Seismic Reset Switch Placement in Machine Room

Requested Transfer Switch Placement Variance:

4. As it pertains to installation of the requisite transfer switch within a “machine room” location incompatible with machine-room-less design of the Schindler Model 5500 elevator, Applicant presently seeks permanent variance from the following Title 8, Elevator Safety Order incorporated ASME Code A17.1-2004 subsection:

Subsection 2.26.1.4.4(a)--Transfer Switch Placement in Machine Room

Official Notice and Incorporation by Reference—OSHSB File No. 15-V-349:

5. Per hereby entered stipulation offered at hearing by Applicant, Division, and Board staff, concerning preexisting Board records, including decisions in matters of permanent variance from Elevator Safety Order requirements, the Board takes Official Notice and expressly incorporates herein by reference, OSHSB File No. 15-V-349, Decision and Order adopted November 17, 2016, Section D.1—D.75 findings, and therein entered record upon which it was based.

Positions of Division, and Board Staff:

6. Having fully reviewed Applicant’s request for variance from the above identified Elevator Safety Order requirements, it is the concurrent opinion of Division and Board staff, that conditionally limited grant to Applicant of permanent variance as specified per the below Decision and Order, will provide for elevator safety, and occupational safety and health, equivalent or superior to that of the Elevator Safety Order requirements from which variance is being sought. The present opinion of Division and Board staff, to any extent it may vary from those previously held with respect to

the previously heard matter in OSHSB File No. 15-V-349, reflects further scrutiny of the subject matter, consultation between Division, Board staff, Applicant representatives, and refinement of recommended conditions and limitations.

D. Basis of Decision:

The afore stated procedural, statutory, regulatory, and factual matters establish a substantive 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.

E. Decision and Order:

Each above Section A.1 table specified Applicant, with respect to the also specified number of conveyance, and variance location, is hereby conditionally GRANTED Permanent Variance as stated below, to the limited extent that each enumerated conveyance at the given location shall be subject to conditionally limited permanent variance from the below specified ASME A17.1-2004, requirements incorporated by reference into California Code of Regulations, title 8, section 3141.

Suspension Members: Applicant shall conditionally hold permanent variance from the following Title 8, Section 3141 incorporated sections and subsections of ASME A17.1-2004, to the limited extent variance is necessary to provide for use of noncircular elastomeric-coated steel suspension members and concomitant components, and configurations—Section 2.20.1; Section 2.20.2.1; Subsection 2.20.2.2(a); Subsection 2.20.2.2(f); Section 2.20.3; Section 2.20.4: Section 2.20.9.3.4; and Section 2.20.9.5.4.

Inspection Transfer Switch: Applicant shall conditionally hold permanent variance from certain requirements of the following title 8, section 3141 incorporated section of ASME A17.1-2004, to the extent variance is necessary to having the requisite inspection transfer switch located elsewhere than a machine room, within a Security Group I enclosure built into an upper floor landing door jam, or within other readily accessible and secure space shared with the motion controller outside the hoistway: Section 2.26.1.4.4(a).

Seismic Safety Switch Placement: Applicant shall conditionally hold permanent variance from certain requirements of the following title 8, section 3141 incorporated section of ASME A17.1-2004, to the limited extent variance is necessary to having the requisite seismic reset switch located elsewhere than a machine room, within a Security Group I enclosure built into an upper floor landing door jam, or within other readily accessible and secure space shared with the motion controller outside the hoistway: Section 8.4.10.1.1(a)(2)(b).

Car Top Railing: Applicant shall conditionally hold permanent variance from certain requirements of the following title 8, section 3141 incorporated section of ASME A17.1-2004, to the limited extent variance is necessary to provide for the below specified inseting of the subject elevator's top of car railing: Section 2.14.1.7.1.

Further Conditions and Limitations:

1. The elevator suspension system shall comply with the following:
 - 1.1. 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
 - 1.2. Additionally, STMs shall meet or exceed all requirements of ASME 17.6-2010 Standard for Elevator Suspension, Compensation, and Governor Systems, Part 3 Noncircular Elastomeric Coated Steel Suspension Members for Elevators.
 - 1.3. 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 of Occupational Safety and Health (Division) upon request.
 - 1.4. STM member mandatory replacement criteria shall include:
 - 1.4.1 Any exposed wire, strand or cord;
 - 1.4.2 Any wire, strand or cord breaks through the elastomeric coating;

Proposed Variance Decision

Schindler Model 5500 Elevators (Group IV)

Hearing Date: May 26, 2021

- 1.4.3 Any evidence of rouging (steel tension element corrosion) on any part of the elastomeric coated steel suspension member;
- 1.4.4 Any deformation in the elastomeric suspension member such as, but not limited to, kinks or bends.
- 1.5. 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.
- 1.6. 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.
- 1.7. 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.
- 1.8. 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).
- 1.9. 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. Notwithstanding any less frequent periodic testing requirement per Addendum 1 (Division Circular Letter), the bend cycle monitoring system shall be tested semi-annually in accordance with the procedures required per above Conditions 1.2, and 1.3.
- 1.10. Each elevator shall be provided with a device that electronically detects a reduction in residual strength of each STM member. The device shall be in

Proposed Variance Decision
Schindler Model 5500 Elevators (Group IV)
Hearing Date: May 26, 2021

compliance with Division Circular Letter E-10-04, a copy of which is attached hereto as Addendum 1, and incorporated herein by reference.

- 1.11. The elevator crosshead data plate shall comply with the requirements of ASME A17.1-2013, Section 2.20.2.1.
 - 1.12. A suspension means data tag shall be provided that complies with the requirements of ASME A17.1-2013, Section 2.20.2.2.
 - 1.13. Comprehensive visual inspections of the entire length of each and all installed suspension members, in conformity with above Conditions 1.2 and 1.3 specified criteria, shall be conducted and documented every six months by a CCCM.
 - 1.14. The Applicant shall be subject to the requirements per hereto attached, and inhere incorporated, Addendum 2, "Suspension Means Replacement Reporting Condition."
 - 1.15. 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. Inspection Transfer switch and Seismic Reset switch placement and enclosure shall comply with the following:
- 2.1. If the inspection transfer switch required by ASME A17.1-2004, Rule 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.
 - 2.2. 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.
3. Any and all inset car top railing shall comply with the following:
- 3.1. Serviceable equipment shall be positioned so that mechanics and inspectors do not have to stand on or climb over the railings to perform adjustments,

Proposed Variance Decision

Schindler Model 5500 Elevators (Group IV)

Hearing Date: May 26, 2021

maintenance, repairs or inspections. The Applicant shall not permit anyone to stand or climb over the car top railing.

- 3.2. The distance that the railing can be inset shall be limited to not more than 12 inches.
- 3.3. 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 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.
- 3.4. 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 inch diagonal red and white stripes.
- 3.5. 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

- 3.6. 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).
4. The elevator shall be serviced, maintained, adjusted, tested, and inspected only by CCCM having been trained, and competent, to perform those tasks on the Schindler Model 5500 elevator system in accordance with written procedures and criteria, including as required per above Conditions 1.2, and 1.3.
5. 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.
6. 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

*Proposed Variance Decision
Schindler Model 5500 Elevators (Group IV)
Hearing Date: May 26, 2021*

representatives are to be notified of docketed permanent variance applications pursuant to California Code of Regulations, title 8, sections 411.2 and 411.3.

7. This Decision and Order shall remain in effect unless modified or revoked upon application by Applicant, affected employee(s), the Division, or by the Board on its own motion, in accordance with the Board's procedural rules.

Pursuant to California Code of Regulations, title 8, 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: May 26, 2021



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

Schindler Model 5500 Elevators (Group IV)

Hearing Date: May 26, 2021

- 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:

KONE Monospace 500 Elevators
(Group IV)

OSHSB File No.: Per Section A.1. Grid
Proposed Decision Dated: May 26, 2021

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: June 17, 2021

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.: Per Section A.1 Grid Below</p> <p style="text-align: center;"><u>PROPOSED DECISION</u></p> <p>Hearing Date: May 26, 2021</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 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
21-V-081	CA Sacramento Commons LLC	1501 5th Street, Sacramento, CA	4
21-V-094	SI 55 LLC	2250 Lawson Lane Santa Clara, CA	3

- The subject safety order requirements are set out within section 3141 incorporated ASME A17.1-2004, Sections 2.18.5.1 and 2.20.4.

B. Procedural:

- This hearing was held on May 26, 2021, in Sacramento, California and 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 section 426.
- At the hearing, Daniel May, with KONE, Inc., appeared on behalf of each Applicant; Mark Wickens and David Morris appeared on behalf of the Division of Occupational Safety and

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

Health (“Division”), and Michael Nelmda 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: permanent variance applications per Section A.1 table as Exhibit PD-1, Notice of Hearing as Exhibit 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 is sought. Upon close of hearing on May 26, 2021, the 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 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 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 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.

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 the 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 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.

Proposed Variance Decision
KONE Monospace 500 Elevators
Hearing Date: May 26, 2021

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 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 500 Elevators
Hearing Date: May 26, 2021*

and Health, or by the Board on its own motion, in accordance with procedures set forth in the Board's procedural regulations.

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: May 26, 2021


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)
21-V-081	1501 5th St., 1	8	350	11,706
21-V-081	1501 5th St., 2	8	350	11,706
21-V-081	1501 5th St., 3	8	350	11,706
21-V-081	1501 5th St., 4	8	350	11,706
21-V-094	1	8	350	11,706
21-V-094	2	8	350	11,706
21-V-094	3	8	350	11,706

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
Hearing Date: May 26, 2021

- 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:

Santa Monica Malibu Unified
School District

OSHSB File No.: 21-V-093
Proposed Decision Dated: May 26, 2021

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: June 17, 2021

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: Santa Monica Malibu Unified School District	OSHSB File No.: 21-V-093 PROPOSED DECISION Hearing Date: May 26, 2021
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A. Procedural Matters

1. The above named entity (Applicant) has applied for a permanent variance from provisions of the Elevator Safety Orders, found at title 8 of the California Code of Regulations.*
2. This hearing was held on May 26, 2021, 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.
3. At the hearing, Daniel May, with KONE elevator, appeared on behalf of Applicant; Mark Wickens and David Morris appeared on behalf of the Division of Occupational Safety and Health (“Division”); and Senior Engineer Michael Nelmidia appeared on behalf of Board staff in a technical advisory role 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: modification of permanent variance application per Section A table as Exhibit PD-1, Notice of Hearing as Exhibit PD-2, Board staff Review of Application 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 Elevator Safety Order requirements from which variance is being requested. On May 26, 2021, the hearing and record closed, and the matter was taken under submission by the Hearing Officer.

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

1. Applicant requests a permanent variance from provisions of section 3141 [ASME A17.1-2004, Section 2.15.9.2(a) and 2.4.1.5] as each concerns, respectively, the minimum

* Unless otherwise specified, all references are to California Code of Regulations, title 8.

length of the elevator platform guard (apron) and car mounted equipment striking the pit for one (1), 3,500 lb. capacity MRL passenger elevator located at Discovery Building, 601 Pico Blvd., Santa Monica, California.

2. Applicant proposes to install a two-section retractable platform guard (apron) consisting of a stationary upper section guard plate and a moveable lower section guard plate. To monitor the retractable mechanism, an electrical switching system will be provided to monitor for malfunction.

3. Section 3141 [ASME A17.1-2004, Section 2.15.9.2] states, in part:

2.15.9.2 The guard plate shall have a straight vertical face, extending below the floor surface of the platform, conforming to one of the following:

(a) where the elevator is required to conform to 2.19.2.2(b) the depth of the truck zone, where provided, plus 75 mm (3 in.), but in no case less than 1,220 mm (48 in.).

An intent of this code section is to guard a hazardous opening to the hoistway if the elevator car is intentionally or unintentionally positioned above the landing zone, by providing a guard that extends below the car platform to obstruct the opening.

4. Section 3141 [ASME A17.1-2004, Section 2.4.1.5] states, in part:

2.4.1.5 When the car is resting on its fully compressed buffers or bumpers, no part of the car, or any equipment attached thereto or equipment traveling with the car, shall strike any part of the pit or any equipment mounted therein.

5. An intent of this code section is to prevent any equipment attached to the elevator car from striking any part of the pit. This could damage the elevator equipment, which may result in unsafe operation or injury.
6. Per Division's Review of Application (Exhibit PD-4) Applicant's proposed platform guard is similar in all material respects to installations for which a permanent variance previously has been granted. (e.g. 17-V-306M1).
7. Both Boards 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.

C. Conclusive Findings:

The above procedural, legal, and factual matters adequately support the reasonable conclusion that: (1) the Applicant has complied with the statutory and regulatory requirements that must be met before an application for a permanent variance, or modification such variance, may be granted, and (2) 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:

The application for permanent variance, in the matter of OSHSB File No. 21-V-093, is conditionally GRANTED, issuing the Applicant permanent variance from section 3141 [ASME A17.1-2004, Section 2.4.1.5 (insofar as necessary to allow the Applicant to utilize the proposed retractable toe guard), and 2.15.9.2 (insofar as is necessary to allow the Applicant to utilize the proposed retractable toe guard), for the specific conveyances, at the specific variance location

1. In lieu of the straight vertical face (one-piece) platform guards (aprons) required by Section 3141 [ASME A17.1-2004, Section 2.15.9.2], a two-section retractable platform guard consisting of a stationary, upper-section guard plate and a moveable, lower-section guard plate shall be installed and conform to the following:
 - a. The stationary, upper-section guard plate shall have a straight vertical face, extending below the floor surface of the platform; the height shall be not less than 920 mm (36.2 in).
 - b. The movable, lower-section guard plate shall:
 - i. Comply with ASME A17.1-2004, Section 2.15.9.3;
 - ii. Be provided with a rubber bumper at the center of the bottom edge of the plate to absorb the impact when the toe guard strikes the concrete pit floor;
 - iii. Be provided with an electrical switch that indicates to the control system that the retractable platform guard is in its extended position (when car is away from the bottom landing), and be provided with a second electrical switch that indicates to the control system that the moveable lower section is in its retracted position (when the car is at the bottom landing), thereby overriding the first switch. Failure of either of these electrical switches or of

the mechanical parts that activate these electrical switches shall cause the controller to remove power from the driving machine and brake.

- c. The two-section retractable platform guard shall be provided with smooth metal guard plates of not less than 1.5 mm (0.059 in) thick steel, or material of equivalent strength and stiffness, adequately reinforced and braced to the car platform and conforming to ASME A17.1-2004, sections 2.15.9.1 and 2.15.9.4.
 - d. The overall height of the two-section retractable platform guard shall be not less than 1220 mm (48 in) when the moveable lower section is in the fully extended (deployed) position.
2. Any Certified Qualified Conveyance Company performing inspections, maintenance, servicing, or testing of the elevators shall be provided a copy of this variance decision.
 3. The Division shall be notified when the elevator is ready for inspection to confirm conformity with above specified conditions and limitations. No elevator shall be placed in service prior to it being inspected and issued a Permit to Operate by the Division.
 4. Each 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 sections 411.2 and 411.3.
 5. 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 the Board's procedural regulations.

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: May 26, 2021


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:

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

OSHSB File No.: Per Section A.1. Grid
Proposed Decision Dated: May 26, 2021

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: June 17, 2021

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: May 26, 2021</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
21-V-095	HiFi Collective LP	3200 W. Temple St. Los Angeles, CA	2
21-V-096	Comstock Realty Partners	151 Potrero San Francisco, CA	1
21-V-097	Hollywood Arts Collective LP	1630 N Schrader Los Angeles, CA	2
21-V-098	Roots On Eucalyptus LLC	212 Eucalyptus Drive El Segundo, CA	1
21-V-099	The One Investments LLC	101 East Valley Blvd. San Gabriel, CA	2
21-V-100	4230 18th Street Partners LP	4230 18th Street San Francisco, CA	1
21-V-101	Depot at Hyde Park Partners, LP	6527 Crenshaw Blvd. Los Angeles, CA	1
21-V-102	Exdev Hotel 1 LLC	120 Reservation Road Marina, CA	2
21-V-104	Linc-Avocado Heights LP	162 S. 3rd Ave. La Puente, CA	2
21-V-105	Gralgorex, LLC	325 Myrtle St. Glendale, CA	1

Proposed Variance Decision

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

Hearing Date: May 26, 2021

2. 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 May 26, 2021, 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.
4. At the hearing, Jennifer Linares, with the Schindler Elevator Corporation, appeared on behalf of each Applicant; Mark Wickens and David Morris 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.
5. Oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence: each respective permanent variance applications per Section A table as Exhibit PD-1, Notice of Hearing as Exhibit 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 is requested. At close of hearing on May 26, 2021, 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.

Proposed Variance Decision

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

Hearing Date: May 26, 2021

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:

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

Proposed Variance Decision

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

Hearing Date: May 26, 2021

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.

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:

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Hearing Date: May 26, 2021

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:

(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:

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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.
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

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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);
- 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:

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- 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.
- 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.

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- 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.
 - 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.

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- 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 level).
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.

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- 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.
 - 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 manner described in the Board's procedural regulations.

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Pursuant to California Code of Regulations, title 8, 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: May 26, 2021



Autumn Gonzalez, Hearing Officer

*Proposed Variance Decision
Schindler 3300 with SIL-Rated Drive to De-energize Drive Motor (Group IV)
Hearing Date: May 26, 2021*

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.

Proposed Variance Decision

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Hearing Date: May 26, 2021

- 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:

Mitsubishi Elevators
(Group IV)

OSHSB File No.: See Section A.1 Table
Proposed Decision Dated: May 26, 2021

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: June 17, 2021

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>Hearing Date: May 26, 2021</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
21-V-103	Gilead Sciences, Inc.	305 Velocity Way Foster City, CA	1

- 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 May 26, 2021, in Sacramento, California and 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 and David Morris 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: each permanent variance application per Section A table as Exhibit PD-1; Notice of Hearing as PD-2; Board staff Pending Application Memorandum as PD-3; Division Review of Application report as PD-4; Review Draft 1 Proposed Decision as PD-5; and Official Notice taken of the Board’s

*Proposed Variance Decision
Mitsubishi Elevators (Group IV)
Hearing Date: May 26, 2021*

rulemaking records and variance decisions concerning the safety order requirements from which variance is requested. At the close of hearing on May 26, 2021, 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.

Proposed Variance Decision
Mitsubishi Elevators (Group IV)
Hearing Date: May 26, 2021

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 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

*Proposed Variance Decision
Mitsubishi Elevators (Group IV)
Hearing Date: May 26, 2021*

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, subdivision (b), the above, duly completed Proposed Decision, is hereby submitted to the Occupational Safety and Health Standards Board for consideration of adoption.

Dated: May 26, 2021



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 Gen2S Elevator (Group IV)

OSHSB File No.: Per Section A table
Proposed Decision Dated: May 26, 2021

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: June 17, 2021

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 Gen2S Elevators (Group IV)</p>	<p>OSHSB File Nos.: Per Section A table, below</p> <p style="text-align: center;"><u>PROPOSED DECISION</u></p> <p>Hearing Date: May 26, 2021</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
21-V-106	LMC North Park Holdings, LLC	4353 Park Boulevard San Diego, CA	5
21-V-107	R&V MQ Investment Corporation and ITF MQ Investment Holding, LLC	Jefferson Makers Quarter 1509 Broadway San Diego, CA	3
21-V-108	Market Street Ventures, LP	1621-1629 Market (Plumbers Hall) 1621 Market Street San Francisco, CA	1
21-V-109	288 N. Santa Anita LLC	288 N Santa Anita Blvd. Arcadia, CA	2
21-V-110	Hollywood Luxury Collection, LLC	1525 N. Hobart Blvd. Hollywood, CA	1
21-V-111	Innovest Group LLC	11055 W. Fruitland Drive Studio City, CA	1
21-V-112	SJBH, LLC	San Jose Behavioral Health 455 Silicon Valley Blvd. San Jose, CA	1
21-V-113	Juniper Grove Apartments, L.P.	150 East Avenue R Palmdale, CA	1

*Proposed Variance Decision
 Otis Gen2S Elevators (Group IV)
 Hearing Date: May 26, 2021*

21-V-114	Stanford University	3215 Porter Drive Palo Alto, CA	1
21-V-115	Pulte Home Company LLC	300 Waters Park Circle San Mateo, CA	1

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 May 26, 2021, 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 and David Morris 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: each respective permanent variance applications per Section A table as Exhibit PD-1; Notice of Hearing as Exhibit 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 files and decisions, concerning the Elevator Safety Order standards at issue. At close of hearing on May 26, 2021, 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.

*Proposed Variance Decision
Otis Gen2S Elevators (Group IV)
Hearing Date: May 26, 2021*

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);

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Otis Gen2S Elevators (Group IV)
Hearing Date: May 26, 2021*

- 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
- 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.

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Otis Gen2S Elevators (Group IV)
Hearing Date: May 26, 2021*

- 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.

*Proposed Variance Decision
Otis Gen2S Elevators (Group IV)
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- 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.
 - 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

*Proposed Variance Decision
Otis Gen2S Elevators (Group IV)
Hearing Date: May 26, 2021*

and Health, or by the Board on its own motion, in accordance with procedures per the Board's procedural regulations.

Pursuant to California Code of Regulations, title 8, 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: May 26, 2021



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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- 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.

Occupational Safety and Health Standards Board

Business Meeting
Legislative Update

Legislative Update
Prepared June 8, 2021, for the June 17, 2021
Meeting of the Occupational Safety and Health Standards Board

Summary of Changes

AB-2 Regulations: legislative review: regulatory reform. (2021-2022) **Update**

AB 7 Emergency ambulance employees: ~~subsidized~~ *multithreat body* protective gear. (2021-2022) **Update**

AB-29 State bodies: meetings. (2021-2022) **No Update**

AB-62 Income taxes: credits: costs to comply with COVID-19 regulations. (2021-2022) **No Update**

AB-73 Employment safety: agricultural workers: wildfire smoke. (2021-2022) **Update**

AB-257 Fast food industry: working standards. (2021-2022) **Update**

AB-420 Public health: amusement parks and COVID-19. (2021-2022) **No Update**

AB-473 California Public Records Act.(2021-2022) **Update**

AB-474 California Public Records Act: conforming revisions. (2021-2022) **Update**

AB-701 Warehouse distribution centers. (2021-2022) **Update New language in italics**

AB-783 Surface mines: safety regulation. (2021-2022) **Update New language in italics**

AB-885 Bagley-Keene Open Meeting Act: teleconferencing. (2021-2022) **No Update**

AB-893 Emergency regulations: Division of Occupational Safety and Health: State Department of Public Health. (2021-2022) **No Update**

AB-1175 Division of Occupational Safety and Health: inspections and investigations: advance notice. (2021-2022) **No Update**

AB-1291 State bodies: open meetings. (2021-2022) **Update**

SB-321 Employment safety standards: household domestic services. (2021-2022) **Update**

SB-410 Occupational safety and health: regulations. (2021-2022) **Update**

Legislative Update
Prepared June 8, 2021, for the June 17, 2021
Meeting of the Occupational Safety and Health Standards Board

AB-2 Regulations: legislative review: regulatory reform. (2021-2022)
(Fong)

Date	Action
05/20/21	In committee: Held under submission.
05/20/21	Joint Rule 62(a), file notice suspended.
05/19/21	In committee: Set, first hearing. Referred to APPR. suspense file.
04/29/21	From committee: Do pass and re-refer to Com. on APPR. (Ayes 7. Noes 0.) (April 28). Re-referred to Com. on APPR.

Summary:

AB 2, as introduced, Fong. Regulations: legislative review: regulatory reform.

The Administrative Procedure Act governs the procedure for the adoption, amendment, or repeal of regulations by state agencies and for the review of those regulatory actions by the Office of Administrative Law. That act requires an agency, prior to submitting a proposal to adopt, amend, or repeal an administrative regulation, to determine the economic impact of that regulation, in accordance with certain procedures. The act defines a major regulation as a regulation, as specified, that will have an economic impact on California business enterprises and individuals in an amount exceeding \$50,000,000, as estimated by the agency. The act requires the office to transmit a copy of a regulation to the Secretary of State for filing if the office approves the regulation or fails to act on it within 30 days. The act provides that a regulation or an order of repeal of a regulation becomes effective on a quarterly basis, as prescribed, except in specified instances.

This bill would require the office to submit to each house of the Legislature for review a copy of each major regulation that it submits to the Secretary of State. The bill would add another exception to those currently provided that specifies that a regulation does not become effective if the Legislature enacts a statute to override the regulation.

The Administrative Procedure Act requires the Office of Administrative Law and a state agency proposing to adopt, amend, or repeal a regulation to review the proposed changes for, among other things, consistency with existing state regulations.

This bill would require each state agency to, on or before January 1, 2023, review that agency's regulations, identify any regulations that are duplicative, overlapping, inconsistent, or out of date, to revise those identified regulations, as provided, and report to the

AB-2

Legislative Update
Prepared June 8, 2021, for the June 17, 2021
Meeting of the Occupational Safety and Health Standards Board

	<p>Legislature and Governor, as specified. The bill would repeal these provisions on January 1, 2024.</p>
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	<p>Board staff are monitoring this legislation to determine if regulatory action by the Board is called for.</p>
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Legislative Update
Prepared June 8, 2021, for the June 17, 2021
Meeting of the Occupational Safety and Health Standards Board

AB-7	AB-7 Emergency ambulance employees: subsidized protective gear. (2021-2022) (Carillo, Luz Reyes, and Lorena Gonzalez)	
	Date	Action
	05/28/21	In Senate. Read first time. To Com. on RLS. for assignment.
	05/27/21	Read third time. Passed. Ordered to the Senate. (Ayes 61. Noes 11.)
	05/24/21	Read second time. Ordered to third reading.
	05/20/21	From committee: Do pass. (Ayes 12. Noes 4.) (May 20).
	05/20/21	Coauthors revised.
	05/12/21	In committee: Set, first hearing. Referred to APPR. suspense file.
	04/26/21	From committee: Do pass and re-refer to Com. on APPR. (Ayes 6. Noes 0.) (April 22). Re-referred to Com. on APPR.
	04/14/21	Re-referred to Com. on L. & E.
04/13/21	From committee chair, with author's amendments: Amend, and re-refer to Com. on L. & E. Read second time and amended.	
<u>Summary:</u>		
<p>AB 7, as amended, Rodriguez. Emergency ambulance employees: subsidized <i>multithreat body</i> protective gear.</p> <p>Existing law establishes a statewide system for emergency medical services and establishes services, through which the Emergency Medical Services Authority, which is responsible for establishing Authority is responsible for the coordination and integration of all state activities concerning emergency medical services, including on matters of training, scope of practice, and continuing education for emergency medical technicians and other prehospital personnel. Existing law, the California Occupational Safety and Health Act of 1973, imposes safety responsibilities on employers and employees, including requirements that every employer furnish and use safety devices and safeguards, and adopt and use practices that are reasonably adequate to render the employment and place of employment safe and healthful. Existing law makes a violation of those requirements a crime.</p>		

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~~This bill would require an emergency ambulance provider to establish a voluntary personal protective equipment (PPE) program that allows for the purchase of subsidized multithreat body protective gear that is bullet, strike, slash, and stab resistant by an emergency ambulance employee pursuant to an employer-funded stipend, and authorize an employee to voluntarily participate in a PPE program and to wear the PPE while on duty. The bill would require a provider to inform an employee of the opportunity to purchase subsidized multithreat body protective gear through a PPE program. By~~

This bill would, upon request by an emergency ambulance employee, require an emergency ambulance provider to provide that employee with multithreat body protective gear, defined as material or equipment that is worn by an employee and is bullet, strike, slash, and stab resistant, and, for these purposes only, to be considered as part of the above-described safety devices and safeguards. The bill would require the provider to make the protective gear readily available for the requesting employee to use when responding to an emergency call, and to provide training to that employee on the proper fitting and use of the protective gear, as specified. The bill would require an emergency ambulance provider to inform each emergency ambulance employee, upon initial employment and subsequently on an annual basis, of the employee's right to request multithreat body protective gear.

By creating new duties for emergency ambulance providers, a violation of which would be a crime, the bill would impose a state-mandated local program. The bill would not apply to the state or a political subdivision of the state.

The bill would require the Emergency Medical Services Authority to develop and establish standards for the protective gear provided, to develop a process of certification for the protective gear, and to develop guidelines for the above-described training, as specified.

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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AB-29 State bodies: meetings. (2021-2022)
 (Cooper and Rubio)

Date	Action
05/20/21	In committee: Held under submission.
04/21/21	In committee: Set, first hearing. Referred to APPR. suspense file.
04/12/21	From committee: Do pass and re-refer to Com. on APPR. (Ayes 22. Noes 0.) (April 8). Re-referred to Com. on APPR.

Summary:

AB 29, as introduced, Cooper. State bodies: meetings.

AB-29

Existing law, the Bagley-Keene Open Meeting Act, requires that all meetings of a state body, as defined, be open and public, and that all persons be permitted to attend any meeting of a state body, except as otherwise provided in that act. Existing law requires the state body to provide notice of its meeting, including specified information and a specific agenda of the meeting, as provided, to any person who requests that notice in writing and to make that notice available on the internet at least 10 days in advance of the meeting.

This bill would require that notice to include all writings or materials provided for the noticed meeting to a member of the state body by the staff of a state agency, board, or commission, or another member of the state body that are in connection with a matter subject to discussion or consideration at the meeting. The bill would require those writings or materials to be made available on the state body's internet website, and to any person who requests the writings or materials in writing, on the same day as the dissemination of the writings and materials to members of the state body or at least 72 hours in advance of the meeting, whichever is earlier. The bill would prohibit a state body from discussing those writings or materials, or from taking action on an item to which those writings or materials pertain, at a meeting of the state body unless the state body has complied with these provisions.

Board staff are monitoring this legislation for cost and impacts to its meeting requirements.

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AB-62 Income taxes: credits: costs to comply with COVID-19 regulations. (2021-2022)
 (Gray)

Date	Action
03/22/21	In committee: Hearing postponed by committee.

Summary:

AB 62, as introduced, Gray. Income taxes: credits: costs to comply with COVID-19 regulations.

AB-62

The Personal Income Tax Law and the Corporation Tax Law allow various credits against the taxes imposed by those laws. Existing law requires any bill authorizing a new tax credit to contain, among other things, specific goals, purposes, and objectives that the tax credit will achieve, detailed performance indicators, and data collection requirements.

This bill would allow a credit against those taxes for each taxable year beginning on or after January 1, 2021, to a qualified taxpayer, as defined, in an amount equal to the total amount paid or incurred during the taxable year by the qualified taxpayer to comply with the regulations adopted by the Occupational Safety and Health Standards Board on November 19, 2020, relating to COVID-19 prevention and approved by the Office of Administrative Law. The bill also would state the intent of the Legislature to comply with the additional information requirement for any bill authorizing a new income tax credit.

This bill would take effect immediately as a tax levy.

Board staff are monitoring this legislation for any potential impacts to its COVID-19 Emergency Temporary Standards.

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AB-73	AB-73 Employment safety: agricultural workers: wildfire smoke. (2021-2022) (Rivas, Garcia, Gonzalez, and Kalra)	
	Date	Action
	06/02/21	In Senate. Read first time. To Com. on RLS. for assignment.
	06/01/21	Read third time. Urgency clause adopted. Passed. Ordered to the Senate. (Ayes 78. Noes 0.).
	05/25/21	Read second time. Ordered to third reading.
	05/24/21	Read second time and amended. Ordered returned to second reading.
	05/20/21	From committee: Amend, and do pass as amended. (Ayes 16. Noes 0.) (May 20).
	04/28/21	In committee: Set, first hearing. Referred to APPR. suspense file.
	04/13/21	Re-referred to Com. on APPR.
	04/12/21	Read second time and amended.
	04/08/21	From committee: Amend, and do pass as amended and re-refer to Com. on APPR. (Ayes 7. Noes 0.) (April 8).
03/30/21	Re-referred to Com. on L. & E.	
<u>Summary:</u>		
AB 73, as introduced, Robert Rivas. Employment safety: agricultural workers: wildfire smoke.		
<i>(1) Existing law establishes the State Department of Public Health (department) to implement various programs throughout the state relating to public health, including licensing and regulating health facilities and control of infectious diseases. Existing law requires the department and the Office of Emergency Services, in coordination with other state agencies, to, upon appropriation and as necessary, establish a personal protective equipment (PPE) stockpile. Existing law requires the department to establish guidelines for the procurement, management, and distribution of PPE, taking into account, among other things, the amount of each type of PPE that would be required for all health care workers</i>		

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and essential workers, as defined, in the state during a 90-day pandemic or other health emergency.

This bill would specifically include wildfire smoke events among health emergencies for these purposes. The bill would include agricultural workers, as defined, in the definition of essential workers.

Existing law also establishes the Personal Protective Equipment Advisory Committee (committee), consisting of representatives from, among other groups, an association representing skilled nursing facilities, a statewide association representing physicians, and labor organizations that represent health care workers to make recommendations to the department for the development of guidelines for the procurement, management, and distribution of PPE, as specified.

This bill would reduce the number of representatives of labor organizations that represent essential workers to one and would require the committee to include a representative of a labor organization representing agricultural workers. The bill would also require the department to report to the Legislature regarding the PPE stockpile within 6 months of the effective date of these provisions.

Existing

(2) Existing law establishes the Division of Occupational Safety and Health within the Department of Industrial Relations and requires the division to, among other things, monitor, analyze, and propose health and safety standards for workers. Existing law authorizes the division to adopt regulations to implement health and safety standards. Under existing law, certain violations of a standard, order, or special order pursuant to these provisions are crimes.

~~Existing regulations require, under certain circumstances, an employer to provide respirators to employees for voluntary use when the air quality index for small particulate matter exceeds certain thresholds, and to encourage employees to use the respirators. of the division protect employees exposed to wildfire smoke and include control by respiratory protective equipment among the methods to control harmful exposure.~~

~~This bill would, among other things, require the division to designate a wildfire smoke strike team within each regional office for purposes of enforcing regulations regarding air quality safety for agricultural workers, as defined. The bill would require the division, by January 1, 2023, to establish a stockpile of N95 filtering facepiece respirators, as defined, of sufficient size to adequately equip all agricultural workers during wildfire smoke emergencies. The bill would require the division to establish guidelines for procurement, management, and distribution of the N95 respirators. to enforce wildfire smoke protection regulations under specified conditions with regard to agricultural workplaces and agricultural employees.~~

~~The bill would require agricultural employers to furnish regional offices of the division with employee totals, by month, to ensure that adequate amounts of N95 respirators are~~

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	<p>stockpiled. The bill would grant these agricultural employers access to the regional stockpiles during wildfire smoke emergencies, unless the agricultural employer failed to register their employee totals.</p> <p>The bill would require the division, by January 1, 2023, to develop and distribute related prescribed air quality training and information, and including, but not limited to, how to use N95 respirators safely. The bill would require employers to periodically conduct the training. The bill would, in addition, commencing January 1, 2023, require refresher training during wildfire smoke emergencies and prior to distribution of the respirators.</p> <p>Because a violation of certain safety and health standards or orders constitutes a crime, this bill would impose a state-mandated local program.</p> <p>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.</p> <p>This bill would provide that no reimbursement is required by this act for a specified reason.</p> <p>This bill would declare that it is to take effect immediately as an urgency statute.</p> <p>Board staff are monitoring this legislation to determine if regulatory action by the Board is called for.</p>
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AB-257	AB 257 Food facilities and employment. (2021-2022) (Gonzalez)	
	Date	Action
	06/03/21	Motion to reconsider made by Assembly Member Lorena Gonzalez.
	06/03/21	Read third time. Refused passage.
	05/24/21	Read second time. Ordered to third reading.
	05/20/21	From committee: Do pass. (Ayes 12. Noes 4.) (May 20).
	05/20/21	Joint Rule 62(a), file notice suspended.

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05/19/21	In committee: Set, first hearing. Referred to APPR. suspense file.
04/29/21	Re-referred to Com. on APPR.
04/28/21	Read second time and amended.
04/27/21	From committee: Amend, and do pass as amended and re-refer to Com. on APPR. (Ayes 7. Noes 3.) (April 27).
04/26/21	From committee: Do pass and re-refer to Com. on JUD. (Ayes 5. Noes 2.) (April 22). Re-referred to Com. on JUD.
04/19/21	(pending re-refer to Com. on JUD.)
04/19/21	Assembly Rule 56 suspended.
03/26/21	Re-referred to Com. on L. & E.
03/25/21	From committee chair, with author's amendments: Amend, and re-refer to Com. on L. & E. Read second time and amended.
03/25/21	Referred to Coms. on L. & E. and JUD.

Summary:

AB 257, as amended, Lorena Gonzalez. ~~Fast food industry: working standards.~~ Food facilities and employment.

Existing law prescribes various protections for employees and generally charges the Labor Commissioner with the enforcement of labor laws. Existing law establishes the powers and responsibilities of the Division of Occupational Safety and Health and the Division of Labor Standards and Enforcement, which are within the Department of Industrial Relations. Existing law creates the California Retail Food Code, which establishes uniform health and sanitation standards for, and provides for regulation by the State Department of Public Health of, retail food facilities, as defined, and requires local health agencies to enforce these provisions.

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This bill would enact the Fast Food Accountability and Standards Recovery Act or FAST Recovery Act. The bill would establish the Fast Food Sector Council (council), to be composed of 11 members to be appointed by the Governor, the Speaker of the Assembly, and the Senate Rules Committee, and would prescribe its powers. The purpose of the council would be to establish industry-wide minimum standards on wages, working hours, and other working conditions related to the health, safety, and welfare of, and supplying the necessary cost of proper living to, fast food restaurant workers, as well as effecting interagency coordination and prompt agency responses in this regard. The bill would define the characteristics of a fast food restaurant, including that the establishment be part of a set of fast food restaurants consisting of 30 or more establishments nationally that share a common brand, or that are characterized by standardized options for decor, marketing, packaging, products, and services.

This bill would require the council to promulgate minimum fast food restaurant employment standards, including standards on wages, working conditions, and training, and to issue, amend, and repeal any other rules and regulations, as necessary to carry out its duties. Under the bill, if a conflict exists between council's standards, rules, or regulations and those issued by another state agency, the standards, rules, or regulations issued by the council would apply to fast food restaurant workers and fast food restaurant franchisees and franchisors, and the conflicting rules or regulations of the other state agency would not have force or effect with respect to these parties. The bill would except from this application proposed standards within the jurisdiction of the Occupational Safety and Health Standards Board and would prescribe an alternate process in this regard.

This bill would require the council to conduct a full review of the adequacy of minimum fast food restaurant health, safety, and employment standards at least once every 3 years, and would empower the council to issue subpoenas for this purpose. The bill would require the council, following that review, to issue, amend, or repeal, or make recommendations to issue, amend, or repeal, any fast food employment, health or safety standard as appropriate. The bill would require the council to hold hearings every 6 months that would be open to the public, as specified, and would authorize the council to coordinate with and authorize local agencies to hold such meetings. The bill would authorize a county, and a city with a population greater than 200,000, to establish a Local Fast Food Sector Council, and would prescribe its powers and requirements for its composition. The bill would authorize a Local Fast Food Sector Council to provide recommendations to the council and would prescribe requirements for the state council in connections with these recommendations.

This bill would require standards for minimum wages, maximum hours of work, and other working conditions fixed by the council to be the minimum standards for fast food restaurant employees and would require that they be enforced by the Division of Labor Standards Enforcement. The bill would require the Labor Commissioner and the commissioner's deputies to take assignments of violations of standards issued by the

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council upon the filing of a claim in writing by an employee or an employee's authorized representative.

In addition to the above, FAST Recovery Act would require that fast food restaurant franchisor be responsible for ensuring that its franchisee comply with a variety of employment, worker, and public health and safety laws and orders, including those related to unfair business practices, ~~general liability~~, employment discrimination, the California Retail Food Code, a range of labor regulations, emergency orders, and standards issued by the council. The bill would require that a fast food restaurant franchisor be jointly and severally liable for violations of its franchisee, as specified, and would provide that specified laws may be enforced against a fast food restaurant franchisor to the same extent that they may be enforced against a franchisee. Among other things, the bill would authorize a fast food restaurant franchisee to file an action against its franchisor for monetary or injunctive relief in connection with the terms of a franchise and the franchisee's compliance with specified laws and orders. The bill would create presumptions in this regard and would provide for joint and several liability of the franchisor if the terms of a franchise are found to be a substantial factor in causing the franchisee to be liable. The bill would prohibit a fast food restaurant ~~franchisee or fast food restaurant franchisor~~ *operator* from discharging or in any manner discriminating or retaliating against any fast food restaurant employee for specified reasons and would create a cause of action and right to reinstatement for employees in this ~~connection~~ *connection, as well as a presumption of unlawful discrimination and retaliation in certain circumstances.*

Existing law requires a local health officer or a local enforcement agency to notify the person in charge of the food facility, investigate conditions, and take appropriate action when a local health officer is notified of an illness that can be transmitted by food or an employee in a food facility. Existing law requires the owner or the food safety certified employee to require food employees to report to the person in charge if a food employee is diagnosed with an illness. Existing law specifies that illness, for purposes of those requirements, includes salmonella typhi and norovirus, among others. A person who violates any provision of the California Retail Food Code is guilty of a misdemeanor.

This bill would additionally include COVID-19 as an illness for purposes of the above-described requirements. By increasing the duties of local officials and expanding the definition of an existing crime, this bill 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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	AB-420 Public health: amusement parks and COVID-19. (2021-2022) (Quirk-Silva and Valladares)	
	Date	Action
	03/01/21	Re-referred to Com. on A.,E.,S.,T., & I.M..
	02/25/21	From committee chair, with author's amendments: Amend, and re-refer to Com. on A.,E.,S.,T., & I.M. Read second time and amended.
	02/25/21	Referred to Coms. on A.,E.,S.,T., & I.M. and L. & E.
	02/05/21	From printer. May be heard in committee March 7.
	02/04/21	Read first time. To print.
AB-420	<u>Summary:</u>	
	<p>AB 420, as introduced, Quirk-Silva. Public health: amusement parks and COVID-19.</p> <p>Existing law, 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. Pursuant to this authority, on March 4, 2020, the Governor declared a state of emergency relating to the novel coronavirus 2019 (COVID-19) pandemic. On August 28, 2020, the executive branch implemented a 4-tier "Blueprint for a Safer Economy," which identifies a county's COVID-19 risk level for business operations on a scale from widespread risk to minimal risk. On October 20, 2020, the State Department of Public Health and the Division of Occupational Safety and Health issued a guidance document, "COVID-19 INDUSTRY GUIDANCE: Amusement Parks and Theme Parks," which authorizes a small amusement park to operate at limited capacity when its county is in the moderate tier, and authorizes any other amusement park to operate at 25% capacity when its county is in the minimal tier.</p> <p>This bill would express the intent of the Legislature that the executive branch adjust the "COVID-19 INDUSTRY GUIDANCE: Amusement Parks and Theme Parks" document and place all amusement parks, regardless of size, within the moderate risk tier, rather than the minimal risk tier. If the executive branch takes those actions, the bill would require the Department of Industrial Relations to administer a competitive grant for amusement parks to be used by amusement parks to purchase personal protective equipment for their</p>	

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	<p>employees. The bill would appropriate \$500,000 from the General Fund for the grant program. The bill would also make related findings and declarations.</p> <p>Board staff are monitoring this legislation to determine if regulatory action by the Board is called for.</p>
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AB-473	AB-473 California Public Records Act.(2021-2022)	
	(Chau)	
	Date	Action
	06/03/21	Read third time. Passed. Ordered to the Senate.
	05/24/21	Read second time. Ordered to third reading.
	05/20/21	From committee: Do pass. (Ayes 16. Noes 0.) (May 20).
	04/21/21	In committee: Set, first hearing. Referred to APPR. suspense file.
04/05/21	Re-referred to Com. on APPR. pursuant to Assembly Rule 97.	
<u>Summary:</u>		
AB 473, as introduced, Chau. California Public Records Act.		
The California Public Records Act requires state and local agencies to make their records available for public inspection, unless an exemption from disclosure applies.		
This bill would recodify and reorganize the provisions of the act. The bill would include provisions to govern the effect of recodification and state that the bill is intended to be entirely nonsubstantive in effect. The bill would contain related legislative findings and declarations. The bill would become operative on January 1, 2023.		
Board staff are monitoring this legislation.		

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AB-474	AB-474 California Public Records Act: conforming revisions. (2021-2022) (Chau)	
	Date	Action
	06/03/21	In Senate. Read first time. To Com. on RLS. for assignment.
	06/02/21	Read third time. Passed. Ordered to the Senate. (Ayes 76. Noes 0.)
	05/27/21	Read third time and amended. Ordered to third reading.
	05/24/21	Read second time. Ordered to third reading.
	05/20/21	From committee: Do pass. (Ayes 16. Noes 0.) (May 20).
	04/21/21	In committee: Set, first hearing. Referred to APPR. suspense file.
	04/05/21	Re-referred to Com. on APPR. pursuant to Assembly Rule 97.
	<p><u>Summary:</u></p> <p>AB 474, as introduced, Chau. California Public Records Act: conforming revisions.</p> <p>The California Public Records Act requires state and local agencies to make their records available for public inspection, unless an exemption from disclosure applies.</p> <p>This bill would enact various conforming and technical changes related to another bill that recodifies and reorganizes the California Public Records Act. The bill would only become operative if the related bill recodifying the act is enacted and becomes operative on January 1, 2023. The bill would also specify that any other bill enacted by the Legislature during the 2021 calendar year that takes effect on or before January 1, 2022, and that affects a provision of this bill shall prevail over this act, except as specified.</p> <p>Board staff are monitoring this legislation.</p>	

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AB-701	AB-701 Warehouse distribution centers. (2021-2022) (Gonzalez)	
	Date	Action
	05/28/21	In Senate. Read first time. To Com. on RLS. for assignment.
	05/28/21	Read third time. Passed. Ordered to the Senate. (Ayes 52. Noes 19.)
	05/24/21	Read second time. Ordered to third reading.
	05/20/21	From committee: Do pass. (Ayes 12. Noes 4.) (May 20).
	05/20/21	Joint Rule 62(a), file notice suspended.
	05/19/21	In committee: Set, first hearing. Referred to APPR. suspense file.
	05/18/21	Re-referred to Com. on APPR.
	04/26/21	From committee: Do pass and re-refer to Com. on APPR. (Ayes 5. Noes 2.) (April 22). Re-referred to Com. on APPR.
	04/13/21	Re-referred to Com. on L. & E.
04/12/21	From committee chair, with author's amendments: Amend, and re-refer to Com. on L. & E. Read second time and amended.	
<u>Summary:</u>		
AB 701, as amended, Lorena Gonzalez. Warehouse distribution centers.		
(1) Existing law relating to employment regulation and supervision imposes special provisions on certain occupations and industries. Existing law charges the Labor Commissioner and the Division of Labor Standards Enforcement with the enforcement of labor laws.		
This bill, among other things, would require specified employers to provide to each employee, defined as a nonexempt employee who works at a warehouse distribution center, <i>upon hire, with</i> a written description of each quota to which the employee is subject, including the quantified number of tasks to be performed, or materials to be produced or handled, within the defined time period, and any potential adverse employment action that could result from failure to meet the quota. The bill would require, if the quota or the adverse		

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~~consequences for failure to meet the quota have changed, the employer to provide the employee with a revised written description. provide that an employee shall not be required to meet a quota that prevents compliance with meal or rest periods or health and safety laws.~~ The bill would prohibit an employer from taking adverse action against an employee for failure to meet a quota that has not been disclosed or for failure to meet a quota that does not allow a worker to comply with *meal or rest periods* or health and safety laws. The bill would require that any action taken by an employee to comply with health and safety laws or division standards be considered time on task and productive time for the purposes of any quotas or monitoring system.

~~This bill would give a current and former employee, or their representative, the right to inspect or receive a copy of the most recent 3 months of that employee's personal work speed data, as provided. The bill would require an employer, at the time of hiring, to provide each employee with written notice of the employee's right to comply with health and safety laws without retaliation, the requirement that actions taken by an employee to comply with health and safety laws be considered productive work time, and the employee's right to file a complaint with the commissioner or the Division of Occupational Safety and Health. The bill would also authorize a current or former employee to bring an action for injunctive relief to obtain compliance with these requirements and to recover costs and reasonable attorney's fees.~~

~~This bill would provide that if a current or former employee believes that meeting a quota caused a violation of their right to a meal or rest period or required them to violate any health and safety standard, they have the right to request, and the employer is required to provide, a written description of each quota to which the employee is subject and a copy of the most recent 3 weeks of the employee's own personal work speed data. The bill would require the Labor Commissioner, if any employee files a complaint alleging violations of these provisions, to provide each employee in the workplace with a written notice containing information regarding the employee's right to report specified violations and regarding the employer being prohibited from retaliating against an employee for reporting unsafe workplace conditions or participating in an investigation by an enforcement agency. The bill would also authorize a current or former employee to bring an action for injunctive relief to obtain compliance with specified requirements, and may, upon prevailing in the action, recover costs and reasonable attorney's fees in that action.~~

(2) Under existing law, the California Occupational Safety and Health Act of 1973, the Division of Occupational Safety and Health investigates complaints that a workplace is not safe and may issue orders necessary to ensure employee safety. Under existing law, certain violations of that act or a standard, order, or special order authorized by the act are a crime.

This bill would require the division, by January 1, 2023, to propose to the Occupational Safety and Health Standards Board for the board's review and adoption a standard that minimizes the risk of musculoskeletal injuries and disorders among employees working in warehouse distribution centers, as provided. Because this bill would expand the definition of an existing

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crime, it would impose a state-mandated local program. The bill would also require the division, when an employee files a complaint, to provide the employee with a written notice containing specified information regarding their rights.

(3) 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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AB-783	AB 783 Surface mines: safety regulation. (2021-2022) (Gray)	
	Date	Action
	06/02/21	In Senate. Read first time. To Com. on RLS. for assignment.
	06/01/21	Read third time. Passed. Ordered to the Senate. (Ayes 79. Noes 0.)
	05/25/21	Read second time. Ordered to third reading.
	05/24/21	Read second time and amended. Ordered returned to second reading.
	05/20/21	From committee: Amend, and do pass as amended. (Ayes 13. Noes 0.) (May 20).
	05/05/21	In committee: Set, first hearing. Referred to APPR. suspense file.
	04/26/21	From committee: Do pass and re-refer to Com. on APPR. (Ayes 7. Noes 0.) (April 22). Re-referred to Com. on APPR.
	02/25/21	Referred to Com. on L. & E.
02/17/21	From printer. May be heard in committee March 19.	
<u>Summary:</u>		
AB 783, as introduced, Gray. Surface mines: safety regulation.		
Existing law, enforced by the Division of Occupational Safety and Health, defines and regulates mines and tunnels and distinguishes between above ground, or surface mines, and underground mines. Existing law requires that sufficient manpower be maintained to provide for 4 annual inspections of underground mines, one inspection of surface mines or quarries annually, and 6 inspections of tunnels under construction annually.		

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Existing law requires the Division of Occupational Safety and Health to issue citations if, upon inspection, an employer violates specified standards, rules, orders, or regulations. Existing law authorizes a notice to be issued in lieu of a citation if specified conditions are met. Existing law prohibits a citation or notice from being issued by the division more than 6 months after the occurrence of the violation.

~~This bill would authorize a surface mine that has been accepted into, and is currently in compliance with, the Voluntary Protection Program of the Division of Occupational Safety and Health to be excepted from the annual inspection requirement described above. The bill would prohibit specify that the division is prohibited from issuing a citation or notice to a surface mine employer more than 6 months after the occurrence of a violation. For inspections at a surface mine, the bill would require the division to provide the employer a specified notice of hazard within 72 hours after the inspection for observable conditions that may cause an injury if not addressed with reasonable promptness. The bill would prohibit the absence of identification of particular conditions in a notice, or the failure of the division to note particular conditions in a notice, from being grounds to dismiss or prevent applicable enforcement or corrective action.~~

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

AB-885	AB-885 Bagley-Keene Open Meeting Act: teleconferencing.(2021-2022) (Quirk)	
	Date	Action
	03/25/21	Re-referred to Com. on G.O.
	03/24/21	From committee chair, with author's amendments: Amend, and re-refer to Com. on G.O. Read second time and amended.
	02/25/21	Referred to Com. on G.O.
	02/18/21	From printer. May be heard in committee March 20.
	02/17/21	Read first time. To print.
<u>Summary:</u>		

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AB 885, as amended, Quirk. Bagley-Keene Open Meeting Act: teleconferencing.

The Bagley-Keene Open Meeting Act (Bagley-Keene Act), requires, with specified exceptions, that all meetings of a state body, as defined, be open and public, and all persons be permitted to attend any meeting of a state body, except as provided. The Bagley-Keene Act, among other things, requires a state body that elects to conduct a meeting or proceeding by teleconference to make the portion of the meeting that is required to be open to the public audible to the public at the location specified in the notice of the meeting. The Bagley-Keene Act requires a state body that elects to conduct a meeting or proceeding by teleconference to post agendas at all teleconference locations, identify each teleconference location in the notice and agenda of the meeting or proceeding, and requires each teleconference location to be accessible to the public. That law authorizes any meeting of a state body that is an advisory board, advisory commission, advisory committee, advisory subcommittee, or similar multimember advisory body to hold an open meeting by teleconference if the meeting complies with the requirements of the act, except as provided. Existing law requires that when a member of a multimember state advisory body participates remotely the body provide a means by which the public may remotely hear audio of the meeting or remotely observe the meeting. Existing law requires a multimember state advisory body to end or adjourn a meeting if it discovers that a required means of remote access has failed during the meeting, and, if the meeting is to adjourn and reconvene on the same day, that law requires the body to communicate, among other things, how a member of the public may hear audio of the meeting or observe the meeting.

This bill would require a state body that elects to conduct a meeting or proceeding by teleconference to make the portion that is required to be open to the public both audibly and visually observable. The bill would require a state body that elects to conduct a meeting or proceeding by teleconference to post an agenda at the designated primary physical meeting location in the notice of the meeting where members of the public may physically attend the meeting and participate. The bill would extend the above requirements of meetings of multimember advisory bodies that are held by teleconference to meetings of all multimember state bodies. The bill would require a multimember state body to provide a means by which the public may both audibly and visually remotely observe a meeting if a member of that body participates remotely. The bill would further require any body that is to adjourn and reconvene a meeting on the same day to communicate how a member of the public may both audibly and visually observe the meeting. The bill would also make nonsubstantive changes to those provisions.

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

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	<p>findings demonstrating the interest protected by the limitation and the need for protecting that interest.</p> <p>This bill would make legislative findings to that effect.</p> <p>Board staff are monitoring this legislation for cost and impacts to its meeting requirements.</p>
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AB-893 Emergency regulations: Division of Occupational Safety and Health: State Department of Public Health. (2021-2022)

(Davies)

Date	Action
02/25/21	Referred to Com. on A. & A.R.
02/18/21	From printer. May be heard in committee March 20.
02/17/21	Read first time. To print

Summary:

AB 893, as introduced, Davies. Emergency regulations: Division of Occupational Safety and Health: State Department of Public Health.

AB-893

Existing law establishes the Occupational Safety and Health Standards Board within the Department of Industrial Relations to adopt occupational health and safety standards to protect the welfare of employees. The Division of Occupational Safety and Health enforces occupational safety and health standards and orders.

Existing law establishes the State Department of Public Health, within the California Health and Human Services Agency, and vests the department with certain duties, powers, functions, jurisdiction, and responsibilities over specified public health programs.

Existing law, the Administrative Procedure Act, governs, among other things, the procedures for the adoption, amendment, or repeal of regulations, including emergency regulations, by state agencies and for the review of those regulatory actions by the Office of Administrative Law.

This bill would require the Division of Occupational Safety and Health or the State Department of Public Health, within 14 calendar days of the release of a federal recommendation that conflicts with an emergency regulation related to COVID-19 issued by the division or the department, to review the conflicting emergency regulation and make a determination to either amend the regulation or submit a report to the Legislature on the decision not to amend the regulation, as specified. The bill would require the division or department, before determining whether to amend the emergency regulation, to provide public notice and an opportunity for public comment. The bill would repeal these provisions

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	<p>90 days after the termination of the state of emergency related to the COVID-19 pandemic declared by the Governor.</p> <p>This bill would declare that it is to take effect immediately as an urgency statute.</p> <p>Board staff are monitoring this legislation to determine if regulatory action by the Board is called for.</p>
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AB-1175	<p>AB-1175 Division of Occupational Safety and Health: inspections and investigations: advance notice. (2021-2022)</p> <p style="text-align: center;">(Aguiar-Curry)</p>	
	Date	Action
	05/05/21	In committee: Set, first hearing. Referred to APPR. suspense file.
	04/26/21	From committee: Do pass and re-refer to Com. on APPR. (Ayes 7. Noes 0.) (April 22). Re-referred to Com. on APPR.
	<p><u>Summary:</u></p> <p>AB 1175, as amended, Aguiar-Curry. Employees: regulation and supervision. Division of Occupational Safety and Health: inspections and investigations: advance notice.</p> <p>Existing law, the California Occupational Safety and Health Act of 1973, vests the Division of Occupational Safety and Health within the Department of Industrial Relations with the power, jurisdiction, and supervision over every employment and place of employment, which is necessary adequately to enforce and administer all laws and lawful standards and orders, or special orders requiring such employment and place of employment to be safe, and requiring the protection of the life, safety, and health of every employee in such employment or place of employment, including to inspect and investigate employments and places of employment, as prescribed. The Occupational Safety and Health Administration (OSHA), except as provided, prohibits a person or employer from being given advance warning of an inspection or investigation by any authorized representative of the division. OSHA authorizes the Chief of the Division of Occupational Safety and Health or an authorized representative to permit advance notice of an inspection or investigation as</p>	

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prescribed by the Director of Industrial Relations. OSHA prohibits the authorization of advance notice when the investigation or inspection is to be made as a result of an employee complaint, unless there is imminent danger to the health or safety of an employee or employees. OSHA makes it a crime, punishable as prescribed, for any person to give unauthorized advance notice of any inspection to be conducted.

This bill would revise those advance warning provisions to prohibit any representative of the division from giving advance notice of an inspection or investigation to an employer or other person unless authorized under OSHA. The bill would authorize the chief or their authorized representatives to permit advance notice of an inspection or investigation when advance notice is necessary to ensure availability of essential personnel or access to the site, equipment, or process, as prescribed by the director. The bill would delete the prohibition on the authorization of advance notice when the investigation or inspection is to be made as a result of an employee complaint. The bill would expand the crime to apply to unauthorized advance notice of an investigation to be conducted, thereby imposing 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.

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AB-1291 State bodies: open meetings. (2021-2022)
(Frazier)

Date	Action
05/12/21	Referred to Com. on G.O.
05/03/21	In Senate. Read first time. To Com. on RLS. for assignment.
04/29/21	Read third time. Passed. Ordered to the Senate.
04/22/21	Read second time. Ordered to Consent Calendar.
04/21/21	From committee: Do pass. To Consent Calendar. (Ayes 14. Noes 0.) (April 21).
04/12/21	From committee: Do pass and re-refer to Com. on APPR. with recommendation: To Consent Calendar. (Ayes 22. Noes 0.) (April 8). Re-referred to Com. on APPR.

AB-1291

Summary:

AB 1291, as introduced, Frazier. State bodies: open meetings.

The Bagley-Keene Open Meeting Act requires that meetings of a state body be open and public and that all persons be permitted to attend, with certain exceptions. Existing law provides that, subject to certain exceptions and reasonable regulations, the state body shall provide members of the public an opportunity to directly address the state body on agenda items. Existing law authorizes the state body to limit the amount of time allotted for each member of the public to speak, but specifies that members of the public who use translators shall be given twice that allotted amount of time.

This bill would also require a state body, when it limits time for public comment, to provide at least twice the allotted time to a member of the public who utilizes translating technology to address the state body. The bill would additionally make technical, nonsubstantive changes.

Board staff are monitoring this legislation for cost and impacts to its meeting requirements.

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SB-321	SB-321 Employment safety standards: household domestic services. (2021-2022) (Durazo)	
	Date	Action
	06/02/21	In Assembly. Read first time. Held at Desk.
	06/01/21	Read third time. Passed. (Ayes 30. Noes 10.) Ordered to the Assembly.
	05/20/21	Read second time. Ordered to third reading.
	05/20/21	From committee: Do pass. (Ayes 5. Noes 2.) (May 20).
	05/14/21	Set for hearing May 20.
	05/04/21	May 3 hearing: Placed on APPR suspense file.
	04/21/21	Set for hearing May 3.
	04/15/21	Read second time and amended. Re-referred to Com. on APPR.
	04/14/21	From committee: Do pass as amended and re-refer to Com. on APPR. (Ayes 8. Noes 2.) (April 13).
	03/25/21	Set for hearing April 13.
03/23/21	From committee: Do pass and re-refer to Com. on JUD. (Ayes 4. Noes 1.) (March 22). Re-referred to Com. on JUD.	
<p><u>Summary:</u></p> <p>SB 321, as amended, Durazo. Employment safety standards: household domestic services.</p> <p>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. Existing law charges the Division of Occupational Safety and Health within the Department of Industrial Relations with enforcement of the act, subject to oversight by the Chief of the Division of Occupational Safety <i>and Health</i> (chief). Existing law makes a violation of the act a crime.</p> <p>Existing law defines “employment,” for purposes of the act, to include the carrying on of any trade, enterprise, project, industry, business, occupation, or work, including all excavation, demolition, and construction work, or any process or operation in any way related thereto,</p>		

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in which any person is engaged or permitted to work for hire, except household domestic service.

This bill would delete the above-described exception for household domestic service, thereby making it subject to the act. The bill would provide, however, that “employment” does not include household domestic service that is publicly funded, as specified, unless it is subject to certain regulatory ~~provisions~~. *provisions, nor would “employment” include family daycare homes, as specified.* The bill would make coverage for household domestic service operative on January 1, 2023, as specified. By expanding the scope of a crime, the bill would impose a state-mandated local program.

The bill would require the chief or a representative of the chief to convene an advisory committee and, within 6 months of convening, in consultation with the Commission on Health and Safety and Workers’ Compensation, make findings and recommendations to the Occupational Safety and Health Standards Board for industry-specific regulations related to household domestic service. The bill would require the board to adopt industry-specific regulations pursuant to these provisions within a reasonable time and no later than January 1, 2023.

Existing law authorizes the chief and all qualified and authorized division inspectors and investigators to have free access to any place of employment to make an investigation or inspection during regular working hours, and at other reasonable times when necessary, for the protection of safety and health.

This bill would require the chief or their representative, when the workplace is a residential dwelling, to initiate telephone contact with the employer in response to an alleged violation received from a domestic service employee within a specified timeframe. The bill would require the chief or their representative to provide specified notice to the employer about the alleged violation and to investigate the violation in accordance with certain procedures. The bill would require the employer to provide specified information to the division regarding mitigation efforts to correct the violation and to provide copies of all correspondence received from the division to the domestic service employee or to post the correspondence, as specified. The bill would authorize the chief or their authorized representative, for complaints alleging serious illness or injury or death in household domestic service, to enter the premises with permission or with an inspection warrant without first initiating telephone contact, as specified. The bill would require investigations of complaints in household domestic service employment to be conducted in a manner that avoids any unwarranted invasion of personal privacy and to not contain any personal, financial, or medical information of residents residing in the residential dwelling that is not pertinent to the investigation of the complaint.

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

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SB-410	SB-410 Occupational safety and health: regulations. (2021-2022) (Leyva)	
	Date	Action
	05/28/21	Referred to Com. on L. & E.
	05/17/21	In Assembly. Read first time. Held at Desk.
	05/17/21	Read third time. Passed. (Ayes 22. Noes 9.) Ordered to the Assembly.
	05/05/21	Read second time. Ordered to third reading.
	05/04/21	From committee: Be ordered to second reading pursuant to Senate Rule 28.8.
	04/21/21	Set for hearing May 3.
	04/20/21	From committee: Do pass and re-refer to Com. on APPR. (Ayes 4. Noes 1.) (April 19). Re-referred to Com. on APPR.
	04/06/21	Set for hearing April 19.
<p><u>Summary:</u></p> <p>SB 410, as amended, Leyva. Occupational safety and health: regulations.</p> <p>Existing law establishes the Occupational Safety and Health Standards Board within the Department of Industrial Relations. Existing law authorizes the standards board to adopt, amend, or repeal occupational safety and health standards and orders, as defined, and requires the adoption of standards at least as effective as the federal standards for all issues for which federal standards have been promulgated under provisions of the federal Occupational Safety and Health Act of 1970. Existing law generally requires the adoption, amendment, or repeal of standards and orders by the standards board to comply with the rulemaking provisions of the Administrative Procedure Act (APA), but exempts from provisions of the APA relating to public participation and review of proposed regulations a standard or amendment to any standard adopted by the standards board that is substantially the same as a federal standard, including existing APA requirements, for a proposed nonmajor regulation, to prepare a prescribed economic impact assessment and,</p>		

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	<p>for a proposed major regulation, to prepare a standardized regulatory impact analysis in a manner prescribed by the Department of Finance.</p> <p>This bill would exempt any occupational safety and health standard and order from the standardized regulatory impact analysis requirement.</p> <p>Board staff are monitoring this legislation to determine if regulatory action by the Board is called for.</p>
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Business Meeting Executive Officer's Report