

# Occupational Safety and Health Standards Board

Public Meeting, Public Hearing and  
Business Meeting

**November 21, 2024**

Ronald Reagan State Building  
Auditorium  
300 South Spring Street  
Los Angeles, California

AND

Via teleconference / videoconference

# Occupational Safety and Health Standards Board

## Meeting Agenda

**OCCUPATIONAL SAFETY  
AND HEALTH STANDARDS BOARD**

2520 Venture Oaks Way, Suite 350  
Sacramento, CA 95833  
(916) 274-5721  
[www.dir.ca.gov/oshsb](http://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 healthy workplace for California workers.*

**AGENDA****OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD  
BOARD MEETING**

**PLEASE NOTE:** In accordance with section 11123 of the Government Code, Board members as well as members of the public may elect to participate via videoconference.

**NOVEMBER 21, 2024  
10:00 a.m.**

**In-person:**

Ronald Reagan State Building - Auditorium  
300 South Spring Street  
Los Angeles, CA 90013

**Videoconference:**

1. Go to [www.webex.com](http://www.webex.com)
2. Select "Join a Meeting"
3. Enter the meeting number: **1469 63 6425**
4. Join the meeting through the WebEx application **OR** web browser
5. Videoconference will be opened to the public at 9:50 a.m.

**Teleconference:**

1. Dial (844) 992-4726
2. Enter the meeting number **1469 63 6425** and follow the prompts
3. Teleconference will be opened to the public at 9:50 a.m.  
Note: Please mute your phone by pressing \*6 when not speaking.  
If you are to provide a comment, press \*6 to unmute.

**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:**

If attending the Occupational Safety and Health Standards Board (Board) meeting in-person, you will be added to the public comment queue upon completing a comment card on the day of the meeting.

If attending the meeting remotely and wish to comment on agenda items, you may submit a request to be added to the public comment queue either in advance of or during the meeting through one of the following methods:

**ONLINE:** Provide your information through the online comment queue portal at <https://videobookcase.org/oshsb/public-comment-queue-form/>

**PHONE:** Call **(510) 868-2730** to access the automated comment queue voicemail and provide†: 1) your name as you would like it listed; 2) your affiliation or organization; and 3) the topic you would like to comment on.

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

**I. CALL TO ORDER AND INTRODUCTIONS**

A. Spanish translation instructions

**II. REMARKS FROM THE CHAIR****III. PUBLIC HEARING**

A. Explanation of procedures

B. Proposed safety orders (revisions, additions, deletions)

1. TITLE 8:     **CONSTRUCTION SAFETY ORDERS**  
Sections 1951, 1952, 1953, 1955, 1956, and 1960  
**GENERAL INDUSTRY SAFETY ORDERS**  
Section 5156  
[\*\*Confined Spaces in Construction Clean-up\*\*](#)

C. Briefing on the Proposal

D. Public Comment

E. Board Member Comments and Questions

**IV. BUSINESS MEETING**

**Note:** The purpose of the Business Meeting is for the Board to conduct its monthly business. All matters on this agenda are subject to discussion and action as determine to be appropriate by the Board Chair.

For item C below, public comment will be limited to two minutes per speaker or four minutes for speakers requiring concurrent English translation.

**A. PROPOSED VARIANCE DECISIONS FOR ADOPTION**

- [Consent Calendar](#)
- Vote on consent calendar

**B. REPORTS**

- Executive Officer's Report
- Legislative Report
- Cal/OSHA Report
- Board Discussion of Cal/OSHA Autonomous Agricultural Vehicles Memorandum
  - i. Public comment on Board Discussion
- Subcommittee Report – Advisory Committee

**C. PUBLIC COMMENT ON NON-AGENDA ITEMS OR TO PROPOSE NEW OR REVISED STANDARDS**

This portion of the meeting is open to any interested person proposing new or revised standards to the Board or commenting on occupational safety and health issues (Labor Code section 142.2). The Board is prohibited to act on items that are not on the noticed agenda but may refer items to staff for future consideration.

Public comment will be limited to two minutes per speaker or four minutes for speakers requiring concurrent English translation.

If you cannot attend or stay until the end of the Board meeting but have a comment on a matter not on the agenda, your comment can be read into the record by OSHSB staff. Send your written comment (no more than 500 words) to [OSHSB\\_NAComments@dir.ca.gov](mailto:OSHSB_NAComments@dir.ca.gov) by 5:00 p.m. on November 20, 2024. OSHSB staff will do their best to read comments timestamped prior to 10:45 a.m. on November 21, 2024, when possible.

Any individual or group wishing to make a presentation during the Public Meeting is requested to contact Sarah Money, Executive Assistant, at (916) 274-5721 at least three weeks prior to the meeting to address any logistical concerns.

**D. COMMENTS BY BOARD MEMBERS**

Although any Board member may identify a topic of interest, the Board may not substantially discuss or act 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. (GC sections 11125 & 11125.7(a).).

**E. CLOSED SESSION**

- Public comment on Closed Session Agenda Items

### Pending Decisions

- Permanent Variance No. 20-V-096 (Tutor Perini/O&G JV)

### Matters Pending Litigation

- 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
- WSPA v. OSHSB, et al., County of Sacramento, CA Superior Court Case No. 34-2019-00260210

### Personnel

#### F. **RETURN TO OPEN SESSION**

- Report from closed session

#### G. **ADJOURNMENT OF THE MEETING**

**Next Meeting:** December 19, 2024  
Rancho Cordova City Hall  
American River Rooms  
2729 Prospect Park Drive  
Rancho Cordova, CA 95670  
10:00 a.m.

### **CLOSED SESSION**

- If necessary, consideration of personnel matters. (GC section 11126(a)(1)).
- If necessary, consideration of pending litigation pursuant to GC section 11126(e)(1).
- If necessary, to deliberate on a pending decision. (GC section 11126(c)(3)).

### **PUBLIC COMMENT**

#### **Public Hearing**

During public hearings, members of the public may provide comments regarding standards that have been noticed to the public for a 45-day comment period. An individual wishing to comment must complete a speaker comment card. Efforts will be made to accommodate everyone who signs up to speak. However, given time constraints, there is no guarantee that all who have signed up will be able to address the Board.

Each individual who submits a comment card will get up to two minutes to speak. The Board Chair may extend the speaking time allotted when practical. The total time for public comment is 120 minutes unless extended by the Board Chair.

**Business Meeting Non-Agendized**

During the Public Meeting, members of the public can 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. 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**

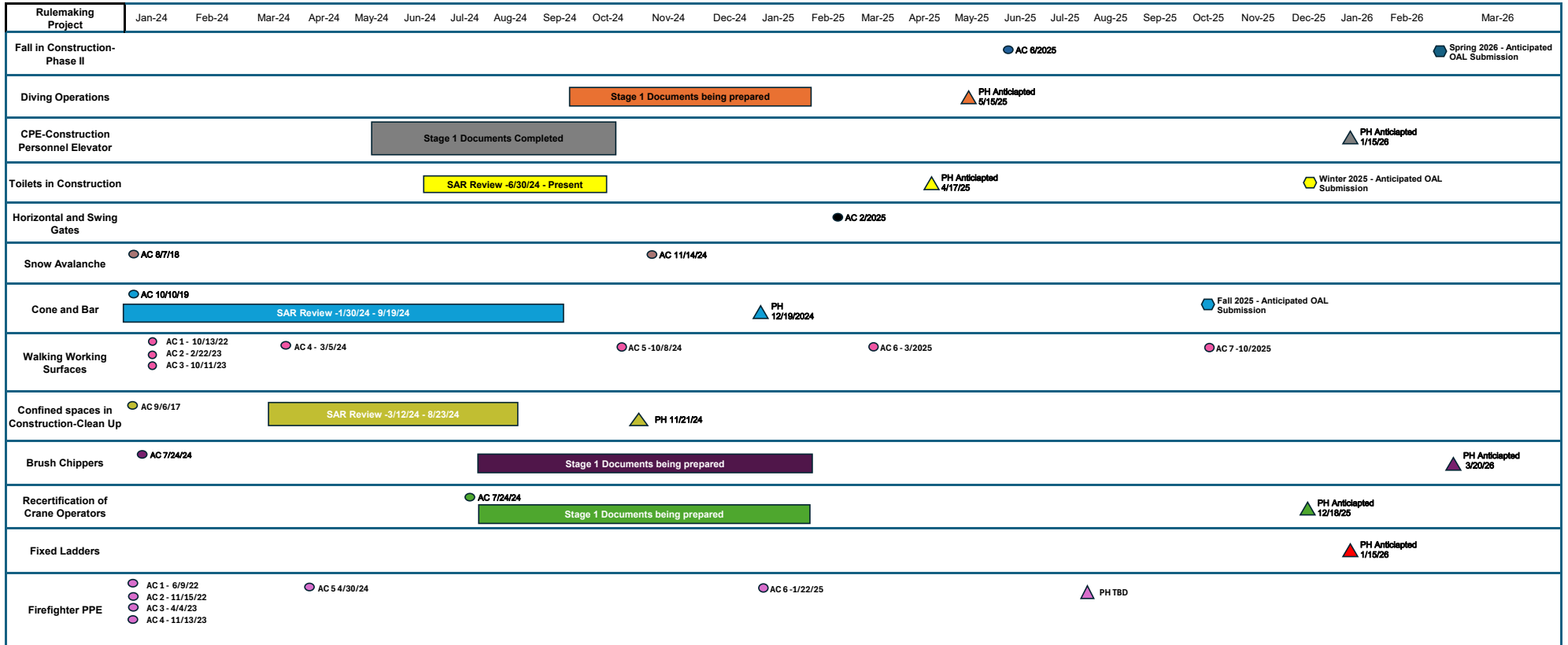
Disability accommodation is available upon request. Any person with a disability requiring an accommodation, auxiliary aid or service, or a modification of policies or procedures to ensure effective communication and access to the public hearings/meetings of the Board should contact the Disability Accommodation 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. Request may be made to by email to [oshsb@dir.ca.gov](mailto:oshsb@dir.ca.gov).

OSHSB Rulemaking Timeline  
 October 2024



Cal/OSHA Rulemaking Packages	Public Hearing
Crystalline Silica COC- Up fo a Vote	19-Dec-24
First Aid	Jun-25
Group V-Elevator Safety Orders	Jul-25
TCE (Trichloroethylene)	Sep-25
4 PELs (Permissible Exposure Limits: Cyclohexane, TBE, N-Propanol, TMA)	Nov-25
2 PELs (EGBE & EGBA)	Nov-26



# Occupational Safety and Health Standards Board

## Public Hearing

### Confined Spaces in Construction Clean-up

**TITLE 8**

**CONSTRUCTION SAFETY ORDERS**

**SECTIONS 1951, 1952, 1953, 1955, 1956, AND 1960**

**GENERAL INDUSTRY SAFETY ORDERS**

**SECTION 5156**

**[CONFINED SPACES IN CONSTRUCTION CLEAN-UP](#)**

**HYPERLINKS TO RULEMAKING DOCUMENTS:**

**[NOTICE/INFORMATIVE DIGEST](#)**

**[PROPOSED REGULATORY TEXT](#)**

**[INITIAL STATEMENT OF REASONS](#)**

**From:** [Neidhardt, Amalia@DIR](mailto:Neidhardt,Amalia@DIR)  
**To:** [Money, Sarah@DIR](mailto:Money,Sarah@DIR)  
**Cc:** [Ibarra, Ruth@DIR](mailto:Ibarra,Ruth@DIR); [Barajas, Millicent@DIR](mailto:Barajas,Millicent@DIR); [Gonzalez, Autumn@DIR](mailto:Gonzalez,Autumn@DIR); [Smith, Steven@DIR](mailto:Smith,Steven@DIR)  
**Subject:** FW: Advisory Opinion Request - Confined Spaces in Construction Clean-up  
**Date:** Friday, November 8, 2024 5:26:00 PM  
**Attachments:** [image001.png](#)  
[AO Letter Confined Spaces in Construction Cleanup ALFA.pdf](#)

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Hi Sarah. We received this Opinion Letter from Fed OSHA during the public comment period. Autumn can confirm, but this letter might also be considered as a "comment letter".

[Amalia Neidhardt](#)

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**From:** Wilsey, Peter - OSHA <[Wilsey.Peter@dol.gov](mailto:Wilsey.Peter@dol.gov)>  
**Sent:** Friday, October 25, 2024 9:56 AM  
**To:** Barajas, Millicent@DIR <[MBarajas@dir.ca.gov](mailto:MBarajas@dir.ca.gov)>  
**Cc:** Ibarra, Ruth@DIR <[Rlbarra@dir.ca.gov](mailto:Rlbarra@dir.ca.gov)>; Berg, Eric@DIR <[EBerg@dir.ca.gov](mailto:EBerg@dir.ca.gov)>; Neidhardt, Amalia@DIR <[ANeidhardt@dir.ca.gov](mailto:ANeidhardt@dir.ca.gov)>; Nelmidia, Michael@DIR <[MNelmidia@dir.ca.gov](mailto:MNelmidia@dir.ca.gov)>; Dietrich, Cathy@DIR <[CDietrich@dir.ca.gov](mailto:CDietrich@dir.ca.gov)>; Lopez, Abby B. - OSHA <[Lopez.Abby.B@dol.gov](mailto:Lopez.Abby.B@dol.gov)>  
**Subject:** RE: Advisory Opinion Request - Confined Spaces in Construction Clean-up

**CAUTION: [External Email]**

This email originated from outside of our DIR organization. Do not click links or open attachments unless you recognize the sender and know the content is expected and is safe. If in doubt reach out and check with the sender by phone.

Millicent Barajas:

Please see the attached letter in response to the advisory opinion request regarding the proposed occupational safety and health standards: Confined Spaces in Construction Clean-up.

The proposed standards appear to be at least as effective as the federal standards.

If you have any questions, I can be reached at 510-637-3847.

Sincerely,  
Peter

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**From:** Dietrich, Cathy@DIR <[CDietrich@dir.ca.gov](mailto:CDietrich@dir.ca.gov)>  
**Sent:** Monday, October 7, 2024 3:03 PM  
**To:** Engard, Derek J. - OSHA <[engard.derek@dol.gov](mailto:engard.derek@dol.gov)>  
**Cc:** Barajas, Millicent@DIR <[MBarajas@dir.ca.gov](mailto:MBarajas@dir.ca.gov)>; Ibarra, Ruth@DIR <[Rlbarra@dir.ca.gov](mailto:Rlbarra@dir.ca.gov)>; Delicana, Loren - OSHA <[Delicana.Loren@dol.gov](mailto:Delicana.Loren@dol.gov)>; Wilsey, Peter - OSHA <[Wilsey.Peter@dol.gov](mailto:Wilsey.Peter@dol.gov)>; Berg, Eric <[EBerg@dir.ca.gov](mailto:EBerg@dir.ca.gov)>; Neidhardt, Amalia@DIR <[ANeidhardt@dir.ca.gov](mailto:ANeidhardt@dir.ca.gov)>; Nelmidia, Michael@DIR <[MNelmidia@dir.ca.gov](mailto:MNelmidia@dir.ca.gov)>  
**Subject:** Advisory Opinion Request

**CAUTION: This email originated from outside of the Department of Labor. Do not click (select) links or open attachments unless you recognize the sender and know the content is safe. Report suspicious emails through the "Report Phishing" button on your email toolbar.**

Hi Derek,

Attached please find an advisory opinion request for Confined Spaces in Construction Clean up. The side-by-side and text are also attached. If you have any questions, please call or email me.

Thank you,  
Cathy

Cathy Dietrich  
Program Analyst  
Occupational Safety and Health Standards Board  
916.274.5728





October 25, 2024

Millicent Barajas  
Executive Officer  
Occupational Safety and Health Standards Board  
2520 Venture Oaks Way, Suite 350  
Sacramento, California 95833

Millicent Barajas:

This letter is in response to the advisory opinion request made October 7, 2024 regarding the proposed occupational safety and health standards: Title 8, Construction Safety Orders, sections 1951, 1952, 1953, 1955, 1956 and 1960; Confined Spaces in Construction Clean-up.

We have completed our review of the revisions. The proposed occupational safety and health standards appear to be at least as effective as the federal standards.

If you have any questions, I can be reached at 510-637-3847.

Sincerely,

Peter Wilsey, MS  
Safety and Health Manager

Cc: Ruth Ibarra, Staff Services Manager  
Abby Lopez, Assistant Regional Administrator

**CALIFORNIA STANDARDS COMPARISON**

DATE: March 8, 2024

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SOURCE OF FEDERAL OSHA STANDARD(S): 29 CFR 9 CFR 1926.1202, 1203, 1204, 1206, 1207 and 1211

SCOPE: Applicable throughout state unless otherwise noted.

<b>FEDERAL: §</b>	<b>STATE: Construction Safety Orders</b>	<b>RATIONALE</b>
§1926.1202. Definitions.	§1951. Definitions.	
Entry Employer means any employer who decides that an employee it directs will enter a permit space.	Entry employer means any employer whose <u>employees enter or</u> <del>decides that an employee it directs will enter</del> a permit space.	The amended definition improves clarity by removing any ambiguity about whether an employer has or has not “decided” to allow employees to enter. Where employees enter or will enter a permit space, regardless of an employer’s active, passive, or indeterminable role; such employers are to be considered “entry employers.”
Note to the definition of “Entry Employer”. An employer cannot avoid the duties of the standard merely by refusing to decide whether its employees will enter a permit space, and OSHA will consider the failure to so decide to be an implicit decision to allow employees to enter those spaces if they are working in the proximity of the space.	<del>NOTE: An employer cannot avoid the duties of the standard merely by refusing to decide whether its employees will enter a permit space, and the Division will consider the failure to so decide to be an implicit decision to allow employees to enter those spaces if they are working in the proximity of the space.</del>	The note was deleted as it is no longer consistent with the proposed change.
Hazardous atmosphere means an atmosphere that may expose employees to the risk of death, incapacitation, impairment of ability to self-rescue (that is, escape unaided from a permit space), injury, or acute illness from one or more of the following causes:	Hazardous atmosphere means an atmosphere that may expose employees to the risk of death, incapacitation, impairment of ability to self-rescue (that is, escape unaided from a permit space), injury, or acute illness from one or more of the following causes:	

**CALIFORNIA STANDARDS COMPARISON**

DATE: March 8, 2024

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SOURCE OF FEDERAL OSHA STANDARD(S): 29 CFR 9 CFR 1926.1202, 1203, 1204, 1206, 1207 and 1211

SCOPE: Applicable throughout state unless otherwise noted.

<b>FEDERAL: §</b>	<b>STATE: Construction Safety Orders</b>	<b>RATIONALE</b>
(1) Flammable gas, vapor, or mist in excess of 10 percent of its lower flammable limit (LFL);	(1) Flammable gas, vapor, or mist in excess of 10 percent of its lower flammable limit (LFL);	
(2) Airborne combustible dust at a concentration that meets or exceeds its LFL;	(2) Airborne combustible dust at a concentration that <del>meets or exceeds its LFL</del> <u>exceeds 20 percent of the minimum explosive concentration (MEC)</u> ;	To maintain consistency with the more stringent section 5158, the definition of hazardous atmosphere includes the more restrictive 20 percent of the MEC rather than the less stringent “meets or exceeds its LFL” (exceeding 100% LFL) contained in the federal requirement.
Note to paragraph (2) of the definition of “Hazardous atmosphere”. This concentration may be approximated as a condition in which the combustible dust obscures vision at a distance of 5 feet (1.52 meters) or less.	<del>NOTE to subsection (2): This concentration may be approximated as a condition in which the combustible dust obscures vision at a distance of 5 feet (1.52 meters) or less.</del>	The note was deleted as it was inconsistent with the lower proposed MEC threshold and would not provide an accurate estimation of the proposed percentage of the MEC.
(3) Atmospheric oxygen concentration below 19.5 percent or above 23.5 percent;	(3) Atmospheric oxygen concentration below 19.5 percent or above 23.5 percent;	
(4) Atmospheric concentration of any substance for which a dose or a permissible exposure limit is published in subpart D of this part (Occupational Health and Environmental Control), or in subpart Z of this part (Toxic and Hazardous Substances), and which could result in employee	(4) Atmospheric concentration of any substance for which a dose or a permissible exposure limit is published in Article 4 of the Construction Safety Orders and Group 16 of the General Industry Safety Orders <u>and which could result in employee exposure in excess of its dose or permissible exposure limit</u> ;	The definition is amended to include “and which could result in employee exposure in excess of its dose or permissible exposure limit” which was unintentionally omitted during the 2015 rulemaking.

**CALIFORNIA STANDARDS COMPARISON**

DATE: March 8, 2024

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SOURCE OF FEDERAL OSHA STANDARD(S): 29 CFR 9 CFR 1926.1202, 1203, 1204, 1206, 1207 and 1211

SCOPE: Applicable throughout state unless otherwise noted.

<b>FEDERAL: §</b>	<b>STATE: Construction Safety Orders</b>	<b>RATIONALE</b>
<p>exposure in excess of its dose or permissible exposure limit;</p>		
<p>Note to paragraph (4) of the definition of "Hazardous atmosphere". An atmospheric concentration of any substance that is not capable of causing death, incapacitation, impairment of ability to self-rescue, injury, or acute illness due to its health effects is not covered by this definition.</p>	<p>NOTE to subsection (4): An atmospheric concentration of any substance that is not capable of causing death, incapacitation, impairment of ability to self-rescue, injury, or acute illness due to its health effects is not covered by this definition.</p>	
<p>(5) Any other atmospheric condition that is immediately dangerous to life or health.</p>	<p>(5) Any other atmospheric condition that is immediately dangerous to life or health.</p>	
<p>Note to paragraph (5) of the definition of "Hazardous atmosphere". For air contaminants for which OSHA has not determined a dose or permissible exposure limit, other sources of information, such as Safety Data Sheets that comply with the Hazard Communication Standard, §1926.59, published information, and internal documents can provide guidance in establishing acceptable atmospheric conditions.</p>	<p>NOTE to subsection (5): For air contaminants for which the Division has not determined a dose or permissible exposure limit, other sources of information, such as Safety Data Sheets that comply with the Hazard Communication Standard, Section 5194, published information, and internal documents can provide guidance in establishing acceptable atmospheric conditions.</p>	



**CALIFORNIA STANDARDS COMPARISON**

DATE: March 8, 2024

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SOURCE OF FEDERAL OSHA STANDARD(S): 29 CFR 9 CFR 1926.1202, 1203, 1204, 1206, 1207 and 1211

SCOPE: Applicable throughout state unless otherwise noted.

<b>FEDERAL: §</b>	<b>STATE: Construction Safety Orders</b>	<b>RATIONALE</b>
Host employer means the employer that owns or manages the property where the construction work is taking place.	Host employer means the employer that owns or manages the property where the construction work is taking place.	
Lockout means the placement of a lockout device on an energy isolating device, in accordance with an established procedure, ensuring that the energy isolating device and the equipment being controlled cannot be operated until the lockout device is removed.	Lockout means the placement of a lockout device on an energy isolating device, in accordance with an <del>established</del> <u>effective</u> procedure, ensuring that the energy isolating device and the equipment being controlled cannot be operated until the lockout device is removed.	The proposal would clarify that effective “lockout” procedures would be required, to ensure that lockout has been achieved.
Lower flammable limit or lower explosive limit means the minimum concentration of a substance in air needed for an ignition source to cause a flame or explosion.	Lower flammable limit ( <u>LFL</u> ) or lower explosive limit ( <u>LEL</u> ) means the minimum concentration of a substance in air needed for an ignition source to cause a flame or explosion.	Added acronyms for clarity.
	<u>Minimum explosive concentration (MEC) means the minimum concentration of a combustible dust suspended in air, measured in mass per unit volume that would support (subsonic) combustion.</u>	No federal equivalent. The term is incorporated from section 5158 Other Confined Space Operations and is used to describe concentrations of combustible particulates which present a danger in the context of hazardous atmosphere.  This definition is from the 2006 NFPA 654 <i>Standard for the Prevention of Fire and Dust Explosions from the Manufacturing, Processing, and Handling of Combustible Particulate Solids.</i>

**CALIFORNIA STANDARDS COMPARISON**

DATE: March 8, 2024

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SOURCE OF FEDERAL OSHA STANDARD(S): 29 CFR 9 CFR 1926.1202, 1203, 1204, 1206, 1207 and 1211

SCOPE: Applicable throughout state unless otherwise noted.

<b>FEDERAL: §</b>	<b>STATE: Construction Safety Orders</b>	<b>RATIONALE</b>
Tagout means:	Tagout means:	
(1) Placement of a tagout device on a circuit or equipment that has been deenergized, in accordance with an established procedure, to indicate that the circuit or equipment being controlled may not be operated until the tagout device is removed; and	(1) Placement of a tagout device on a circuit or equipment that has been deenergized, in accordance with an <del>established</del> <u>effective</u> procedure, to indicate that the circuit or equipment being controlled may not be operated until the tagout device is removed; and	The proposal would clarify that effective “tagout” procedures would be required, to ensure the circuit or equipment being controlled is not operated until the tagout device is removed.
(2) The employer ensures that:	(2) The employer ensures that:	
(i) Tagout provides equivalent protection to lockout; or	(A) Tagout provides equivalent protection to lockout, or	
(ii) That lockout is infeasible and the employer has relieved, disconnected, restrained and otherwise rendered safe stored (residual) energy.	(B) <del>that</del> lockout is infeasible and the employer has relieved, disconnected, restrained and otherwise rendered safe stored (residual) energy.	Deletion of “that” within subsection (2)(B) as it is redundant to the last word of subsection (2).
§1926.1203. General requirements.	§1952. General Requirements.	
(a) Before it begins work at a worksite, each employer must ensure that a competent person identifies all confined spaces in which one or more of the employees it directs may work, and identifies each space that is a permit space, through consideration and evaluation of the	<del>(a) Before it begins work at a worksite, each employer shall ensure that a competent person identifies all confined spaces in which one or more of the employees it directs may work, and identifies each space that is a permit space, through consideration and evaluation of the elements of that space, including testing as necessary.</del>	Proposal reformats existing subsection (a) to enhance clarity and separate each listed requirement into four individual subsections.

**CALIFORNIA STANDARDS COMPARISON**

DATE: March 8, 2024

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SOURCE OF FEDERAL OSHA STANDARD(S): 29 CFR 9 CFR 1926.1202, 1203, 1204, 1206, 1207 and 1211

SCOPE: Applicable throughout state unless otherwise noted.

<b>FEDERAL: §</b>	<b>STATE: Construction Safety Orders</b>	<b>RATIONALE</b>
elements of that space, including testing as necessary.		
	<u>(a) Identification of confined spaces and evaluation of permit required confined spaces.</u>	The proposed title is sourced from ANSI/ASSE A10.43 (2016) and has no regulatory effect.
	<u>(1) The employer shall have a competent person conduct an initial survey of its work area for confined spaces existing at the time work begins.</u>	Proposed amendment preserves existing safeguards and is sourced from ANSI/ASSE A10.43 (2016). The amendment clarifies the responsibility of employers to provide ongoing efforts to seek and identify confined spaces that may, as a result of construction efforts, reach stages of completion upon which the definition of a confined space would apply. Such confined spaces must be examined and a determination made whether such confined space can be classified as a permit space.
	<u>(2) The employer shall have a competent person periodically inspect its work area to effectively identify new confined spaces.</u>	Proposed amendment preserves existing safeguards and is sourced from ANSI/ASSE A10.43 (2016).
	<u>(3) The employer shall inform their employees and the controlling contractor of each new confined space discovered or created as a result of construction or demolition activity.</u>	Proposed amendment is sourced from ANSI/ASSE A10.43 (2016). The duties parallel that of the employer to notify the controlling contractor of permit spaces within subsection 1952(b)(2)
	<u>(4) The employer shall have a competent person identify each confined space that is a permit space, through</u>	Proposed amendment preserves existing safeguards and is sourced from ANSI/ASSE A10.43 (2016).

**CALIFORNIA STANDARDS COMPARISON**

DATE: March 8, 2024

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SOURCE OF FEDERAL OSHA STANDARD(S): 29 CFR 9 CFR 1926.1202, 1203, 1204, 1206, 1207 and 1211

SCOPE: Applicable throughout state unless otherwise noted.

FEDERAL: §	STATE: Construction Safety Orders	RATIONALE
	<u>consideration and evaluation of the elements of that space, including testing as necessary.</u>	
(d) If any employer decides that employees it directs will enter a permit space, that employer must have a written permit space program that complies with §1926.1204 implemented at the construction site. The written program must be made available prior to and during entry operations for inspection by employees and their authorized representatives.	<del>(d) If any employer decides that employees it directs will enter a permit space, that employer</del> <u>Entry employers</u> shall have a written permit space program that complies with Section 1953 implemented at the construction site. The written program shall be made available prior to and during entry operations for inspection by employees and their authorized representatives.	This modification removes any ambiguity and uses “entry employer” to establish which employers require a permit space program.
(e) An employer may use the alternate procedures specified in paragraph (e)(2) of this section for entering a permit space only under the conditions set forth in paragraph (e)(1) of this section. *****	(e) An employer may use the alternate procedures specified in Section 1952(e)(2) for entering a permit space only under the conditions set forth in Section 1952(e)(1). *****	
(2) The following requirements apply to entry into permit spaces that meet the conditions set forth in paragraph (e)(1) of this section: *****	(2) The following requirements apply to entry into permit spaces that meet the conditions set forth in Section 1952(e)(1): *****	
(iii) Before an employee enters the space, the internal atmosphere must be tested, with a calibrated direct-reading instrument, for oxygen content, for flammable gases and vapors, and for potential toxic air contaminants, in that order. Any employee	(C) Before an employee enters the space, the internal atmosphere shall be tested, with a calibrated direct-reading instrument, for oxygen content, for flammable gases and vapors, and for potential toxic air contaminants, in that order. <u>Concurrent testing for atmospheric hazards may be conducted with a multi-gas</u>	The federal requirement regarding the order of testing presumes that separate monitors are utilized for monitoring airborne contaminants and oxygen concentration. Single unit monitors exist which concurrently monitor oxygen

**CALIFORNIA STANDARDS COMPARISON**

DATE: March 8, 2024

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SOURCE OF FEDERAL OSHA STANDARD(S): 29 CFR 9 CFR 1926.1202, 1203, 1204, 1206, 1207 and 1211

SCOPE: Applicable throughout state unless otherwise noted.

<b>FEDERAL: §</b>	<b>STATE: Construction Safety Orders</b>	<b>RATIONALE</b>
<p>who enters the space, or that employee's authorized representative, must be provided an opportunity to observe the pre-entry testing required by this paragraph.</p>	<p><u>meter, provided the order in which readings are examined is preserved.</u> Any employee who enters the space, or that employee's authorized representative, shall be provided an opportunity to observe the pre-entry testing required by subsection (e).</p>	<p>concentration, combustible gases and vapors and toxic gases.                      From the OSHA Technical Manual:  <i>Order of testing: Confined spaces, such as sewers and well pits, commonly contain a hazardous atmosphere which may be oxygen deficient and contain a flammable or toxic gas. Many flammable gas sensors are oxygen dependent and will not provide reliable readings in an oxygen deficient atmosphere. Therefore, oxygen content must always be determined before taking combustible gas readings. Flammable gases and vapors are tested second because the risk of fire or explosion is typically more life-threatening than exposure to toxic air contaminants. Monitoring for toxicity is usually conducted last. This monitoring process is greatly simplified by using a multigas monitor containing sensors for oxygen, LEL, and the relevant toxic gases.</i>  <a href="https://www.osha.gov/otm/section-2-health-hazards/chapter-3#MaintenanceCalibration:~:text=through%20the%20AESP,-,Order%20of%20testing,-%3AConfined%20spaces">https://www.osha.gov/otm/section-2-health-hazards/chapter-3#MaintenanceCalibration:~:text=through%20the%20AESP,-,Order%20of%20testing,-%3AConfined%20spaces</a></p>
<p align="center">*****</p>	<p align="center">*****</p>	

**CALIFORNIA STANDARDS COMPARISON**

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SOURCE OF FEDERAL OSHA STANDARD(S): 29 CFR 9 CFR 1926.1202, 1203, 1204, 1206, 1207 and 1211

SCOPE: Applicable throughout state unless otherwise noted.

FEDERAL: §	STATE: Construction Safety Orders	RATIONALE
§1926.1204 Permit-Required Confined Space Program.	§1953. Permit-Required Confined Space Program.	
Each entry employer must: *****	(a) <del>Each</del> <u>A permit space program shall be documented in accordance with Section 1952(d) and as part of the program, each</u> entry employer shall:  *****	This amendment clarifies that the permit space program must be in writing as required by section 1592(d).
(c) Develop and implement the means, procedures, and practices necessary for safe permit space entry operations, including, but not limited to, the following: *****	(3) Develop and implement the means, procedures, and practices necessary for safe permit space entry operations, including, but not limited to, the following: *****	
(4) Purging, inerting, flushing, or ventilating the permit space as necessary to eliminate or control atmospheric hazards;	(D) Purging, inerting, flushing, or ventilating the permit space as necessary to eliminate or control atmospheric hazards;	
Note to paragraph (c)(4). When an employer is unable to reduce the atmosphere below 10 percent LFL, the employer may only enter if the employer inertes the space so as to render the entire atmosphere in the space non-combustible, and the employees use PPE to address any other atmospheric hazards (such as oxygen deficiency), and the employer eliminates or isolates all physical hazards in the space.	<del>NOTE to Section 1953(a)(3)(D): When an employer is unable to reduce the atmosphere below 10 percent LFL, the employer may only enter if the employer inertes the space so as to render the entire atmosphere in the space non-combustible, and the employees use PPE to address any other atmospheric hazards (such as oxygen deficiency), and the employer eliminates or isolates all physical hazards in the space.</del>	Notes are not enforceable. The existing “note” has been rewritten and proposed as subsections (a)(3)(D)1.a.-c. The provision of this section addresses safety concerns, which if not heeded, could result in entry into an IDLH environment.

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SOURCE OF FEDERAL OSHA STANDARD(S): 29 CFR 9 CFR 1926.1202, 1203, 1204, 1206, 1207 and 1211

SCOPE: Applicable throughout state unless otherwise noted.

FEDERAL: §	STATE: Construction Safety Orders	RATIONALE
<p align="center">*****</p>	<p><u>1. Except when the entry employer complies with all of the following, no entry shall be made into a permit space where the entry employer is unable to reduce the concentration of flammable gases, mists, or vapors below 10 percent of the LFL:</u></p> <p><u>a. The permit space is rendered inert for the duration of entry into the permit space.</u></p> <p><u>b. The entry employer provides employees entering the permit space with respiratory protection pursuant to Section 5144(d)(2), “Respirators for IDLH atmospheres”.</u></p> <p><u>c. The entry employer eliminates or isolates all additional physical hazards within the permit space.</u></p> <p align="center">*****</p>	
<p>(7) Verifying that conditions in the permit space are acceptable for entry throughout the duration of an authorized entry, and ensuring that employees are not allowed to enter into, or remain in, a permit space with a hazardous atmosphere unless the employer can demonstrate that personal protective equipment (PPE) will provide effective protection for each employee in the permit space and provides the appropriate PPE to each employee; and</p>	<p>(G) Verifying that conditions in the permit space are acceptable for entry throughout the duration of an authorized entry, and ensuring that employees are not allowed to enter into, or remain in, a permit space with a hazardous atmosphere unless the employer can demonstrate that <del>personal protective equipment (PPE)</del> will provide effective protection for each employee in the permit space and provides the appropriate PPE to each employee;<del>and</del></p>	<p>Deletion of “and” for formatting consistency due to the addition of (I).</p>

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SOURCE OF FEDERAL OSHA STANDARD(S): 29 CFR 9 CFR 1926.1202, 1203, 1204, 1206, 1207 and 1211

SCOPE: Applicable throughout state unless otherwise noted.

<b>FEDERAL: §</b>	<b>STATE: Construction Safety Orders</b>	<b>RATIONALE</b>
(8) Eliminating any conditions (for example, high pressure) that could make it unsafe to remove an entrance cover.	(H) Eliminating any conditions (for example, high pressure) that could make it unsafe to remove an entrance cover;	Deletion of “.” for formatting consistency due to the addition of (I).
	<u>(I) Prohibiting work involving the use of flame, arc, spark, or other source of ignition within a permit space (or any adjacent space having common walls, floor, or ceiling with the permit space) which contains, or is likely to develop, a hazardous atmosphere due to flammable or explosive substances or contains, or is likely to develop an oxygen enriched atmosphere; and</u>	No federal equivalent. The proposed change retains the prohibition found in subsection 5158(d)(8), which would otherwise no longer be applicable given the proposed repeal of subsection 5156(b)(2)(A). From T8 CCR subsection 5158(e)(1)(F). T8 CCR subsection 1955(a)(16) only makes reference to “hot work” as an “additional permit.” The inclusion of this subsection from section 5158 addresses the potential hazards of a source of ignition both inside and from surrounding spaces.
	<u>(J) Conducting surveillance of the surrounding area(s) to avoid hazards such as drifting vapors from tanks, piping, and sewers.</u>	No federal equivalent. The proposed change retains the requirements for monitoring connected spaces found in subsection 5158(c)(1)(B), which would otherwise no longer be applicable given the proposed repeal of subsection 5156(b)(2)(A). From T8 CCR subsection 5158(c)(1)(B). The inclusion of this subsection from section 5158 addresses the potential hazards of a source of flammable gases and vapors which may migrate into the permit space.



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SOURCE OF FEDERAL OSHA STANDARD(S): 29 CFR 9 CFR 1926.1202, 1203, 1204, 1206, 1207 and 1211

SCOPE: Applicable throughout state unless otherwise noted.

<b>FEDERAL: §</b>	<b>STATE: Construction Safety Orders</b>	<b>RATIONALE</b>
<p>(e) Evaluate permit space conditions in accordance with the following paragraphs (e)(1) through (6) of this section when entry operations are conducted: *****</p>	<p>(5) Evaluate permit space conditions in accordance with the following Section 1953(a)(5)(A) through (a)(5)(F) when entry operations are conducted:  *****</p>	
<p>(3) When testing for atmospheric hazards, test first for oxygen, then for combustible gases and vapors, and then for toxic gases and vapors;</p>	<p>(C) When testing for atmospheric hazards, test first for oxygen, then for combustible gases and vapors, and then for toxic gases and vapors. <u>Concurrent testing for atmospheric hazards may be conducted with a multi-gas meter, provided the order in which readings are examined is preserved;</u></p>	<p>The federal requirement regarding the order of testing presumes that separate monitors are utilized for monitoring airborne contaminants and oxygen concentration. Single unit monitors exist which concurrently monitor oxygen concentration, combustible gases and vapors and toxic gases. From the OSHA Technical Manual: <i>Order of testing: Confined spaces, such as sewers and well pits, commonly contain a hazardous atmosphere which may be oxygen deficient and contain a flammable or toxic gas. Many flammable gas sensors are oxygen dependent and will not provide reliable readings in an oxygen deficient atmosphere. Therefore, oxygen content must always be determined before taking combustible gas readings. Flammable gases and vapors are tested second because the risk of fire or explosion is typically more life-threatening than exposure to toxic air contaminants. Monitoring for toxicity is usually conducted last. This monitoring</i></p>

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SOURCE OF FEDERAL OSHA STANDARD(S): 29 CFR 9 CFR 1926.1202, 1203, 1204, 1206, 1207 and 1211

SCOPE: Applicable throughout state unless otherwise noted.

FEDERAL: §	STATE: Construction Safety Orders	RATIONALE
		<p><i>process is greatly simplified by using a multigas monitor containing sensors for oxygen, LEL, and the relevant toxic gases.</i></p> <p><a href="https://www.osha.gov/otm/section-2-health-hazards/chapter-3#MaintenanceCalibration:~:text=Order%20of%20testing,relevant%20toxic%20gases.">https://www.osha.gov/otm/section-2-health-hazards/chapter-3#MaintenanceCalibration:~:text=Order%20of%20testing,relevant%20toxic%20gases.</a></p>
(i) Develop and implement procedures for	(9) Develop and implement procedures for;	The subsection is separated into subsections for clarity.
summoning rescue and emergency services (including procedures for summoning emergency assistance in the event of a failed nonentry rescue), for	<u>(A) §</u> Summoning rescue and emergency <u>medical</u> services (including procedures for summoning emergency assistance in the event of a failed nonentry rescue);	The proposal seeks to clarify “emergency services” by applying the term “emergency medical services” from the context of the already applicable requirement under subsection 1512(e). Additionally, the subsection is further separated into subsections for clarity.
rescuing entrants from permit spaces,	<u>(B) for +</u> Rescuing entrants from permit spaces;	The subsection is separated into subsections for clarity.
for providing necessary emergency services to rescued employees, and	<u>(C) for providing necessary</u> <u>Obtaining</u> emergency <u>medical</u> services <u>specified under Section 1512(e) to for</u> rescued employees; and	“for providing necessary” has been replaced with “Obtaining” for clarity. The proposal clarifies “emergency services” by applying the term “emergency medical services” from the context of the already applicable requirement under subsection 1512(e). Additionally,

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SOURCE OF FEDERAL OSHA STANDARD(S): 29 CFR 9 CFR 1926.1202, 1203, 1204, 1206, 1207 and 1211

SCOPE: Applicable throughout state unless otherwise noted.

FEDERAL: §	STATE: Construction Safety Orders	RATIONALE
		the subsection is further separated into subsections for clarity.
for preventing unauthorized personnel from attempting a rescue;	<del>(D) for preventing unauthorized personnel from attempting a rescue;</del>	The subsection is separated into subsections for clarity.
§1926.1206. Entry permit. The entry permit that documents compliance with this section and authorizes entry to a permit space must identify: *****	§1955. Entry Permit.  (a) The entry permit that documents compliance with this section and authorizes entry to a permit space shall identify:  *****	
(I) The rescue and emergency services that can be summoned and the means (such as the equipment to use and the numbers to call) for summoning those services;	<del>(12) The rescue and emergency services that can be summoned and the means (such as the equipment to use and the numbers to call) for summoning those to summon rescue services and obtain emergency medical services; specified under Section 1512(e);</del>	The proposal seeks to clarify “emergency services” by applying the term “emergency medical services” from the context of the already applicable requirement under subsection 1512(e).
§1926.1207. Training.  (a) The employer must provide training to each employee whose work is regulated by this standard, at no cost to the employee, and ensure that the employee possesses the understanding, knowledge, and skills necessary for the safe performance of the duties assigned under this standard.	§1956. Training.  (a) The employer shall provide training to each employee whose work is regulated by this standard, at no cost to the employee, and ensure that the employee possesses the understanding, knowledge, and skills necessary for the safe performance of the duties assigned under this standard.	Subsection (a) is divided into further subsections for clarity.
This training must result in an understanding of the hazards in the permit space and the methods used to isolate,	<del>(1) This</del> The training shall result in an understanding of:	Title 8 subsection 5158(c)(2) requires: (2) Employee Training. Employees, including standby persons required by

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SOURCE OF FEDERAL OSHA STANDARD(S): 29 CFR 9 CFR 1926.1202, 1203, 1204, 1206, 1207 and 1211

SCOPE: Applicable throughout state unless otherwise noted.

<b>FEDERAL: §</b>	<b>STATE: Construction Safety Orders</b>	<b>RATIONALE</b>
control or in other ways protect employees from these hazards, and for those employees not authorized to perform entry rescues, in the dangers of attempting such rescues.	<p><u>(A) The written procedures;</u></p> <p><del>(B) the h</del> Hazards in the permit space; and</p> <p><del>(C) the m</del> Methods used to isolate, control or in other ways protect employees from these hazards;</p> <p><del>(2) and for those e</del> Employees not authorized to perform entry rescues, <u>shall be trained</u> in the dangers of attempting such <u>unauthorized</u> rescues.</p>	subsection (e)(1)(D), shall be trained in the written operating and rescue procedures, including instructions as to avert the hazards they may encounter. The proposed amendment also further separates the standard for clarity.
§1926.1211. Rescue and emergency services.	§1960. <u>Permit Space</u> Rescue and Emergency <u>Medical</u> Services.	The proposal adds “permit space” and “medical” to the title. The proposal seeks to clarify “emergency services” by applying the term “emergency medical services.”
	<u>(a) The entry employer shall ensure the rescue services at the site are trained, immediately available, properly equipped, and capable of performing permit space rescue and obtaining emergency medical services specified under Section 1512(e).</u>	The addition of subsection (a) incorporates provisions from Title 8, CCR subsection 5158(e)(1)(D), which requires standby personnel that are trained, equipped and available to rescue an entry employee.
(a) An employer who designates rescue and emergency services, pursuant to §1926.1204(i), must:	<del>(b)(a)</del> An employer who designates rescue <del>and emergency</del> services, pursuant to Section 1953(a)(9), shall:	Re-lettered from (a) to (b) for consistency. Removes the undefined term “emergency service” for clarity.
(1) Evaluate a prospective rescuer's ability to respond to a rescue summons in a timely manner, considering the hazard(s) identified;	<p>(1) Evaluate a prospective rescuer's ability to respond to a rescue summons in a timely manner, considering the hazard(s) identified;</p> <p>NOTE to Section 1960<del>(b)(a)</del>(1): What will be considered timely will vary according to the specific hazards</p>	Re-lettered from (a)(1) to (b)(1) for consistency

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SOURCE OF FEDERAL OSHA STANDARD(S): 29 CFR 9 CFR 1926.1202, 1203, 1204, 1206, 1207 and 1211

SCOPE: Applicable throughout state unless otherwise noted.

<b>FEDERAL: §</b>	<b>STATE: Construction Safety Orders</b>	<b>RATIONALE</b>
<p>Note to paragraph (a)(1). What will be considered timely will vary according to the specific hazards involved in each entry. For example, § 1926.103 (Respiratory protection) requires that employers provide a standby person or persons capable of immediate action to rescue employee(s) wearing respiratory protection while in work areas defined as IDLH atmospheres.</p>	<p>involved in each entry. For example, Section 5144, Respiratory Protection requires that employers provide a standby person or persons capable of immediate action to rescue employee(s) wearing respiratory protection while in work areas defined as IDLH atmospheres.</p>	
<p align="center">*****</p> <p>(b) An employer whose employees have been designated to provide permit space rescue and/or emergency services must take the following measures and provide all equipment and training at no cost to those employees:</p> <p align="center">*****</p>	<p align="center">*****</p> <p><del>(b)</del> (c) An employer whose employees have been designated to provide permit space rescue and/or emergency <u>medical</u> services shall take the following measures and provide all equipment and training at no cost to those employees:</p> <p align="center">*****</p>	<p>Re-lettered from (b) to (c) for consistency. The proposal seeks to clarify “emergency services” by applying the term “emergency medical services.”</p>
<p>(c) Non-entry rescue is required unless the retrieval equipment would increase the overall risk of entry or would not contribute to the rescue of the entrant. The employer must designate an entry rescue service whenever non-entry rescue is not selected. Whenever non-entry rescue is selected, the entry employer must ensure that retrieval systems or methods are used whenever an authorized entrant enters a permit space, and must confirm, prior to entry, that emergency assistance would be available in the event that non-entry rescue fails.</p>	<p><del>(c)</del> (d) Non-entry rescue is required unless the retrieval equipment would increase the overall risk of entry or would not contribute to the rescue of the entrant. The employer shall designate an entry rescue service whenever non-entry rescue is not selected. Whenever non-entry rescue is selected, the entry employer shall ensure that retrieval systems or methods are used whenever an authorized entrant enters a permit space, and shall confirm, prior to entry, that emergency assistance would be available in the event that non-entry rescue fails. Retrieval systems shall meet the following requirements:</p> <p align="center">*****</p>	<p>Re-lettered from (c) to (d) for consistency.</p>

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SOURCE OF FEDERAL OSHA STANDARD(S): 29 CFR 9 CFR 1926.1202, 1203, 1204, 1206, 1207 and 1211

SCOPE: Applicable throughout state unless otherwise noted.

FEDERAL: §	STATE: Construction Safety Orders	RATIONALE
Retrieval systems must meet the following requirements: <p align="center">*****</p>		
(d) If an injured entrant is exposed to a substance for which a Safety Data Sheet (SDS) or other similar written information is required to be kept at the worksite, that SDS or written information must be made available to the medical facility treating the exposed entrant.	<del>(d)</del> (e) If an injured entrant is exposed to a substance for which a Safety Data Sheet (SDS) or other similar written information is required to be kept at the worksite, that SDS or written information shall be made available to the medical facility treating the exposed entrant.	Re-lettered from (d) to (e) for consistency.

FEDERAL: §	STATE: General Industry Safety Orders	RATIONALE
	Article 108. Confined Spaces	No Federal equivalent.
	§5156. Scope, Application and Definitions. <p align="center">*****</p>	
	(b) Application and Definitions.	
	(1) For operations and industries not identified in subsection (b)(2), the confined space definition along with other definitions and requirements of Section 5157, Permit-Required Confined Spaces shall apply.	
	(2) The confined space definition along with other definitions and requirements of Section 5158, Other Confined Space Operations shall apply to:	
	<del>(A) Construction operations regulated by Section 1502;</del>	Repeal of the applicability of section 5158 to construction operations.

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SOURCE OF FEDERAL OSHA STANDARD(S): 29 CFR 9 CFR 1926.1202, 1203, 1204, 1206, 1207 and 1211

SCOPE: Applicable throughout state unless otherwise noted.

	<del>(B)</del> (A) Agriculture operations (including cotton gins) defined by Section 3437;	Re-lettered from (B) to (A) for consistency.
	<del>(C)</del> (B) Marine terminal operations defined in Section 3460;	Re-lettered from (C) to (B) for consistency.
	<del>(D)</del> (C) Telecommunication manholes and unvented vaults regulated by Section 8616;	Re-lettered from (D) to (C) for consistency.
	<del>(E)</del> (D) Grain handling facilities regulated by Section 5178; or	Re-lettered from (E) to (D) for consistency.
	<del>(F)</del> (E) Natural gas utility operation within distribution and transmission facility vaults defined in Title 49 Code of Federal Regulations Parts 191, 192 and 193.	Re-lettered from (F) to (E) for consistency.
	NOTE: Electric utility operations within underground vaults. See Section 2700 for a definition of vault and Section 2943(b) for manholes and Section 2943.1 for enclosed spaces.	
	NOTE: Shipyard operations are regulated by Section 8355.	
	<u>NOTE: Construction operations are regulated by Article 37 of the Construction Safety Orders.</u>  NOTE: Authority cited: Section 142.3, Labor Code. Reference: Section 142.3, Labor Code.	A "Note" is added to direct construction employers to Article 37 for clarity.

**SEPTEMBER 6-7, 2017**

**ADVISORY COMMITTEE MEETING**

**CONFINED SPACES IN**  
**CONSTRUCTION CLEAN-UP**



DEPARTMENT OF INDUSTRIAL RELATIONS  
Occupational Safety and Health Standards Board  
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Website address [www.dir.ca.gov/oshsb](http://www.dir.ca.gov/oshsb)



ADVISORY COMMITTEE ROSTER  
CONFINED SPACES IN CONSTRUCTION (CLEAN-UP)

Wednesday, September 6, 2017 and Thursday, September 7, 2017 (if needed)  
Safety Center of California, Conference Room, No. 107  
3909 Bradshaw Road  
Sacramento, CA 95827

Mr. Ralph Armstrong Safety Officer International Brotherhood of Electrical Workers 30 Orange Tree Circle Vacaville, CA 95687	Labor
Mr. Robert Armstrong Safety Specialist, Compliance & Auditing PG&E 13387 Lark Court Redding, CA 96003	Management
Mr. Frank Belio Business Representative International Union of Elevator Constructors, Local 18 4636 Mission Gorge Place, Suite 204 San Diego, CA 92120	Labor
Mr. Eric Berg Deputy Chief, Health, Research and Standards Division of Occupational Safety & Health 1515 Clay Street, Room 1901 Oakland, CA 94612	Government
Mr. Kevin Bland Counsel representing CFCA Ogletree, Deakins, Nash, Smoak & Stewart, P.C. 695 Town Center Drive, Park Tower, Suite 1500 Costa Mesa, CA 92626	Management

Advisory Committee Roster  
Confined Spaces in Construction (Clean-up)  
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Page 3 of 5

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Advisory Committee Roster  
Confined Spaces in Construction (Clean-up)  
Page 4 of 5

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AND HEALTH STANDARDS BOARD**

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**POST ADVISORY COMMITTEE ROSTER****CONFINED SPACES IN CONSTRUCTION (CLEAN-UP)**

Wednesday, September 6, 2017  
Safety Center of California Conference Room, No. 107  
3909 Bradshaw Road  
Sacramento, CA 95827

**(\*) Denotes Attendance at the September 6, 2017  
Advisory Committee Meeting**

Mr. Ralph Armstrong Safety Officer International Brotherhood of Electrical Workers 30 Orange Tree Circle Vacaville, CA 95687 (707) 452-2738	Labor
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**ADVISORY COMMITTEE MEETING MINUTES**

California Code of Regulations, Title 8,  
Construction Safety Orders, Sections 1951, 1952, 1953, 1955, 1956, and 1960  
and  
General Industry Safety Orders, Section 5156

**Confined Spaces in Construction (Clean-Up)**

Wednesday, September 6, 2017  
Sacramento, California

Chair, Michael Nelmidia, Senior Safety Engineer, Occupational Safety and Health Standards Board (Board) called the meeting to order at 9:45 a.m. on Wednesday, September 6, 2017. Leslie Matsuoka, Standards Board Associate Government Program Analyst, assisted the Chair. Eric Berg, Deputy Chief, Health, Research and Standards, Division; Jason Denning, Principal Safety Engineer; Keummi Park, Senior Safety Engineer; Peter Sholtz, Senior Safety Engineer; and Mike Shields, Senior Safety Engineer represented the Division of Occupational Safety and Health (Division). The Chair welcomed the advisory committee members and asked for self-introductions.

The Chair then reviewed the Board's policy and procedures concerning the goals and objectives for the advisory committee process. He also provided a brief overview of the criteria for developing regulations consistent with the requirements of the Administrative Procedure Act and Office of Administrative Law. The Chair then directed the advisory committee's attention to the agenda and proposal, which were mailed to each member before the meeting. He encouraged the members to ask questions and/or raise issues pertinent to the proposed changes.

For the purpose of these minutes, the advisory committee's discussion is organized by section in the order the sections are shown in the proposal beginning with the Construction Safety Orders (CSO), Section 1951 and ending with the General Industry Safety Orders (GISO), Section 5156. The Chair asked if there were any general comments by committee members prior to the meeting.

The Chair asked the advisory committee for comments relating to the necessity for this rulemaking. Frank Belio, IUEC Local 18, asked where one might find the responses to comments from the original Construction Confined Space Horcher that was adopted by the Board. The Chair stated the responses to comments can be found in the Final Statement of Reasons (Board Memo, dated November 2, 2015) as part of the Horcher rulemaking which is available for review. Again, the Chair asked for any other comments relating to necessity or opposition to the rulemaking and there were none expressed. Dan Barker, Division, stated he

believes there is necessity to apply these confined spaces regulations to elevator hoistways under construction.

Peter Sholtz stated that following his read of the proposal, the only thing that really jumped out at him was inclusion of the concept of tagout with the other forms of control which in his estimation are more positive/protective (blanking, lock out) and represent a higher level of protection.

Mike Donlon, Department of Water Resources, asked if there was any more consideration given to combining the construction end of Section 5157 and not having two separate regulations. The Chair stated there was consideration given to merging the GISO and CSO; however, there are several significant differences such as how we deal with general contractors, owners, and their interactions. Also, the fact that it would be prudent to keep separate the CSO and GISO confined spaces standard so that in the event we change one, the other would not be affected. In addition, the Chair pointed out there are enough subtleties between the construction and general industry standards that it was deemed more effective by staff to keep them separate.

Brian Heramb, San Diego Gas & Electric, stated that one of the issues that has been difficult to understand is the impact as defined by the scope (elements of the scope). He stated that the regulation currently says that the scope sets forth the requirements to protect employees engaged in construction activity at a worksite where one or more confined spaces exist. Under the CSO, there are about a half dozen different activities that are construed as construction-like such as alteration, painting, maintenance, and renovation. Mr. Heramb went on to say that San Diego Gas & Electric has many projects where their crews are at a jobsite of a customer where they are involved in some type of construction activity. Their projects may be strictly repairs or replacement in a vault. The way the scope is written it casts a really broad net so that it triggers this requirement to assess their confined space as a permit required confined space because of someone else's activities not directly affecting the confined space. The Federal Final Rule ended up broadening the scope by the way it was written.

The Chair emphasized that the state's proposal must be at least as effective as (commensurate with) the federal standard when comparing scope to scope.

Kent Freeman, California Health and Rescue Training, stated that in his emergency rescue business, the issue of determining which regulation applies and how it applies has been an issue. Mr. Freeman indicated that his consulting firm always explains to rescue fire service that a confined space is defined by three criteria. Is the space a confined space, is it a permit required confined space, and what is the purpose of entry? Providing clarity does not affect the stringency of the standard. Mr. Freeman stated the need to develop clarity so that employers will know what applies and when. It is his hope that the committee will address this clarity as the committee discusses the proposal.

Mike Donlon stated that the term "construction maintenance" is vague, broad, and often interpreted unevenly, as this term affords the Division much leeway.

Jamie Carlile, Corporate Health & Safety, Safety Programs, stated that he would like to see more clarity in the proposal as it relates to the Electrical Safety Orders (ESO) (e.g. High-Voltage ESO (HVESO), Section 2943.1 as it compares to Section 5158 [enclosed spaces]). The Chair stated that the amendments to the HVESO are still ongoing and will not be addressed in today's committee meeting. Only the key interactions between contractors who operate with the enclosed space and confined spaces requirements will be addressed at this advisory committee meeting.

### **Section 1951. Definitions.**

The Chair directed the advisory committee's attention to the first definition proposed for amendment, *Entry employer* and he explained the proposed change. Mike Donlon stated the phrase "reasonably foresee" as very vague. Amber Novey, Laborers International Union of North America, agrees with Mike Donlon that the phrase was unreasonably vague and could result in tie-ups within the Occupational Safety and Health Appeals Board. Eric Berg asked if the phrase in question is used in any other standards to which the Chair replied "it does". Mike Donlon stated that, as written, it is poor regulatory language that will be decided by case law. Dan Barker asked Mr. Donlon if he had any language that would hold the employer's feet to the fire.

Mike Donlon stated that the existing language is adequate. Eric Berg stated if the language is deleted, there should be something there to replace it. Mr. Donlon stated that something (language) more direct is desirable. Mr. Donlon stated that if we simply say that any employer who has employees who enter a permit space is an entry employer. This language is simple, clear, and direct in terms of what the employer's responsibility is. It is also much easier for the Division to cite. The advisory committee, including the Division, were in agreement and recommended the definition be amended, accordingly.

The Chair then directed the advisory committee's attention to the proposed strike-out of the NOTE that follows the term *entry employer*. The Division stated that with the proposed change to the definition of *entry employer*, the NOTE is not needed.

The next proposed revision is to the term *Hazardous atmosphere*, and the change is to reflect what is in Section 5158. Kent Freeman asked the Chair to explain why the NOTE was proposed for deletion since most employers do not have dust meters and rely on rough visual "eyeballing" to determine whether the dust concentration in air may pose a fire/explosion risk. The Chair explained that it is more protective to quantitatively measure dust concentrations in air in terms of exceeding 20 percent of the minimum explosive concentration (MEC) than to use a crude, subjective method based on obscuring vision at 5 feet. Mr. Freeman stated that regardless, a NOTE is useful in clearing confusion. The Chair stated that the 5-foot visibility criterion is no longer accurate when mentioned in the same paragraph as the 20% of the MEC; the two do not correlate. It correlates with the Lower Explosive Limit (LEL), not the MEC.

Ed Yarbrough, CalTrans, asked how do we measure that? Have we put something in there to make it possible for an average employer to determine if he/she is there? In addition, how does the Division prove we have exceeded it? Eric Berg stated that we have had this requirement for



20 years; there is nothing new about it conceptually. Mr. Berg stated that there are dust meters that will measure such concentrations. Kent Freeman stated that such meters are not in common use, although he admitted, maybe they should be. Mr. Freeman asked whether the committee or the Chair had any data on at what distance, being at 20% of the MEC, obscures vision? The Chair responded by stating that his literature search did not turn up any data to support a relationship between visibility in distance measured in feet and 20% of the MEC.

Eric McClaskey, International Union of Elevator Constructors, Local 8, stated that if he is working in the field as a compliance officer and does not have this dust meter, he will need a new number to use as benchmark to make the necessary determination.

Kent Freeman stated that employers need something simple to use to make a reliable determination of how dusty an atmosphere is so they can take needed action. Mike Donlon suggested the Chair reach out to combustible dust experts to come up with a number (empirical data) that could be used. He stated that it appears this issue is beyond the committee's expertise. Eric Berg and Jason Denning agreed that more research on this issue is needed. Mr. Denning stated that the numerical factor used in paragraph (2) of the hazardous atmosphere definition is used in other standards, and he did not understand why it is an issue here. The Chair stated that he intends to table this issue for now, acquire an expert opinion, and make the appropriate numerical insertion into the proposal. The Chair invited the advisory committee to provide any expert contacts for this discipline that would be of help.

The Chair then asked again whether there was agreement in the proposed amendment of the definition of *hazardous atmosphere* as shown in paragraph (2) which utilizes the term MEC. The advisory committee expressed consensus over the definition with the exception of the proposed deletion of the NOTE for which additional technical data has been sought.

The Chair then directed the advisory committee to review the proposed amendments to the NOTE that follows the terms *Isolate or isolation*. Mike Donlon stated that at the Department of Water Resources, lockout/tagout is used all the time for protecting employees from water engulfment hazards. Jason Denning stated that he was not sure what the term "electro-mechanical" means. The Chair indicated that the term "electro-mechanical" referred to electrically powered machinery. Eric Berg stated that regarding flowable hazards, closing a valve is probably effective for water but not for hazardous substances.

Brian Heramb asked the Chair to provide an explanation or detail on why Section 3314 does not address flowable hazards. The Chair stated that Section 3314 was intended to address mechanical hazards, a physical hazard that moves and which could cause physical injury. Mike Donlon said the movement of water by gravity is capable of causing physical hazards. Given that he expressed concern that, as worded, the NOTE would give credence to the notion that lockout/tagout would not be allowed at water plants to control the flow of water. Water Resources has been using lockout/tagout for decades to control such hazards. Many of the piping systems at his plants are not designed for double block and bleed or blinding. Eric Berg suggested deleting the term "engulfment" as he stated that lockout/tagout is not isolation. Kent Freeman asked why we could not change the phrase "will not" used in the NOTE to "may not"?

The Division stated they would be opposed to such a change as it would make the NOTE vague. Dylan Wright, PG&E, questioned the Division's concern since his company utilizes a variety of methods to control different types of substances as set forth in the definition of *isolate or isolation* and they have never had a fatality.

Mike Donlon stated that he is fine with striking the term "engulfment hazards". The committee reached consensus to simply strike the term "engulfment hazards" from the NOTE to clarify that isolate or isolation methods are specific to those methods that will be effective in controlling the flow of hazardous materials into a confined space and to further clarify that lockout/tagout methods, principally intended to control physical hazards created by flowable materials, alone, are not effective to control hazardous substances that may invade a confined space. The committee recognized that the employer would need to select the method(s) suitable to the nature of the hazard to ensure that employees working in confined spaces are not exposed to any type of substance or action that could be harmful.

The advisory committee then discussed the term *Lockout*. The Division suggested changing the term "established" to "effective" and to strike-out the reference to Section 3314, lest there be any confusion over whether Section 3314 methodologies for controlling hazardous energy were suitable for controlling airborne contaminants into a confined space. The Chair asked the committee for an example of an effective procedure. Mike Donlon stated that one could have a poorly established procedure to which Eric Berg stated that effective means it really works. Ed Yarbrough asked for a definition of "effective". The advisory committee reasoned that "effective" means the procedure actually works (i.e. no one was injured, made ill, or killed), and the Division would have the burden of proving the procedure was ineffective. There is ample case law that defines what an effective procedure is. This response appeared to satisfy Mr. Yarbrough.

The advisory committee reviewed the proposed definition of "MEC" and stated that more data is needed for the Chair to be able to make a decision on wording. The Division volunteered to provide contacts and or information that would be useful to the Chair to develop the "MEC" definition into something that employers could actually comply with.

In reviewing the proposed amendments to the definition of *Tagout*, the advisory committee stated that just as the definition of lockout has been revised to state "effective" rather than "established", the same type of revision should be made to *tagout* so that the phrase will read "effective procedure". Peter Scholz stated his position that the term *tagout* should be stricken from the proposal altogether. *Tagout* comes from Section 3314(c) which applies to cleaning, servicing, and adjusting of machines for short durations. If we allow this concept to migrate into this standard, it would be a misuse of the Section 3314(c) standard and create a loophole. Brian Heramb disagreed and stated that *tagout* is used extensively by his company for electrical isolation even when they include confined spaces. They do not use locks on all switch handles.

Mike Donlon stated that he was fine with revising *tagout* to read verbatim as *lockout*, as discussed earlier, as far as the term "effective" procedure is used rather than "established" procedure, but also suggested that a paragraph (2) be added to ensure that if *tagout* is used it must

ensure it provides safety equal to *lockout* (which he admitted may be tough to show) and that the employer be held to demonstrate that *lockout* is infeasible and that all stored and residual energy has been neutralized (no longer a threat to the employee). Mr. Donlon believed this would address Mr. Scholz's concerns.

Mike Shields, Division, stated he agreed with Mr. Donlon's suggested change and went on to say that any employer who tries to put forward tagout as a procedure in lieu of lockout will need to ensure those items are covered by paragraph (2). However, Peter Sholtz continued to insist that tagout cannot be proven to be as effective as a physical lock and asked Brian Heramb if there is a good reason why locks cannot be used on the circuits he cited earlier as an example of equipment his company routinely tags out. Mr. Heramb explained that there are many circuits that are not designed for locks and cannot be modified to accept locks. Mr. Donlon stated that the reason why the systems described by Mr. Heramb are not designed for locks is because tagout is offered extensively as a required control method in the Electrical Safety Orders.

The advisory committee consensus was to revise the definition of *tagout* as described above, with the inclusion of paragraph (2). This proposal was the recommendation of both labor, management and various members of the Division, with the exception of Mr. Scholz. Mr. Berg stated that paragraph (2) be included in the *tagout* definition and that he could live with the *tagout* provision. He also stated that while he preferred lockout methods, he could live with the use of the term *tagout* provided that paragraph (2) was included. A few committee members suggested perhaps in paragraph (A) to replace the word "or" after "lockout" with the word "and". Mr. Donlon reminded the committee that the ESO has allowed for years the use of tagout and, therefore; he opposed use of the term "and". The Chair decided to allow the language specifying "or" to stand for the time being subject to future public comments (i.e. after the post advisory committee draft is mailed to members for their comment). It was also noted that paragraph (2) is federal language.

There being no further discussion, the Chair stated that the advisory committee's review of the definitions was now concluded, and that it was time to begin the review of the rest of the proposal beginning with the following:

### **Section 1952. General Requirements.**

The Chair explained that he proposes to delete existing Section 1952(a)(1) – (a)(3) for replacement by an identification schema based on the identification of Confined Spaces and Evaluation of Permit Required Confined Spaces taken from various relevant sections of the ANSI/ASSE A10.43-2016, Confined Spaces in Construction and Demolition Operations standard, specifically Chapters 4.12, 4.13, 4.14 and 4.15. The Chair stated that he believes these provisions to be better and more effective than what he originally proposed. He provided copies to the committee members and gave them time to review the relevant ANSI/ASSE section chapters.

Mike Donlon asked for the reason for eliminating the federal language in Section 1952(a)? The Chair stated it was ambiguous and convoluted ignoring the discovery of new confined spaces as

the project goes along. Ed Yarbrough stated that he is in agreement with that concept. Again, Mr. Donlon stated he wanted to be sure he understood what the Chair was proposing and indicated that it appears the existing subsection (a) is being deleted in favor of a new subsection (a) that draws upon the provisions of the ANSI/ASSE A10.43 standard and Chapters 4.12, 4.13, 4.14 and 4.15. The Chair responded that he was correct. Mr. Donlon and a number of other committee members, including the Division, agreed with this proposed change. The Chair stated that Chapter 4.15 would be clarified to indicate that we want a competent person to evaluate what are confined spaces and make a determination as to whether or not those confined spaces rise to the level of a permit required confined space. Those permit confined spaces would have to be dealt with what is proposed in the rest of the proposal. The committee reached consensus that the replacement, as suggested by the Chair, should proceed and to include the provisions of the ANSI/ASSE standard enumerated above.

In Section 1952(d), Eric Berg suggested rewording subsection (d) to simply state that if an employee enters a permit space, his/her employer shall have a written permit space program (based on language by Dan Barker) that complies with Section 1953. Mr. Berg stated that the NOTE that follows should be deleted to be consistent with prior proposed changes discussed earlier (to mirror the of definition of *entry employer*). Mr. Donlon stated that the NOTE should be deleted although the Division stated that they might prefer to leave it in, but could live with the NOTE deleted. Again, the phrase “reasonably foresee” (vague) is deleted. Mike Donlon stated that he is in agreement with the suggested changes. The committee did not express any objections or concerns over the proposed changes to Section 1952(d) which was taken as general agreement by the Chair.

The advisory committee then began consideration of proposed amendments to Section 1952(e)(2)(C) that were made in response to a comment provided to the Board at the time of the Horcher adoption of the confined spaces in construction proposal. The Chair stated that the idea was the standard needed to account for multi-gas meters rather than using one meter for each contaminant (technology accommodation). Eric Berg stated that LEL detection will malfunction if the oxygen levels are too low and the user will get an erroneous reading. This means the user could be misled into thinking he/she does not have an explosive atmosphere present, when in fact the user does. The Chair asked the advisory committee for language that would account for that, to which Mr. Berg stated that a NOTE be added to subsection (e)(2)(C) stating that oxygen readings below 19.5% or above 23.5% (apparently an enriched oxygen atmosphere can create false readings) may produce an inaccurate flammable gas and vapor reading. The advisory committee also reasoned and proposed language that concurrent gas testing should be conducted when the detection of oxygen, flammable gases and vapors, (suggested by Keummi Park) and toxics are performed by a multi-gas meter, a device which is available off-the-shelf and can perform as the proposed language requires. This is consistent with the definition of *hazardous atmosphere*, which uses the term “flammable”.

Eric Berg stated that there is an important distinction given the inaccurate flammable gas/vapor readings the user could get if oxygen levels are not what they should be. Therefore, the user can use a multi-gas meter to get the needed data; however, oxygen should always be read first. Kent Freeman stated that if the user looks at all the new direct reading instruments, he/she does not

actually impair oxygen readings until the reading drops below 17.5% oxygen in air. Mr. Freeman stated that multi-gas meters made by Biosystems, MSA, and Industrial Scientific all say that oxygen must be read first on their instruments.

Peter Scholz asked Mr. Freeman what do these new instruments tell a person when oxygen levels are too low about the combustible gas readings? Do they warn the user? Mr. Freeman said that is the concern, the user get an incorrect reading when the reading is below 17.5% oxygen, the screen on the device gives the user an erroneous number when his/her detection methodology, such as a Wheatstone bridge or catalytic bead sensor, finds oxygen levels too low.

The advisory committee then turned its attention to the review of the proposed amendments to Section 1952(h) - Permit Space Entry Communication and Coordination. The Chair prefaced the discussion by stating that subsections (h)(1)(A) and (h)(1)(B) reflect consideration given to the fact that there may be contractors present on or near the same jobsite but operating under different confined space programs at the same time, and that coordination between contractors is necessary.

Ed Yarbrough stated the controlling employer's standard would be the standard for the contract unless one of the sub-contractors had a more stringent program developed on their own. Mr. Yarbrough asked the Chair is that correct? The Chair stated that under the current standard, he did not think that was the paradigm. Mr. Yarbrough gave an example of a prime crane contractor who performs a checklist at 70% of the load versus the general whose program specifies such testing at 80%. Mr. Yarbrough indicated that the controlling contractor's program takes precedence and the sub-contractor has to follow the prime contractor.

Mike Donlon stated that he thought that would be true only if it is written in the contract. If a prime contractor writes the contract to say that the sub-contractor will use the prime's program, then that is what will happen. The Chair stated that there is nothing in the standards requiring the prime or controlling contractor's program to take precedence. When multiple contractors are involved on site, there is a responsibility that they coordinate their programs. Mike Donlon stated that the problem with using the multi-employer worksite paradigm, as mentioned by Ed Yarbrough, is that if CalTrans hires him (Mr. Donlon) as a sub-contractor, he would have to use CalTran's program that would require Mr. Donlon to have to re-train all his employees in the CalTran's program. Mr. Donlon stated that as the controlling employer, the controlling employer needs to ensure that the sub-contractors are following the regulations (not necessarily the California Department of Transportation's program, but the ones that apply to them).

Cindy Sato, Construction Employers' Association (CEA), stated the CEA has reservations and concerns about the feasibility of having all the employers, that are entry employers go about writing their programs to contain specific procedures to address how all the other entry employers would go about their work activity in relation to confined space work and understand all the hazards and coordinating work that these other entry employees are going to face.

Therefore, Cindy Sato proposed the following language:

*“The employer’s permit required confined space program shall include communication procedures so that work activities can be coordinated and the operations of one employer will not endanger the employees conducting operations of another.”*

The CEA believes there should be some coordinated effort to make sure no employee is endangered.

Brian Heramb provided the advisory committee with a real world example in which his company would contract with a prime contractor for construction work in a power plant where the work is going to involve different trades. One group may have to purge and clean a space, followed by a dry ice blasting company, and then they might have a separate company that is going to perform welding and grinding and prep, followed by a painting contractor. Individually, these sub contractors have their own confined space program and the prime contractor may have a program but because of the unique types of hazards that are presented by the work performed by these sub-contractors and the specific types of equipment to be used, it would not be adequate for the prime contractor to manage their confined spaces. It is very clear that they have to communicate between each other to make sure there are no gaps. It would be very difficult for one program to supersede all the other programs and still provide effective safeguarding for those employees.

Mike Donlon stated that he likes the CEA suggested language because of its simplicity and clarity. He also indicated that, in his opinion, the CEA language was commensurate with the comparable standard. The Chair agreed and indicated that Section 1950(c) remains unchanged (i.e. where the standard applies...etc.) Both Mr. Berg and Mr. Scholz indicated that they are in agreement with Mr. Donlon. These three committee members stated that they found the Board staff’s proposed subsections (h)(1)(A) and (h)(1)(B) hard to understand. The Chair suggested to delete subsections (h)(1)(A) and (h)(1)(B) and to replace these subsections with CEA’s suggested language, as a new subsection (h)(1)(A), that would simply read:

*(A) The employer’s permit required confined space program shall include communication procedures so that work activities can be coordinated and the operations of one employer will not endanger the employees of another employer.*

The advisory committee was in consensus with this proposed language and to editorially re-number the remaining subsections as subsection (2) through subsection (6), respectively.

Jamie Carlile asked what was the intent of subsection (h)(1)(B)? The Chair indicated that subsection (h)(1)(B) was merely meant to inform employers that there may be other confined space requirements that may apply at a given worksite. Peter Scholz suggested creating a NOTE out of the language in subsection (h)(1)(B) stating that the prime contractor would be responsible for making sure his/her confined space program accounts for other confined space requirements that the sub-contractor’s employees may be subjected to. The committee reasoned after deliberation that there was no need for a NOTE and that the language in proposed subsection (h)(1)(A) was sufficient to effectively address the issue.

The Chair then directed the advisory committee to begin review of the proposed amendments to Section 1953(a)(3) pertaining to effective written procedures. The advisory committee was in agreement with the proposed amendments. Next, the committee considered amendments to subsection (a)(3)(D) and the conversion of the NOTE into regulatory text as subsections (a)(3)(D)1.(a) – (c). Brian Heramb stated that there are a few situations where his employees work in flammable atmosphere most likely due to a rupture or malfunction of some kind and where as directed by the proposed subsection (a)(3)(D)1.(a), there may not be time to inert the workspace. Mr. Herramb asked the Chair for a comment period following the meeting to check with his company to determine whether there would be any operations that would be affected by the proposal. The Chair stated that when the post advisory committee proposal goes out for comment, such feedback from Mr. Heramb would be appreciated.

Peter Scholz stated that the term “entrant employer” as used in subsection (a)(3)(D)1. should for the sake of consistency throughout the proposal, be changed to “entry”. The advisory committee agreed that this recommended change should be made. With respect to subsection (a)(3)(I), the Chair stated that this language was brought in from GISO, Section 5158. This is part of proposed subsection (a)(3)(I). Mike Donlon noted that oxygen deficiency is one of the conditions listed in subsection (a)(3)(I) that would prevent an employer from work involving the use of flame, arc, spark, or other source of ignition in a permit space. Mr. Donlon stated that one might need to inert a space which creates oxygen deficiency. He did not think oxygen deficiency increases fire hazard. The advisory committee reasoned that subsection (a)(3)(I) was intended to address fire and explosion hazards and, therefore, listing oxygen deficiency and dangerous air contamination was inappropriate. Keummi Park stated that she did not favor the deletion of the phrase “dangerous air contamination” as that same phrase is used in Section 5158. Ms. Park stated that the elimination of the phrase would reduce employee safety as far as this proposal is concerned. She also suggested breaking off dangerous air contamination into a separate sentence.

Mike Donlon disagreed with Ms. Park. He stated that the phrase Ms. Park suggested retaining is extra wording that does not actually add anything. Mr. Donlon went on to say that if a flammable atmosphere exists, what if it was because of something else? Mr. Donlon believes it is unnecessary wordiness since the proposal is still restricting the flammable atmosphere. Subsection (a)(3)(I) prohibits working where there is any kind of flammable atmosphere for any reason. The phrase simply does not add anything. The Chair reviewed Section 5158 with the advisory committee. The Chair stated that Section 5158 was intended to address a situation where the employer cannot control dangerous air contamination or the space becoming oxygen deficient/oxygen enriched.

Again, Mr. Donlon emphasized the proposed changes make it clearer without reducing the effectiveness at all. Eric Berg stated that toxic environments are flammable atmosphere and, therefore, the Division accepts the proposed change.

The advisory committee also suggested adding the term “atmosphere” after flammable in subsection (a)(3)(I). Therefore, subsection (a)(3)(I) was revised as recommended by the committee to state after the phrase “oxygen enrichment,” *“flammable atmosphere and/or explosive substances which cannot be controlled; and”*.

With regard to Section 1953(a)(3)(J), the advisory committee had no issues with the proposed language.

With regard to Section 1953(a)(5)(C), the Chair stated that concurrent testing under subsection (a)(5)(C) will be revised in accordance with the concurrent testing requirements listed elsewhere in the proposal [Section 1952(e)(2)(C)]. The advisory committee agreed that the revised language for subsection (a)(5)(C) should be:

*“(C) When testing for atmospheric hazards, test first for oxygen, then for combustible gases and vapors, and then for toxic gases and vapors. Concurrent testing for atmospheric hazards may be conducted if the detection of oxygen, flammable gases and vapors, and toxics are performed by a multi-gas meter.”*

### **Section 1955. Entry Permit.**

The Chair directed the advisory committee’s attention to review the proposed amendments to the NOTE to subsection (a)(9). The Chair stated that based on the committee’s prior discussion earlier in the day, that which is shown in strikeout notation shall be restored and that which is shown as underlined amendment will be deleted. Peter Scholz suggested that part of the NOTE which refers to Section 3314 should be deleted but that it would be helpful to retain examples of measures employers can use to isolate permit spaces as required in subsection (a)(9). Mike Donlon again stated that the term “electro mechanical” was problematic and he repeated his rationale from the prior committee discussion on this issue. Jason Denning stated just simply leaving in the term “mechanical” and deleting “electro” fails to take into account other types of hazards. Mike Donlon stated that any stored energy sources that are hazardous are of concern to those working in permit-confined spaces. Brian Heramb stated that the NOTE should mention “double block and bleed”. Eric Berg stated that he would like to introduce a phrase into the NOTE that would recognize blocking as well as lockout.

Peter Sholtz noted that the aforementioned issues (methods of isolation) are already contained within the definition of “isolate and isolation” discussed earlier. Mr. Sholtz went on to say that in deliberating over the NOTE to subsection (a)(9), the advisory committee appears to be writing another definition for “isolate and isolation” and asked why not reference that definition in the NOTE and delete everything else. The Chair wondered if the NOTE is superfluous since the proposal already defines “isolate and isolation” and asked the advisory committee if removing the language of the NOTE in favor of a cross-reference to the Section 1951 definition of “isolate and isolation” is acceptable. The advisory committee was in full agreement with the Chair’s suggested revision.

The NOTE would then read:

NOTE to Section 1955(a)(9): See definition of “isolate and isolation” in Section 1951.



### **Section 1956. Training.**

The Chair explained that the reason he proposed splitting the requirement in subsection (a) was because it took away from the clarity of having one large paragraph with two independent thoughts blended. Mike Donlon agreed. Overall, the advisory committee agreed with the substance of staff's proposed amendments and only suggested minor editorial revisions for clarity to Section 1956 and concurred with the Chair's suggested splitting of the existing language and recommended the existing language be broken down into two thoughts as subsection (a) [describing the employer's duty to provide training] and subsection (a)(1) indicating what the training is to accomplish [i.e. result in an understanding of the written procedures per Section 1953(a)(3)].

### **Section 1960. Rescue and Emergency Services.**

The Chair indicated that this was brought in because of the provisions under Section 5158 which requires rescue services in the form of an attendant or standby person. Mike Donlon stated that many people will read standby person as the attendant and that maybe the Chair was thinking of a rescue person instead of a standby person. The Chair asked the advisory committee if the phrase "...one or more standby persons" should be replaced with "rescue persons". A member of the committee asked who is the employer? The Chair responded by proposing to revise that by specifying "entry employer". Mike Shields asked about the rescue person noting that he/she is located at the site and immediately available as stated in Section 1960(a). He asked whether being on site and immediately available are possible in all cases. Mike Shields pursued his question further by asking, what if they were in the contractor's trailer on site. He argued that they would be at the ready. Mike Donlon stated that per confined space entry requirements, they have to be immediately available on site.

Dan Barker stated that in the definitions section, there is a definition for "rescue service" and that means the personnel designated to perform rescue. He asked the Chair whether it would be better to use that term in subsection (a). The advisory committee agreed with Mr. Barker to change the previously suggested phrase "rescue persons" to "rescue service". Jason Denning suggested specifying that the rescue service be at the confined space or permit confined space location, rather than to just stay at the site. Dan Barker did not agree and wondered if an employer had multiple confined spaces scattered throughout the site, if it was reasonable to expect the employer to have a rescue service team stationed at each confined space as opposed to being at the site. The Chair noted that if it is a permit required confined space, an attendant stationed at that type of space is already required; this is different from the rescue service team.

Dan Barker attempted to dramatize his point with an actual elevator scenario where there exist ten elevators scattered across a 10-acre site. Again, he asked if it is reasonable to expect the employer will have rescue personnel standing at each elevator pit if each pit is considered a confined space? Mr. Barker stated that he is concerned about over-regulating this issue beyond reasonableness. The Chair clarified that the concern here is that rescue team would be needed to address permit-confined spaces (potential for a hazardous atmosphere) not confined spaces.

Mike Donlon stated that Section 5157 was never interpreted to require a rescue person at each confined space. This issue is really covered in Section 1960 where subsection (a)(1) goes on to say that the employer has the obligation under law to evaluate the prospective responder's ability to respond in a timely manner based on criteria, or words to that effect. Therefore, if there are two confined spaces that are a distance apart, two rescue teams will need to be assigned, however, they can be doing other things in the area until they are needed at which time they would drop what they are doing to respond. That has always been the way the Division viewed and interpreted such situations. It is a performance standard and the employer needs to make that determination. Peter Scholz mentioned that the Hazwopper standard, subsection (q), requires back-up personnel to standby with equipment ready to provide assistance or rescue and shall not engage in any other activity that will detract from that mission.

Mike Donlon quickly responded that in confined space standards that is what Section 5157 says about the attendant, not the rescue services. Peter Scholz stated that the Hazwopper standard does in fact say that about the rescue services. Mike Donlon stated that is not confined spaces.

Eric Berg stated that he was satisfied with the proposal, as revised, using the term "rescue services" in lieu of "standby persons" with no other changes to subsection (a). There being no further comments, the Chair explained there will be some format changes made for clarity to breakdown the requirements of Section 1960 into subsections (a), (b), (c), (d) and (e) due to the creation of a new subsection (a) that sets off the requirements for employers who designates rescue and emergency services pursuant to Section 1953(a)(9). The advisory committee was in agreement with these editorial changes and moved on to the last section for discussion.

### **Section 5156. Scope, Application and Definitions.**

The Chair stated that the last proposed amendment is made to take out the reference to construction operations from Section 5156 and thus refer the employer to construction in confined space requirements contained in Article 37 of the CSO. There were no comments or concerns expressed by anyone on the advisory committee to these proposed amendments.

### **Cost Impact Discussion.**

The Chair provided the advisory committee with the choice of going into a cost discussion this first day of the advisory committee (September 6, 2017), come back tomorrow (September 7, 2017) or have the advisory committee provide cost impact data at a later date. Given the recommended changes to the proposal through the advisory committee's consensus, various members of the committee stated it would be better to defer the submittal of cost impact data to the Board staff later so that the changes/revisions could be properly considered and analyzed in terms of cost by the members and later by Board staff. The Chair explained to the advisory committee the Board's obligation to report on cost impact (economic-private and fiscal-government) as part of the rulemaking process.

Mike Donlon call the advisory committee's attention to the fact that Board staff safety engineer Maryrose Chan sent out a very effective letter to stakeholders describing what she wanted for

cost information. Mr. Donlon suggested that the Chair copy that letter and send it to the committee; thereby, explaining what the Board means by cost and what raw information is needed. The Chair responded that he can do that and would indeed use that approach. The advisory committee approved that decision and indicated that the second day to meet was not necessary.

The Chair then asked the advisory committee if there were any other portions of the construction confined space standard that the committee desires to address or expand upon. There were no further comments from the advisory committee. The Chair explained that Mike Manieri of the Board staff will be developing the minutes of the meeting and the minutes will be mailed out to members and any interested parties in the form of a post-advisory committee mail-out consisting of a cover memo, the minutes, the revised proposal, and the updated roster.

There being no further comments, discussion, or expressions of any kind by the advisory committee members relevant to the agenda items, the Chair thanked the advisory committee members for their participation and comments and adjourned the advisory committee meeting at approximately 3:00 p.m.

Occupational Safety and Health Standards Board  
**ADVISORY COMMITTEE ATTENDANCE ROSTER**  
 Confined Spaces in Construction (Clean-Up)

Please print legibly

September 6, 2017

Name and Title	Affiliation	Mailing Address	Phone and Fax Number	E-mail address	Alternate (For whom?)
MIKE SHIELDS A.S.E.	DIR DOSH ELEVATOR UNIT	7575 METROPOLITAN DR. SUITE 203 SAN DIEGO, CA 92109	<del>761</del> (619) 767-2050	mshields@dir.ca.gov	
DAN BARKER SSE-ELEV.	DOSH ELEV. UNIT	"	"	DLBARKER@DIR.CA.GOV	
FRANK BELIO IUEC LOCAL #18	IUEC 18	4636 MISSION BOGE PL #204 SAN DIEGO, CA 92120	619-280-6024	frank@iuec18.org	
JAMIE CARLILE PROGRAM MANAGER	SCE	6040 IRVINDALE AVE IRVINDALE, CA 91702	(909) 631 6896	Jamie.carlile@ Sce.com	
EV. C BUS	Cal/OSHA	1515 Clay Oakland	925-270 9791	cbus@a dir.ca.gov	
RIVER BLOWH SAFETY MANAGER	SWINERTON	260 TOWNSEND ST SF. CA 94107	415 603 7156	<del>rblowh</del> R.BLOWH@SWINERTON.COM	
Keummi Park	Cal/OSHA	2000 E. McHadden Ave #203 Santa Ana. CA 92705	714-567-7145	kpark@dir.ca.gov	
ERIC McCLASKEY	IUEC LOCAL 8	690 POTRERO AVZ. SAN FRANCISCO 94110	PH 415 285-2900 FX 415 285-2020	e.mccelaskey@ iuec8.org	
BRIAN HERAMB	SAN DIEGO GAS & ELECTRIC	8306 CENTURY PARK CT. SAN DIEGO, CA 92123	858-650-4006 (858)	bheramb@zempra utilities.com	
KENT FREEMAN INSTRUCTOR	CALIF. HEALTH & RESCUE TRNG. F.D. RETIRED	P.O. BOX 08 ROSEVILLE, CA 95678	916-838-9922	calrescue@ gmail.com	

Occupational Safety and Health Standards Board  
**ADVISORY COMMITTEE ATTENDANCE ROSTER**  
**Confined Spaces in Construction (Clean-Up)**

Please print legibly

September 6, 2017

Name and Title	Affiliation	Mailing Address	Phone and Fax Number	E-mail address	Alternate (For whom?)
Cindy Sato	CEA	7800 Watt Avenue Suite 215 Sacramento	(916) 978-8510 (916) 978-8512	csatoe.cea-ca.org	_____
Peter Scholz	Cal/OSHA	1515 Clay St., 1901 Oakland, 94611	(510) 286-7010	pscholz@dir.ca.gov	_____
Mike Donlon	DWR	2033 Howe Ave #220 Sac. CA 95821	916 557 4575	mdonlon@water.ca.gov	_____
Jason Denning Principal Safety Engineer	Cal/OSHA	2000 E. McFadden Ave Ste 203 Santa Ana, CA	<del>714-567-7142</del> 714-567-7142	jdenning@dir.ca.gov	_____
Amber Novey	LIVNA	4044 N. Freeway Blvd Sac, CA 95834	916-521-5212	anovey@livna.org	_____
Ed Yarbrough	CITIZENS		530 713 7865	ed-yarbrough@dot.ca.gov	_____
GIL WONG	Corrections	P.O. Box 221262 SACTO 95822	916-743-5280	GILBERT.WONG@CDCR.CA.GOV	_____
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Occupational Safety and Health Standards Board  
**ADVISORY COMMITTEE ATTENDANCE ROSTER**  
**Confined Spaces in Construction (Clean-Up)**

*Please print legibly*

**September 6, 2017**

Name and Title	Affiliation	Mailing Address	Phone and Fax Number	E-mail address
DYLAN WRIGHT EXPERT SAFETY SPEC.	P6E	3737 OAK ST. ANDERSON CA. 96007	(530) 338-5617	DYLAN.WRIGHT @P6E.COM

**Alternate**  
*(For whom?)*

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# Occupational Safety and Health Standards Board

## Business Meeting

# Occupational Safety and Health Standards Board

**Business Meeting**

**Proposed Variance Decisions**



**CONSENT CALENDAR—PROPOSED VARIANCE DECISIONS  
NOVEMBER 21, 2024, MONTHLY BUSINESS MEETING  
OF THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD**

**PROPOSED DECISIONS FOR BOARD CONSIDERATION, HEARD ON OCTOBER 23, 2024**

<b>Docket Number</b>	<b>Applicant Name</b>	<b>Safety Order(s) at Issue</b>	<b>Proposed Decision Recommendation</b>
1. 22-V-613M1	CP-SRM San Jose, LLC	Elevator	GRANT
2. 23-V-174M1	Sutter Capital Group, LP	Elevator	GRANT
3. 23-V-407M1	AS LLL Owner, LLC	Elevator	GRANT
4. 23-V-520M1	Anastasi Development Co. Inc	Elevator	GRANT
5. 24-V-380	The Church of Jesus Christ of Latter-day Saints, a Utah Corporation Sole	Elevator	GRANT
6. 24-V-413	Neuro Vet LLC	Elevator	GRANT
7. 24-V-451	Apollo IV Development Group, LLC	Elevator	GRANT
8. 24-V-452	Eisenhower Medical Center	Elevator	GRANT
9. 24-V-453	Sandcastle Pacific LLC	Elevator	GRANT
10. 24-V-454	County of El Dorado	Elevator	GRANT
11. 24-V-455	Canon Holdings LLC	Elevator	GRANT
12. 24-V-456	County of Santa Clara, Facilities and Fleet Department	Elevator	GRANT
13. 24-V-457	Sutter Health Park	Elevator	GRANT
14. 24-V-458	University of California, Santa Cruz	Elevator	GRANT
15. 24-V-459	San Diego Unified School District	Elevator	GRANT
16. 24-V-460	Gable House Development, LLC	Elevator	GRANT
17. 24-V-461	TMP II Apts LLC	Elevator	GRANT
18. 24-V-462	Capital 26 Management LLC	Elevator	GRANT
19. 24-V-463	Onni Broadway Hill Development LP	Elevator	GRANT
20. 24-V-464	Onni Broadway Hill Development LP	Elevator	GRANT

<b>Docket Number</b>	<b>Applicant Name</b>	<b>Safety Order(s) at Issue</b>	<b>Proposed Decision Recommendation</b>
21. 24-V-465	California Masonic Memorial Temple	Elevator	GRANT
22. 24-V-466	Chapman University	Elevator	GRANT
23. 24-V-467	Mani Brothers Real Estate Group	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:

CP-SRM San Jose, LLC

Permanent Variance No.: 22-V-613M1  
Proposed Decision Dated: October 23, 2024

DECISION

The Occupational Safety and Health Standards Board hereby adopts the attached  
PROPOSED DECISION by Kelly Chau, Hearing Officer.

\_\_\_\_\_  
JOSEPH M. ALIOTO JR., Chairman

\_\_\_\_\_  
KATHLEEN CRAWFORD, Member

\_\_\_\_\_  
DAVID HARRISON, Member

\_\_\_\_\_  
NOLA KENNEDY, Member

\_\_\_\_\_  
CHRIS LASZCZ-DAVIS, Member

\_\_\_\_\_  
DAVID THOMAS, Member

\_\_\_\_\_  
DEREK URWIN, Member

OCCUPATIONAL SAFETY AND HEALTH  
STANDARDS BOARD

Date of Adoption: November 21, 2024

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:  CP-SRM San Jose, LLC	Permanent Variance No.: 22-V-613M1  <u>PROPOSED DECISION</u>  Hearing Date: October 23, 2024 Location: Zoom
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A. Subject Matter

1. 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<sup>1</sup>, as follows:

Permanent Variance No.	Applicant Name	Preexisting Variance Address of Record
22-V-613	CP-SRM San Jose, LLC	3315 Almaden Expressway San Jose, CA

2. This proceeding is conducted in accordance with Labor Code section 143 and section 401, et seq. of the Occupational Safety and Health Standards Board’s (“Board” or “OSHSB”) procedural regulations.

B. Procedural

1. This hearing was held on October 23, 2024, via videoconference, by the Board, with Hearing Officer, Kelly Chau, both presiding and hearing the matter on its merit, in accordance with section 426.
2. At the hearing Wolter Geesink with Otis Elevator Company, and Dan Lecox of Lecox & Associates, appeared on behalf of the Applicant, Jose Ceja and Mark Wickens appeared on behalf of the Division of Occupational Safety and Health (“Cal/OSHA”).

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<sup>1</sup> Unless otherwise noted, references are to the California Code of Regulations, title 8.

- Documentary and oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence:

<b>Exhibit Number</b>	<b>Description of Exhibit</b>
PD-1	Application for Modification of Permanent Variance
PD-2	OSHSB Notice of Hearing
PD-3	Cal/OSHA Review of Variance Application
PD-4	Review Draft-1 Proposed Decision

- Official notice is taken of the Board’s files, records, recordings and decisions concerning the Elevator Safety Order requirements from which variance shall issue. On October 23, 2024, the hearing and record closed, and the matter was taken under submission by the Hearing Officer.

C. Findings of Fact

- The Applicant requests modification of the address of the unchanging variance location specified within Board records for each elevator the subject of previously granted Permanent Variance 22-V-613.
- 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 22-V-613 is in effect, in fact is more completely, and correctly the different combination of addresses specified in below subsection D.5.
- Cal/OSHA 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 Permanent Variance No. 22-V-613.
- 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 22-V-613 was, in part, based.
- The Board finds the correct address by which to designate the location of each elevator the subject of Permanent Variance No. 22-V-613, to be:

3355 Almaden Expy.  
San Jose, CA

D. Decision and Order


1. Permanent Variance Application No. 22-V-613M1 is conditionally GRANTED, thereby modifying Board records, such that, without change in variance location, each elevator being the subject of Permanent Variance Nos. 22-V-613, and 22-V-613M1, shall have the following address designation:

3355 Almaden Expy.  
San Jose, CA

2. Permanent Variance No. 22-V-613, 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. 22-V-613M1.

Pursuant to section 426(b), the Proposed Decision is submitted to the Board for consideration of adoption.

Dated: October 23, 2024

  
\_\_\_\_\_  
Kelly Chau, 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:

Sutter Capital Group, LP

Permanent Variance No.: 23-V-174M1  
Proposed Decision Dated: October 23, 2024

DECISION

The Occupational Safety and Health Standards Board hereby adopts the attached  
PROPOSED DECISION by Kelly Chau, Hearing Officer.

\_\_\_\_\_  
JOSEPH M. ALIOTO JR., Chairman

\_\_\_\_\_  
KATHLEEN CRAWFORD, Member

\_\_\_\_\_  
DAVID HARRISON, Member

\_\_\_\_\_  
NOLA KENNEDY, Member

\_\_\_\_\_  
CHRIS LASZCZ-DAVIS, Member

\_\_\_\_\_  
DAVID THOMAS, Member

\_\_\_\_\_  
DEREK URWIN, Member

OCCUPATIONAL SAFETY AND HEALTH  
STANDARDS BOARD

Date of Adoption: November 21, 2024

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:  Sutter Capital Group, LP	Permanent Variance No.: 23-V-174M1  <u>PROPOSED DECISION</u>  Hearing Date: October 23, 2024 Location: Zoom
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A. Subject Matter

1. 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<sup>1</sup>, as follows:

Permanent Variance No.	Applicant Name	Preexisting Variance Address of Record
23-V-174	Sutter Capital Group, LP	1629 S Street Sacramento, CA

2. This proceeding is conducted in accordance with Labor Codes section 143 and section 401, et seq. of the Occupational Safety and Health Standards Board’s (“Board” or “OSHSB”) procedural regulations.

B. Procedural

1. This hearing was held on October 23, 2024, via videoconference, by the Board, with Hearing Officer, Kelly Chau, both presiding and hearing the matter on its merit, in accordance with section 426.
2. At the hearing Fuei Saetern KONE Inc., appeared on behalf of the Applicant, Jose Ceja and Mark Wickens appeared on behalf of the Division of Occupational Safety and Health (“Cal/OSHA”).
3. Documentary and oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence:

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<sup>1</sup> Unless otherwise noted, references are to the California Code of Regulations, title 8.



<b>Exhibit Number</b>	<b>Description of Exhibit</b>
PD-1	Application for Modification of Permanent Variance
PD-2	OSHSB Notice of Hearing
PD-3	Cal/OSHA Review of Variance Application
PD-4	Review Draft-1 Proposed Decision

4. Official notice is taken of the Board’s files, records, recordings and decisions concerning the Elevator Safety Order requirements from which variance shall issue. On October 23, 2024, the hearing and record closed, and the matter was taken under submission by the Hearing Officer.

C. Findings of Fact

1. The Applicant requests modification of the address of the unchanging variance location specified within Board records for each elevator the subject of previously granted Permanent Variance 23-V-174.
2. The application 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 23-V-174 is in effect, in fact is more completely, and correctly the different combination of addresses specified in below subsection D.1.
3. Cal/OSHA 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 Permanent Variance No. 23-V-174.
4. The Board finds the above subpart C.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 23-V-174 was, in part, based.
5. The Board finds the correct address by which to designate the location of each elevator the subject of Permanent Variance No. 23-V-174, to be:

1625 S St.  
Sacramento, CA

D. Decision and Order

1. Permanent Variance Application No. 23-V-174M1 is conditionally GRANTED, thereby modifying Board records, such that, without change in variance location, each elevator

being the subject of Permanent Variance Nos. 23-V-174, and 23-V-174M1, shall have the following address designation:

1625 S St.  
Sacramento, CA

2. Permanent Variance No. 23-V-174, 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. 23-V-174M1.

Pursuant to section 426(b), the Proposed Decision is submitted to the Board for consideration of adoption.

Dated: October 23, 2024

  
\_\_\_\_\_  
Kelly Chau, 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:

AS LLL Owner LLC

Permanent Variance No.: 23-V-407M1  
Proposed Decision Dated: October 23, 2024

DECISION

The Occupational Safety and Health Standards Board hereby adopts the attached  
PROPOSED DECISION by Kelly Chau, Hearing Officer.

\_\_\_\_\_  
JOSEPH M. ALIOTO JR., Chairman

\_\_\_\_\_  
KATHLEEN CRAWFORD, Member

\_\_\_\_\_  
DAVID HARRISON, Member

\_\_\_\_\_  
NOLA KENNEDY, Member

\_\_\_\_\_  
CHRIS LASZCZ-DAVIS, Member

\_\_\_\_\_  
DAVID THOMAS, Member

\_\_\_\_\_  
DEREK URWIN, Member

OCCUPATIONAL SAFETY AND HEALTH  
STANDARDS BOARD

Date of Adoption: November 21, 2024

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 Revoke Permanent Variance by:  AS LLL Owner LLC	Permanent Variance No.: 23-V-407M1  <u>PROPOSED DECISION</u>  Hearing Date: October 23, 2024 Location: Zoom
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A. Subject Matter

1. The following person or entity (“Applicant”) has applied for a revocation of permanent variance from provisions of the Elevator Safety Orders, found at title 8 of the California Code of Regulations<sup>1</sup>, as follows:

Permanent Variance No.	Applicant Name
23-V-407	AS LLL Owner LLC

2. This proceeding is conducted in accordance with Labor Code section 143 and section 401, et seq. of the Occupational Safety and Health Standards Board’s (“Board” or “OSHSB”) procedural regulations.

B. Procedural

1. This hearing was held on October 23, 2024 via videoconference, by the Board, with Hearing Officer, Kelly Chau, both presiding and hearing the matter on its merit, in accordance with section 426.
2. At the hearing Wolter Geesink with Otis Elevator Company, and Dan Leacox of Leacox & Associates, appeared on behalf of the Applicant, Jose Ceja and Mark Wickens appeared on behalf of the Division of Occupational Safety and Health (“Cal/OSHA”).

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<sup>1</sup> Unless otherwise noted, references are to the California Code of Regulations, title 8.

3. Documentary and oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence:

<b>Exhibit Number</b>	<b>Description of Exhibit</b>
PD-1	Application for Revocation of Permanent Variance
PD-2	OSHSB Notice of Hearing
PD-3	Cal/OSHA Review of Variance Application
PD-4	Review Draft-1 Proposed Decision

4. Official notice is taken of the Board’s files, records, recordings and decisions concerning the Elevator Safety Order requirements from which variance shall issue. On October 23, 2024, the hearing and record closed, and the matter was taken under submission by the Hearing Officer.

C. Findings of Fact


1. The Applicant requests revocation of the address of previously granted Permanent Variance No. 24-V-407.
2. Application section 3 and 4, declared to be wholly truthful under penalty of perjury by Application signatory, states facts upon which reasonably may be based a finding that the variance granted for one item only – the use of an E2 controller – is not longer needed because the installation does not utilize an E2 controller nor does Applicant expect to utilize an E2 controller in the future.
3. Cal/OSHA has evaluated the request for revocation of of variance, finds no issue with it, and recommends that the application for revocation be granted to revoke the variance.
4. The Board finds the above subpart C.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 No. 2-V-407 was, in part, based.
5. The Board finds the variance is no longer needed.

D. Decision and Order

1. Permanent Variance Application No. 24-V- 407M1 is GRANTED, thereby revoking Board records, such that, a variance no longer exists.
2. Permanent Variance No. 23-V-407, being revoked is hereby incorporated by reference into this Decision and Order of Permanent Variance No. 24-V-407M1 such that no variance shall exist.

Pursuant to section 426(b), the Proposed Decision is submitted to the Board for consideration of adoption.

Dated: October 23, 2024

  
\_\_\_\_\_  
Kelly Chau, 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:

Anastasi Development Co. Inc

Permanent Variance No.: 23-V-520M1  
Proposed Decision Dated: October 23, 2024

DECISION

The Occupational Safety and Health Standards Board hereby adopts the attached  
PROPOSED DECISION by Kelly Chau, Hearing Officer.

\_\_\_\_\_  
JOSEPH M. ALIOTO JR., Chairman

\_\_\_\_\_  
KATHLEEN CRAWFORD, Member

\_\_\_\_\_  
DAVID HARRISON, Member

\_\_\_\_\_  
NOLA KENNEDY, Member

\_\_\_\_\_  
CHRIS LASZCZ-DAVIS, Member

\_\_\_\_\_  
DAVID THOMAS, Member

\_\_\_\_\_  
DEREK URWIN, Member

OCCUPATIONAL SAFETY AND HEALTH  
STANDARDS BOARD

Date of Adoption: November 21, 2024

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:  Anastasi Development Co. Inc	Permanent Variance No.: 23-V-520M1  <u>PROPOSED DECISION</u>  Hearing Date: October 23, 2024 Location: Zoom
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A. Subject Matter

1. 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<sup>1</sup>, as follows:

Permanent Variance No.	Applicant Name	Preexisting Variance Address of Record
23-V-520	Anastasi Development Co. Inc	2218 E. Main St. Ventura, CA

2. This proceeding is conducted in accordance with Labor Code section 143 and section 401, et seq. of the Occupational Safety and Health Standards Board’s (“Board” or “OSHSB”) procedural regulations.

B. Procedural

1. This hearing was held on October 23, 2024, via videoconference, by the Board, with Hearing Officer, Kelly Chau, both presiding and hearing the matter on its merit, in accordance with section 426.
2. At the hearing Wolter Geesink with Otis Elevator Company, and Dan Leacox of Leacox & Associates, appeared on behalf of the Applicant, Jose Ceja and Mark Wickens appeared on behalf of the Division of Occupational Safety and Health (“Cal/OSHA”).

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<sup>1</sup> Unless otherwise noted, references are to the California Code of Regulations, title 8.



- Documentary and oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence:

<b>Exhibit Number</b>	<b>Description of Exhibit</b>
PD-1	Application for Modification of Permanent Variance
PD-2	OSHSB Notice of Hearing
PD-3	Cal/OSHA Review of Variance Application
PD-4	Review Draft-1 Proposed Decision

- Official notice is taken of the Board’s files, records, recordings and decisions concerning the Elevator Safety Order requirements from which variance shall issue. On October 23, 2024, the hearing and record closed, and the matter was taken under submission by the Hearing Officer.

C. Findings of Fact

- The Applicant requests modification of the address of the unchanging variance location specified within Board records for each elevator the subject of previously granted Permanent Variance 23-V-520.
- 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 23-V-520 is in effect, in fact is more completely, and correctly the different combination of addresses specified in below subsection D.5.
- Cal/OSHA 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 Permanent Variance No. 23-V-520.
- 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 23-V-520 was, in part, based.
- The Board finds the correct address by which to designate the location of each elevator the subject of Permanent Variance No. 23-V-520, to be:

44 Coronado St.  
Ventura, CA

D. Decision and Order

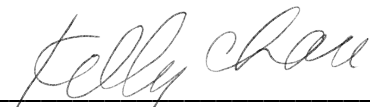
1. Permanent Variance Application No. 23-V-520M1 is conditionally GRANTED, thereby modifying Board records, such that, without change in variance location, each elevator being the subject of Permanent Variance Nos. 23-V-520, and 23-V-520M1, shall have the following address designation:

44 Coronado St.  
Ventura, CA

2. Permanent Variance No. 23-V-520, 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. 23-V-520M1.

Pursuant to section 426(b), the Proposed Decision is submitted to the Board for consideration of adoption.

Dated: October 23, 2024

  
\_\_\_\_\_  
Kelly Chau, 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:

The Church of Jesus Christ of Latter-day  
Saints, a Utah Corporation Sole

OSHSB File Nos.: See Section A.1 Table Below  
Proposed Decision Dated: October 23, 2024

DECISION

The Occupational Safety and Health Standards Board hereby adopts the attached  
PROPOSED DECISION by Kelly Chau, Hearing Officer.

\_\_\_\_\_  
JOSEPH M. ALIOTO JR., Chairman

\_\_\_\_\_  
KATHLEEN CRAWFORD, Member

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DAVID HARRISON, Member

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NOLA KENNEDY, Member

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CHRIS LASZCZ-DAVIS, Member

\_\_\_\_\_  
DAVID THOMAS, Member

\_\_\_\_\_  
DEREK URWIN, Member

OCCUPATIONAL SAFETY AND HEALTH  
STANDARDS BOARD

Date of Adoption: November 21, 2024

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>The Church of Jesus Christ of Latter-day Saints, a Utah Corporation Sole</p>	<p>OSHSB File Nos.: See Section A.1 Table Below</p> <p><u>PROPOSED DECISION</u></p> <p>Hearing Date: October 23, 2024          Location: Zoom</p>
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A. Subject Matter and Jurisdiction

- Each applicant (“Applicant”) below has applied for permanent variance from certain provisions of the Elevator Safety Orders, found at title 8, of the California Code of Regulations<sup>1</sup>, as follows:

Variance No.	Applicant Name	Variance Location Address	No. of Elevators
24-V-380	The Church of Jesus Christ of Latter-day Saints, a Utah Corporation Sole	4310 Dale Road Modesto, CA	1

- This proceeding is conducted in accordance with Labor Code section 143, and section 401, et seq. of the Occupational Safety and Health Standards Board’s (“Board”) procedural regulations.

B. Procedural Matters

- This hearing was held on October 23, 2024 via videoconference by the Board with Hearing Officer, Kelly Chau, hearing the matter on its merit in accordance with section 426.
- At the hearing, David Henderson, with HKS Architects, appeared on behalf of Applicant. Mark Wickens and Jose Ceja appeared on behalf of the Division of Occupational Safety and Health (“Cal/OSHA”).
- Oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence:

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

<b>Exhibit Number</b>	<b>Description of Exhibit</b>
PD-1	Amended Application for Permanent Variance
PD-2	OSHSB Notice of Hearing
PD-3	Cal/OSHA Review of Variance Application
PD-4	Review Draft-1 Proposed Decision

4. Official notice is 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 October 23, 2024 the record was closed, and the matter taken under submission by the Hearing Officer.

C. Relevant Safety Order Provisions

1. Section 3087.4(b) of the Elevator Safety Orders states, in part:

“(b) Control stations shall be provided for each landing or located near the access point to the platform.”

2. The intent of this regulation is to provide controls at each landing so that the surrounding area and movement of the VRC can be clearly observed by the operator.

3. Section 3087.6(a) of the Elevator Safety Orders states, in part:

“(a) Vertical or inclined reciprocating conveyors shall be guarded so as to prevent injury from inadvertent physical contact. The enclosure shall be not less than 8 ft (2.44 m) high and constructed of a metal mesh that will reject a ball 2 in. (51 mm) in diameter.”

4. The intent of this regulation is to provide an eight foot high enclosure to protect personnel from contact with the moving platform and to guard the floor openings at the landings.

5. Section 3087.6(b) of the Elevator Safety Orders states, in part:

“(b) Vertical or inclined reciprocating conveyor enclosure shall be equipped with doors or gates or equivalent device at each manual loading and unloading station, interlocked so they can be opened only when the platform or carriers has stopped at that level and the platform or carrier cannot be moved until they are closed.”

6. The intent of this regulation is to ensure that the platform will not move unless all doors are closed and locked, and allow the doors to open only when the platform is present.

#### D. Findings of Fact

1. The Applicant's location is the Modesto California Temple which is accessible to the public.
2. Applicant seeks a permanent variance from sections 3087.4(b) and 3087.6 (a) and (b) of the Elevator Safety Orders ("ESO"), with respect to the installation of a vertical reciprocating conveyor (VRC) in lieu of a sidewalk elevator.
3. The VRC will be provided with two-section-center opening hinged sidewalk elevator type doors. Controls for operating the VRC will be provided at the sidewalk level only.
4. The Applicant requests a permanent variance from the provisions of the preceding regulations which requires operating controls be provided at each landing, an 8 foot high enclosure be provided, and the doors to be interlocked so they open only when the platform has stopped at the landing and prevents the platform from moving when the doors are not in the closed and locked position.
5. The Applicant believes that equivalent safety is provided by installing a two section center-opening hinged door to be level with the sidewalk, and a control switch at the sidewalk level (an operator can operate the VRC only at the sidewalk level).
6. A permanent variance has been previously granted for a similar installation. (Permanent Variance Nos. 06-V-152, 17-V-168, 17-V-196)
7. Cal/OSHA asserts that the Applicant's proposal along with the recommended conditions provides equivalent safety.

#### D. Conclusive Findings

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 the ESO from which variance is being sought.

#### E. Decision and Order

The Application being the subject of this proceeding, per the table in section A.1 above, is conditionally GRANTED, to the extent that the Applicant shall be issued permanent variance from sections 3087.4(b) and 3087.6 (a) and (b) subject to the following conditions and limitations:

1. The vertical reciprocating conveyor (VRC) shall comply with the ESO, except sections 3087.4(b) and 3087.6(a) and (b).
2. The sidewalk opening shall be protected by metal doors of sufficient strength to support a static load of not less than 300 pounds per square foot, uniformly distributed. They shall have a non-slip upper surface.
3. The sidewalk doors shall be two-section, center opening, and hinged to be level with the sidewalk when in the closed position.
4. Bow irons as required by ESO sections 3074(d)(2) shall be provided on the VRC platform to operate the sidewalk doors.
5. The sidewalk doors shall be opened by the ascending car, self-closing and self-locking as the car descends, and shall be kept in the closed position when the car is not at the top landing.
6. The basement access door to the VRC enclosure shall be provided with an approved door interlock that will mechanically lock the door when the platform is not at the basement level and prevent the VRC from running when the basement door is open.
7. The hoistway shall be fully enclosed up to the basement ceiling and constructed of a metal mesh that will reject a ball 2 inches (51 mm) in diameter.
8. The VRC shall be operated only from the sidewalk level by means of continuous-pressure key-type switch or continuous pressure up and down buttons installed behind a weather proof locked panel. VRC control stations shall not be provided on the platform or in the basement.
9. The VRC shall be provided with upper and lower normal terminal stopping devices arranged to stop the car automatically at or near the top and bottom terminal landings. The directional stopping switches for the normal stopping device shall be of the enclosed type, located in the hoistway, and shall be operated by the movement of the car using a metal operating cam.
10. Procedural controls shall be established and implemented by the Applicant. The procedural controls shall include, and the operator must perform, the following:
  - a. A portable, temporary barrier around the sidewalk opening shall be set-up before operating the vertical reciprocating conveyor.
  - b. The vertical reciprocating conveyor shall be operated with controls located only at the sidewalk level.

- c. Necessary foot travel between the sidewalk and lower level to load and unload the platform shall be via the building elevator or stairs.
  - d. The platform shall be parked at the basement level and the temporary sidewalk barrier shall be removed when use of the conveyor is complete.
- 11. The Applicant will train individuals who will use the VRC on these procedural controls, on the variance conditions, and on the proper operation of the lift.
- 12. The temporary barrier referenced in Condition No. 10 shall be stored in a readily available location that will facilitate the operator's use of the barrier.
- 13. Stops shall be provided to prevent the sidewalk doors from opening more than 90 degrees from their closed position.
- 14. All openings between sidewalk door panels and frames shall be provided with gutters to collect rainwater. The gutters shall be piped rigidly to a discharge point exterior to the hoistway and pit.
- 15. The car platform except for the necessary entrance(s) shall be provided with standard railings in accordance with GISO 3209, with a height not less than 42 inches with mid-rail and kick plate, or equivalent guarding.
- 16. Speed of travel for the VRC shall be not more than 50 feet per minute.
- 17. Locations and clearances of the lift opening from building walls, openings, and obstructions, and width of pedestrian paths shall be as prescribed by ASME A17.1-2004, section 5.5.1.11.2.
- 18. The Applicant shall notify Cal/OSHA when the VRC is completed and ready for inspection. The Applicant shall arrange to have Cal/OSHA inspect the VRC. A Permit to Operate shall be issued before the VRC is put into service.
- 19. Cal/OSHA shall be notified when the elevator is ready for inspection. The elevator shall be inspected by Cal/OSHA, 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 Cal/OSHA.
- 20. 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.



21. This Decision and Order shall remain in effect unless modified or revoked upon application by the Applicant, affected employee(s), Cal/OSHA, or by the Board on its own motion, in accordance with the Board's procedural regulations at section 426(b).

Pursuant to section 426(b), the Proposed Decision, is submitted to the Board for consideration of adoption.

DATED: October 23, 2024

  
\_\_\_\_\_  
Kelly Chau, 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 by:

Neuro Vet LLC

Permanent Variance No.: 24-V-413  
Proposed Decision Dated: October 23, 2024

DECISION

The Occupational Safety and Health Standards Board hereby adopts the attached  
PROPOSED DECISION by Kelly Chau, Hearing Officer.

\_\_\_\_\_  
JOSEPH M. ALIOTO JR., Chairman

\_\_\_\_\_  
KATHLEEN CRAWFORD, Member

\_\_\_\_\_  
DAVID HARRISON, Member

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NOLA KENNEDY, Member

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CHRIS LASZCZ-DAVIS, Member

\_\_\_\_\_  
DAVID THOMAS, Member

\_\_\_\_\_  
DEREK URWIN, Member

OCCUPATIONAL SAFETY AND HEALTH  
STANDARDS BOARD

Date of Adoption: November 21, 2024

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:  <p style="text-align:center">Neuro Vet LLC</p>	Permanent Variance No.: 24-V-413  Proposed Decision  Hearing Date: October 23, 2024 Location: Zoom
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A. Subject Matter

1. Neuro Vet LLC (“Applicant”) has applied for a permanent variance from provisions of title 8 of the California Code of Regulations<sup>1</sup> regarding vertical platform (wheelchair) lifts, with respect to one vertical platform (wheelchair) lift proposed to be located at:

425 Gregory Lane  
Pleasant Hill, CA

2. The safety orders at issue are stated in the prefatory part of the Decision and Order. This proceeding is conducted in accordance with Labor Code section 143 and section 401, et seq.

B. Procedural

1. This hearing was held on October 23, 2024 via videoconference by the Board with Hearing Officer, Kelly Chau, presiding and hearing the matter on its merit in accordance with section 426.
2. Appearing at hearing were Loren Merrill with Wells Construction Inc., appearing on behalf of the Applicant; Jose Ceja and Mark Wickens appeared on behalf of the Division of Occupational Safety and Health (“Cal/OSHA”).
3. Documentary and oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence:

Exhibit Number	Description of Exhibit
PD-1	Application for Permanent Variance

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

<b>Exhibit Number</b>	<b>Description of Exhibit</b>
PD-2	OSHSB Notice of Hearing
PD-3	Cal/OSHA Review of Variance Application
PD-4	Review Draft-1 Proposed Decision

Official notice is taken of the Board’s files, records, recordings and decisions concerning the Elevator Safety Order requirements from which variance shall issue. On October 23, 2024, the hearing and record closed, and the matter was taken under submission by the Hearing Officer.

C. Findings of Fact

Based on the record of this proceeding, and officially noticed Board records per (above section A.5) stipulation of Applicant and Cal/OSHA—inclusive of permanent variance file records of sworn testimony, findings and decisions in Permanent Variance No. 15-V-297, the Board finds the following:

1. The Applicant proposes to install one vertical platform (wheelchair) lift at a location having the address of:

425 Gregory Lane  
Pleasant Hill, CA

2. Applicant requests variance solely from section 3142(a) and section 3142.1.
3. The subject vertical lift is proposed to be a Garaventa Lift, Model GVL-EN-168 or GVL-SW-168, with a vertical travel range of approximately 168 inches. That range of travel exceeds the 12-foot maximum vertical rise allowed by ASME A18.1-2003, section 2.7.1—the State of California standard in force at the time of this Decision.
4. Cal/OSHA’s evaluation in this Matter, states that the more recent consensus code, ASME A18.1-2005, allows for vertical platform lifts to have a travel not exceeding 14 feet (168 in.).
5. Permanent variances regarding the extended travel of vertical platform lifts, of similar configuration to that of the subject proposed model, have been previously granted, without subsequent safety problems attributable to such variance being reported. (e.g. Permanent Variance Nos. 13-V-260, 15-V-097, 15-V-297, 18-V-069)

6. It is the well informed professional opinion of Cal/OSHA (per Exhibits PD-3) that equivalent safety will be achieved upon grant of presently requested permanent variance, subject to conditions materially equivalent to those imposed by Board adopted Decision and Order, In Matters of Application for Permanent Variance Nos. 15-V-297, and 18-V-069.
7. With respect to the equivalence or superior of safety, conditions and limitations of the below Decision and Order are in material conformity with those of previously issued Permanent Variance Nos. 15-V-297, and 18-V-069.

D. Conclusive Findings

A preponderance of the evidence supports the finding 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

The Application for Permanent Variance of Neuro Vet LLC, Permanent Variance No. 24-V-413, is conditionally GRANTED to the limited extent, upon the Board's adoption of this Proposed Decision, Neuro Vet LLC, shall have permanent variance from California Code of Regulations, sections 3142(a) and 3142.1 incorporated ASME A18.1-2003, section 2.7.1, inasmuch as each restricts the vertical rise of a wheelchair lift to a maximum of 12 feet, with respect to one (1) Garaventa Lift, Model GVL-EN-168 or GVL-SW-168 Vertical Platform Lift, to be located at:

425 Gregory Lane  
Pleasant Hill, CA

The above referenced vertical platform lift shall be subject to the following further conditions and limitations:

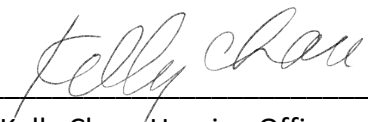
1. This lift may travel up to 168 inches, unless the manufacturer's instructions provide for a lesser vertical travel limit, or lesser total elevation change, in which case, travel shall be limited to the lesser limit or elevation change.

2. The wheelchair lift shall be installed and operated in accordance with the manufacturer's instructions, unless the provisions of this variance or applicable provisions of the law provide or require otherwise.
3. Durable signs with lettering not less than 5/16 inch on a contrasting background shall be permanently and conspicuously posted inside the car and at all landings indicating that the lift is for the exclusive use of persons with physical impairments and that the lift is not to be used to transport material or equipment. The use of the lift shall be limited in accordance with these signs.
4. A maintenance contract shall be executed between the owner/operator and a Certified Qualified Conveyance Company (CQCC). The contract shall stipulate that the routine preventive maintenance required by section 3094.5(a)(1) shall be performed at least quarterly and shall include but not be limited to:
  - (a) Platform driving means examination;
  - (b) Platform examination;
  - (c) Suspension means examination;
  - (d) Platform alignment;
  - (e) Vibration examination;
  - (f) Door/gate electrical; and
  - (g) Mechanical lock examination.
5. The lift shall be tested annually for proper operation under rated load conditions. Cal/OSHA Elevator Unit District Office shall be provided written notification in advance of the test, and the test shall include a check of car or platform safety device.
6. The lift shall be shut down immediately if the lift experiences unusual noise and vibration, and the Applicant shall notify the CQCC immediately. The lift shall only be restarted by the CQCC.
7. The Applicant shall notify the CQCC if the lift shuts down for any reason. The lift shall only be restarted by the CQCC.

8. Service logs including, but not limited to, the device shutdown(s) shall be kept in the maintenance office and shall be available to Cal/OSHA. The shutdown information shall contain the date of the shutdown, cause of the shutdown, and the action taken to correct the shutdown.
9. The Applicant shall provide training on the safe operation of the lift in accordance with section 3203. Such training shall be conducted annually for all employees using or who will be assisting others in using the lift. The Applicant shall notify Cal/OSHA in writing that training has been conducted. A copy of the training manual (used for the subject training), and documentation identifying the trainer and attendees shall be maintained for at least 1 year and provided to Cal/OSHA upon request.
10. Any CQCC performing inspections, maintenance, servicing or testing of the elevators shall be provided a copy of this variance decision.
11. Cal/OSHA shall be notified when the lift is ready for inspection, and the lift shall be inspected by Cal/OSHA and a Permit to Operate shall be issued before the lift is put into service.
12. 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, sections 411.2 and 411.3.
13. This Decision and Order shall remain in effect unless modified or revoked upon application by the Applicant, affected employee(s), Cal/OSHA, or by the Board on its own motion, in the procedural manner prescribed.

Pursuant to section 426(b), the Proposed Decision is submitted to the Board for consideration of adoption.

Dated: October 23, 2024

  
\_\_\_\_\_  
Kelly Chau, 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 Medical Emergency Elevator Car  
Dimensions (Group IV)

Permanent Variance No.: See Section A.1 table  
below

Proposed Decision Dated: October 23, 2024

DECISION

The Occupational Safety and Health Standards Board hereby adopts the attached  
PROPOSED DECISION by Kelly Chau, Hearing Officer.

\_\_\_\_\_  
JOSEPH M. ALIOTO JR., Chairman

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KATHLEEN CRAWFORD, Member

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DAVID HARRISON, Member

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NOLA KENNEDY, Member

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CHRIS LASZCZ-DAVIS, Member

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DAVID THOMAS, Member

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DEREK URWIN, Member

OCCUPATIONAL SAFETY AND HEALTH  
STANDARDS BOARD

Date of Adoption: November 21, 2024

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>Otis Medical Emergency Elevator Car Dimensions (Group IV)</p>	<p>Permanent Variance No.: See section A.1 table below</p> <p><u>PROPOSED DECISION</u></p> <p>Hearing Date: October 23, 2024          Location: Zoom</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<sup>1</sup>, as follows:

Permanent Variance No.	Applicant Name	Variance Location Address
24-V-451	Apollo IV Development Group, LLC	21644 Dracaea St. Moreno Valley, CA
24-V-453	Sandcastle Pacific LLC	422 South Pacific Coast Hwy. Redondo Beach, CA
24-V-454	County of El Dorado	South Lake Tahoe Recreation & Aquatic Center 1100 Rufus Allen Blvd. South Lake Tahoe, CA
24-V-464	Onni Broadway Hill Development LP	230 W. Olympic Blvd. Los Angeles, CA
24-V-466	Chapman University	Killefer Lab Building 543 N. Lemon St. Orange, CA

- This proceeding is conducted in accordance with Labor Code section 143, and section 401, et seq. of the Occupational Safety and Health Standards Board’s (“Board” or “OSHSB”) procedural regulations.
- This hearing was held on October 23, 2024, via videoconference, by the Board, with Hearing Officer, Kelly Chau, both presiding and hearing the matter on its merit, as a

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<sup>1</sup> Unless otherwise noted, all references are to the California Code of Regulations, title 8.

basis of proposed decision to be advanced to the Board for its consideration, in accordance with section 426.

4. At the hearing, Dan Leacox of Leacox & Associates, and Wolter Geesink with Otis Elevator, appeared on behalf of each Applicant; Jose Ceja and Mark Wickens appeared on behalf of the Division of Occupational Safety and Health (“Cal/OSHA”).
5. Oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence:

<b>Exhibit Number</b>	<b>Description of Exhibit</b>
PD-1	Permanent variance applications per section A.1 table
PD-2	OSHSB Notice of Hearing
PD-3	Cal/OSHA Review of Variance Application
PD-4	Review Draft-1 Proposed Decision

6. Official notice is taken of the Board’s files, records, recordings and decisions concerning the Elevator Safety Order requirements from which variance shall issue. On October 23, 2024, the hearing and record closed, and the matter taken under submission by the Hearing Officer.

**B. Findings of Fact and Applicable Regulations**

1. Applicant requests a permanent variance from section 3041, subdivision (e)(1)(C), which states:

(1) All buildings and structures constructed after the effective date of this order that are provided with one or more passenger elevators shall be provided with not less than one passenger elevator designed and designated to accommodate the loading and transport of an ambulance gurney or stretcher maximum size 22 ½ in. (572 mm) by 75 in. (1.90 m) in its horizontal position and arranged to serve all landings in conformance with the following:

...

(C) The elevator car shall have a minimum inside car platform of 80 in. (2.03 m) wide by 51 in. (1.30 m) deep.

The intent of this language is to ensure that there is enough space to accommodate the access and egress of a gurney and medical personnel inside of a medical service elevator.

This standard is made applicable to Group IV by section 3141.7, subdivision (b), which reads, "Elevators utilized to provide medical emergency service shall comply with Group II, section 3041(e)."

2. Applicant proposes to comply with the requirements of the 2019 California Building Code, section 3002.4.1a in the design of its medical emergency service elevator. That section requires:

The medical emergency service elevator shall accommodate the loading and transport of two emergency personnel, each requiring a minimum clear 21-inch (533 mm) diameter circular area and an ambulance gurney or stretcher [minimum size 24 inches by 84 inches (610 mm by 2134 mm) with not less than 5-inch (127 mm) radius corners] in the horizontal, open position.

The purpose of this requirement is to ensure that an elevator designated for emergency medical service will accommodate a minimum of two emergency personnel with an ambulance gurney or stretcher.

#### C. Conclusive Findings

A preponderance of the evidence supports the finding 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.

#### D. 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.1 table shall have permanent variances from sections 3041, subdivision (e)(1)(C) and 3141.7, subdivision (b) subject of the following conditions:

1. All medical emergency service elevator(s) shall comply with the requirements of the 2019 California Building Code section 3002.4.1a:

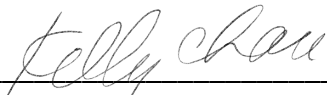
The medical emergency service elevator shall accommodate the loading and transport of two emergency personnel, each requiring a minimum clear 21-inch (533 mm) diameter circular area and an ambulance gurney or stretcher [minimum size 24 inches by 84 inches (610 mm by 2134 mm) with not less than 5-inch (127 mm) radius corners] in the horizontal, open position.

2. All medical emergency service elevator(s) shall be identified in the building construction documents in accordance with the 2019 California Building Code, section 3002.4a.

3. Dimensional drawings and other information necessary to demonstrate compliance with the conditions of this permanent variance decision shall be provided to Cal/OSHA, at the time of inspection, for all medical emergency service elevator(s).
4. Any Certified Qualified Conveyance Company performing inspections, maintenance, servicing, or testing the elevators shall be provided a copy of this variance decision.
5. Cal/OSHA shall be notified when the elevator is ready for inspection. The elevator shall be inspected by Cal/OSHA, 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 Cal/OSHA.
6. Applicant shall notify its employees and their authorized representative, 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.
7. This Decision and Order shall remain in effect unless duly modified or revoked upon application by Applicant, affected employee(s), Cal/OSHA, or by the Board on its own motion, in accordance with then in effect administrative procedures of the Board.

Pursuant to section 426(b), the Proposed Decision is submitted to the Board for consideration of adoption.

DATED: October 23, 2024

  
\_\_\_\_\_  
Kelly Chau, 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/Gen3Edge/Gen3Core Elevator  
& Medical Emergency Elevator Car  
Dimensions (Group IV)

Permanent Variance Nos.: See section A.1  
table below  
Proposed Decision Dated: October 23, 2024

DECISION

The Occupational Safety and Health Standards Board hereby adopts the attached  
PROPOSED DECISION by Kelly Chau, Hearing Officer.

\_\_\_\_\_  
JOSEPH M. ALIOTO JR., Chairman

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KATHLEEN CRAWFORD, Member

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DAVID HARRISON, Member

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NOLA KENNEDY, Member

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CHRIS LASZCZ-DAVIS, Member

\_\_\_\_\_  
DAVID THOMAS, Member

\_\_\_\_\_  
DEREK URWIN, Member

OCCUPATIONAL SAFETY AND HEALTH  
STANDARDS BOARD

Date of Adoption: November 21, 2024

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>Otis Gen2S/Gen3Edge/Gen3Core Elevator &amp; Medical Emergency Elevator Car Dimensions (Group IV)</p>	<p>Permanent Variance Nos.: See section A.1 table below</p> <p><u>PROPOSED DECISION</u></p> <p>Hearing Date: October 23, 2024</p> <p>Location: Zoom</p>
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A. Subject Matter

- Each applicant (“Applicant”) below has applied for permanent variances from provisions of the Elevator Safety Orders, found at title 8 of the California Code of Regulations<sup>1</sup>, as follows:

Permanent Variance No.	Applicant Name	Variance Location Address	No. of Elevators
24-V-452	Eisenhower Medical Center	Eisenhower Health Cardiac and Vascular 39000 Bob Hope Dr. Rancho Mirage, CA	3
24-V-460	Gable House Development, LLC	22501 Hawthorne Blvd. Torrance, CA	3
24-V-461	TMP II Apts LLC	2100 Bryan Ave. Irvine, CA	4
24-V-462	Capital 26 Management LLC	1848 N. Workman St. Los Angeles, CA	1

- This Proceeding is conducted in accordance with Labor Code section 143 and section 401, et seq. of the Occupational Safety and Health Standards Board’s (“Board” or “OSHSB”) procedural regulations.

B. Procedural

- This hearing was held on October 23, 2024, via videoconference, by the Board, with Hearing Officer Kelly Chau, both presiding and hearing the matter on its merit, as a basis of proposed decision to be advanced to the Board for its consideration.

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

2. At the hearing, Dan Leacox of Leacox & Associates, and Wolter Geesink with Otis Elevator, appeared on behalf of each Applicant; Jose Ceja and Mark Wickens appeared on behalf of the Division of Occupational Safety and Health (“Cal/OSHA”).
3. Oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence:

<b>Exhibit Number</b>	<b>Description of Exhibit</b>
PD-1	Permanent variance applications per Section A.1 table
PD-2	OSHSB Notice of Hearing
PD-3	Cal/OSHA Review of Variance Application
PD-4	Review Draft-1 Proposed Decision

4. Official notice is taken of the Board’s files, records, recordings and decisions concerning the Elevator Safety Order requirements from which variance shall issue. On October 23, 2024, the hearing and record closed, and the matter taken under submission by the Hearing Officer.

C. Findings of Fact

1. Each Applicant intends to utilize Otis Gen3 Edge/Gen2S elevators at the locations and in the numbers stated in the above section A.1 table.
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 the relevant findings in previous Board decisions:
  - a. Items D.3 through D.9 of the Proposed Decision adopted by the Board on July 18, 2013 for Permanent Variance No. 12-V-093;
  - b. Item D.4 of the Proposed Decision adopted by the Board on September 25, 2014 for Permanent Variance No. 14-V-206;
  - c. Item B of the Proposed Decision adopted by the Board on September 15, 2022 for Permanent Variance No. 22-V-302 regarding medical emergency car dimensions; and
  - d. Items C and D of the Proposed Decision adopted by the Board on June 20, 2024 for Permanent Variance No. 24-V-193 regarding the Gen3 Core elevator equivalent safety.
4. Cal/OSHA, by way of written submissions to the record (Exhibit PD-3), and position stated at hearing, is 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

A preponderance of the evidence supports the finding 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 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 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 (to permit an inset car top railing, if, in fact, the car top railing is inset);
- Speed governor over-speed switch: 2.18.4.2.5(a) (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 (to allow the use of reduced diameter governor rope);
- Pitch diameter: 2.18.7.4 (to permit the use of the speed-reducing system proposed by the Applicant, where the rope sheave pitch diameter is not less than 180 mm [7.1 in.]);
- 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 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) (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) (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).
- Minimum Inside Car Platform Dimensions: 3041(e)(1)(C) and 3141.7(b) (to comply with the performance-based requirements of the 2019 California Building Code section 3002.4.1a)



These variances apply to the locations and numbers of elevators stated in the section A table (so long as the elevators are Gen3 Edge/Gen2S Group and Gen3 Core & Medical Emergency Elevator Car Dimensions (Group IV) that are designed, equipped, and installed in accordance with, and are otherwise consistent with, 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.
  - c. The coated steel belt shall be fitted with a monitoring device which has been accepted by Cal/OSHA 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 Cal/OSHA.
  - 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 Cal/OSHA.
2. With respect to each elevator subject to this variance, the applicant shall comply with Cal/OSHA 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 Cal/OSHA 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 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.
  - 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 Cal/OSHA upon request.

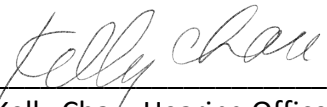
12. The speed governor rope and sheaves shall comply with the following:
  - a. The governor shall be used in conjunction with a 6 mm (0.25 in.) diameter steel governor rope with 6-strand, regular lay construction.
  - b. The governor rope shall have a factor of safety of 8 or greater as related to the strength necessary to activate the safety.
  - c. The governor sheaves shall have a pitch diameter of not less than 180 mm (7.1 in.).
13. All medical emergency service elevators shall comply with the following:
  - a. The requirements of the 2019 California Building Code (CBC), section 3002.4.1a;  
*The medical emergency service elevator shall accommodate the loading and transport of two emergency personnel, each requiring a minimum clear 21-inch (533 mm) diameter circular area and an ambulance gurney or stretcher [minimum size 24 inches by 84 inches (610 mm by 2134 mm) with not less than 5-inch (127 mm) radius corners] in the horizontal, open position.”*
  - b. All medical emergency service elevators shall be identified in the building construction documents in accordance with the 2019 CBC, section 3002.4a.
  - c. Dimensional drawings and other information necessary to demonstrate compliance with these conditions shall be provided to Cal/OSHA, at the time of inspection, for all medical emergency service elevator(s).
14. 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 Gen3 Edge/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.
15. Any Certified Qualified Conveyance Company performing inspections, maintenance, servicing, or testing of the elevators shall be provided a copy of this variance decision.
16. Cal/OSHA shall be notified when the elevator is ready for inspection. The elevator shall be inspected by Cal/OSHA, and a Permit to Operate shall be issued before the elevator is placed in service.
17. The Applicant shall be subject to the Suspension Means – Replacement Reporting Condition stated in Addendum 2, as hereby incorporated by this reference.

18. 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.

19. This Decision and Order shall remain in effect unless modified or revoked upon application by the Applicant, affected employee(s), Cal/OSHA, or by the Board on its own motion, in accordance with the Board's procedural regulations at section 426, subdivision (b).

Pursuant to section 426(b), the Proposed Decision is submitted to the Board for consideration of adoption.

Dated: October 23, 2024

  
\_\_\_\_\_  
Kelly Chau, 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 Cal/OSHA 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 Cal/OSHA 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 Cal/OSHA, 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 Cal/OSHA 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 Cal/OSHA to permit new conveyances utilizing Coated Steel Belts.

Debra Tudor  
Principal Engineer  
Cal/OSHA-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 Cal/OSHA 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 Cal/OSHA, to the following address (or to such other address as Cal/OSHA might specify in the future):  
Cal/OSHA 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 Permanent Variance 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.
  - 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 Cal/OSHA regarding the replacement of the suspension means or fastenings.
3. In addition to the submission of the report to Cal/OSHA, 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 Cal/OSHA 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)

Permanent Variance Nos.: See Section A.1  
Table Below  
Proposed Decision Dated: October 23, 2024

DECISION

The Occupational Safety and Health Standards Board hereby adopts the attached  
PROPOSED DECISION by Kelly Chau, Hearing Officer.

\_\_\_\_\_  
JOSEPH M. ALIOTO JR., Chairman

\_\_\_\_\_  
KATHLEEN CRAWFORD, Member

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DAVID HARRISON, Member

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NOLA KENNEDY, Member

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CHRIS LASZCZ-DAVIS, Member

\_\_\_\_\_  
DAVID THOMAS, Member

\_\_\_\_\_  
DEREK URWIN, Member

OCCUPATIONAL SAFETY AND HEALTH  
STANDARDS BOARD

Date of Adoption: November 21, 2024

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 Regarding:  KONE Monospace 500 Elevators (Group IV)	Permanent Variance Nos.: See Section A.1 Table Below  <u>PROPOSED DECISION</u>  Hearing Date: October 23, 2024 Location: Zoom
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A. Subject Matter

1. The applicants (“Applicant”) below have applied for permanent variance from provisions of the Elevator Safety Orders, found at title 8 of the California Code of Regulations<sup>1</sup>, as follows:

Permanent Variance No.	Applicant Name	Variance Location Address	No. of Elevators
24-V-455	Canon Holdings LLC	232 N. Canon Dr. Beverly Hills, CA	1
24-V-458	University of California, Santa Cruz	420 Porter-Kresge Rd. Santa Cruz, CA	1
24-V-459	San Diego Unified School District	730 45th St. San Diego, CA	1

2. This proceeding is conducted in accordance with Labor Code section 143 and section 401, et seq. of the Occupational Safety and Health Standards Board’s (“Board” or “OSHSB”) procedural regulations.

B. Procedural

1. This hearing was held on October 23, 2024, via videoconference, by the Board, with Hearing Officer Kelly Chau, both presiding and hearing the matter on its merit in accordance with section 426.

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<sup>1</sup> Unless otherwise noted, references are to the California Code of Regulations, title 8.

2. At the hearing, Fuei Saetern, with KONE, Inc., appeared on behalf of each Applicant; Jose Ceja and Mark Wickens appeared on behalf of the Division of Occupational Safety and Health (“Cal/OSHA”).
3. Documentary and oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence:

<b>Exhibit Number</b>	<b>Description of Exhibit</b>
PD-1	Application(s) for Permanent Variance per section A.1 table
PD-2	OSHSB Notice of Hearing
PD-3	Cal/OSHA Review of Variance Application
PD-4	Review Draft-1 Proposed Decision

4. Official notice is taken of the Board’s files, records, recordings and decisions concerning the Elevator Safety Order requirements from which variance shall issue. On October 23, 2024, the hearing and record closed, and the matter was taken under submission by the Hearing Officer.

C. Findings of Fact

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 Cal/OSHA, 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 Cal/OSHA 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 Elevator Safety Order 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 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. Permanent Variance Nos. 06-V-203, 08-V-245, and 13-V-303).
13. As noted by the Board in Permanent Variance 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 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. Cal/OSHA 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 Cal/OSHA as a condition of variance necessary to the achieving of safety equivalence to 9.5 mm rope.

17. Cal/OSHA is 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. Cal/OSHA, by way of written submissions to the record (Exhibit PD-3), and stated positions at hearing, is 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

A preponderance of the evidence supports the finding 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 permanent variance application 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.
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 Cal/OSHA 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. Cal/OSHA shall be notified when the elevator is ready for inspection. The elevator shall be inspected by Cal/OSHA 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 duly modified or revoked upon application by the Applicant, affected employee(s), Cal/OSHA, or by the Board on its own motion, in the procedural manner prescribed.

Pursuant to section 426(b), the Proposed Decision is submitted to the Board for consideration of adoption.

Dated: October 23, 2024

  
\_\_\_\_\_  
Kelly Chau, Hearing Officer

## Appendix 1

Monospace 500 Suspension Appendix 1 Table.

Variance Number	Elevator ID	Minimum Quantity of Ropes (per Condition 3)	Maximum Speed in Feet per Minute (per Condition 6)	Maximum Suspended Load (per Condition 7)
24-V-455	Elevator 1	8	200	13207
24-V-458	KL	7	150	12247
24-V-459	Elevator 1	5	150	8748



## **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 Cal/Osha 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 Cal/OSHA, to the following address (or to such other address as Cal/OSHA might specify in the future): Cal/OSHA 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 Permanent Variance 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.

- 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 Cal/OSHA regarding the replacement of the suspension means or fastenings.
3. In addition to the submission of the report to Cal/OSHA, 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 Cal/OSHA 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 regarding:  
  
KONE Monospace 300 Elevators (Group IV)

Permanent Variance Nos.: See Section A.1  
table below  
Proposed Decision Dated: October 23, 2024

DECISION

The Occupational Safety and Health Standards Board hereby adopts the attached  
PROPOSED DECISION by Kelly Chau, Hearing Officer.

\_\_\_\_\_  
JOSEPH M. ALIOTO JR., Chairman

\_\_\_\_\_  
KATHLEEN CRAWFORD, Member

\_\_\_\_\_  
DAVID HARRISON, Member

\_\_\_\_\_  
NOLA KENNEDY, Member

\_\_\_\_\_  
CHRIS LASZCZ-DAVIS, Member

\_\_\_\_\_  
DAVID THOMAS, Member

\_\_\_\_\_  
DEREK URWIN, Member

OCCUPATIONAL SAFETY AND HEALTH  
STANDARDS BOARD

Date of Adoption: November 21, 2024

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>KONE Monospace 300 Elevators (Group IV)</p>	<p>Permaent Variance Nos.: See section A.1 table below</p> <p><u>PROPOSED DECISION</u></p> <p>Hearing Date: October 23, 2024  Location: Zoom</p>
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A. Subject Matter

1. The Applicants (“Applicant”) below have applied for a permanent variance from provisions of the Elevator Safety Orders, found at title 8 of the California Code of Regulations<sup>1</sup>, as follows:

Permanent Variance No.	Applicant Name	Variance Location Address	No. of Elevators
24-V-456	County of Santa Clara, Facilities and Fleet Department	5845 Hellyer Ave. San Jose, CA	1
24-V-457	Sutter Health Park	400 Ball Park Dr. West Sacramento, CA	1

2. The 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

1. This hearing was held on October 23, 2024, via videoconference, by the Occupational Safety and Health Standards Board (“Board”), with Hearing Officer Kelly Chau, both presiding and hearing the matter on its merit, in accordance with section 426.
2. At the hearing, Fwei Saetern, with KONE, Inc., appeared on behalf of each Applicant; Jose Ceja and Mark Wickens appeared on behalf of the Division of Occupational Safety and Health (“Cal/OSHA”).

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<sup>1</sup> Unless otherwise noted, references are to the California Code of Regulations, title 8.

- Documentary and oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence:

<b>Exhibit Number</b>	<b>Description of Exhibit</b>
PD-1	Application(s) for Permanent Variance per section A.1 table
PD-2	OSHSB Notice of Hearing
PD-3	Cal/OSHA Review of Variance Application
PD-4	Review Draft-1 Proposed Decision

- Official notice is taken of the Board’s files, records, recordings and decisions concerning the Elevator Safety Order requirements from which variance shall issue. On October 23, 2024, the hearing and record closed, and the matter was taken under submission by the Hearing Officer.

C. Findings of Fact

- Each respective Applicant intends to utilize the KONE Inc. Monospace 300 type elevator, in the quantity, at the location, specified per the above section A.1 table.
- 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.
- 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.
- 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.*

- An intent 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.
- KONE has represented to Cal/OSHA, having established an engineering practice for purposes of Monospace 300 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 Cal/OSHA approval).
8. In addition, each Applicant has proposed to utilize 6 mm diameter governor ropes in variance from Title 8, 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 the Elevator Safety Orders (ESO), 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 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. Permanent Variance Nos. 06-V-203, 08-V-245, and 13-V-303).
13. As noted by the Board in permanent Variance 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, 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. Cal/OSHA's safety engineer has scrutinized the material and structural specifications, and performance testing data, of this particular proposed rope, and concluded 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 Cal/OSHA as a condition of variance necessary to the achieving of safety equivalence to 9.5 mm rope.
17. Cal/OSHA is 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. Cal/OSHA, by way of written submission to the record (Exhibit PD-3), and stated position at hearing, is 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 requirements from which variance has been requested.

#### D. Conclusive Findings

A preponderance of the evidence supports the finding 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 300 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.
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 Cal/OSHA 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. Cal/OSHA shall be notified when the elevator is ready for inspection. The elevator shall be inspected by Cal/OSHA 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), Cal/OSHA, or by the Board on its own motion, in the procedural manner prescribed.

Pursuant to section 426(b), the Proposed Decision is submitted to the Board for consideration of adoption.

Dated: October 23, 2024

  
\_\_\_\_\_  
Kelly Chau, Hearing Officer

## Appendix 1

Monospace 300 Suspension Ropes Appendix 1 Table

Variance Number	Elevator ID	Minimum Quantity of Ropes (per Condition 3)	Maximum Speed in Feet per Minute (per Condition 6)	Maximum Suspended Load (per Condition 7)
24-V-456	2	5	150	8748
24-V-457	P2	5	150	8748

## 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 Cal/OSHA 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 Cal/OSHA, to the following address (or to such other address as Cal/OSHA might specify in the future): Cal/OSHA 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 Permanent Variance 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.
  - 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 Cal/OSHA regarding the replacement of the suspension means or fastenings.
3. In addition to the submission of the report to Cal/OSHA, 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 Cal/OSHA 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 regarding:

Otis E2 Controller w/variant Railing and  
Gov. (Group IV)

Permanent Variance Nos.: See section A.1  
table below  
Proposed Decision Dated: October 23, 2024

DECISION

The Occupational Safety and Health Standards Board hereby adopts the attached  
PROPOSED DECISION by Kelly Chau, Hearing Officer.

\_\_\_\_\_  
JOSEPH M. ALIOTO JR., Chairman

\_\_\_\_\_  
KATHLEEN CRAWFORD, Member

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DAVID HARRISON, Member

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NOLA KENNEDY, Member

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CHRIS LASZCZ-DAVIS, Member

\_\_\_\_\_  
DAVID THOMAS, Member

\_\_\_\_\_  
DEREK URWIN, Member

OCCUPATIONAL SAFETY AND HEALTH  
STANDARDS BOARD

Date of Adoption: November 21, 2024

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>Otis E2 Controller w/variant Railing and Gov. (Group IV)</p>	<p>Permanent Variance Nos.: See Section A.1 table below</p> <p><u>PROPOSED DECISION</u></p> <p>Hearing Date: October 23, 2024          Location: Zoom</p>
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A. Subject Matter

1. The applicants (“Applicant”) below have applied for permanent varinace from provision of the Elevator Safety Orders found at title 8 of the California Code of Regulations<sup>1</sup>, as follows:

Permanent Variance No.	Applicant Name	Variance Location Address	No. of Elevators
24-V-463	Onni Broadway Hill Development LP	230 W. Olympic Blvd. Los Angeles, CA	6

2. This proceeding is conducted in accordance with Labor Code section 143 and section 401, et. seq. of the Occupational Safety and Health Standards Board’s (“Board” or “OSHSB”) procedural regulations.

B. Procedural

1. This hearing was held on October 23, 2024, via videoconference, by the Board, with Hearing Officer Kelly Chau, both presiding and hearing the matter on its merit, as a basis of proposed decision to be advanced to the Board for its consideration.
2. At the hearing, Dan Leacox of Leacox & Associates, and Wolter Geesink with Otis Elevator, appeared on behalf of each Applicant Jose Ceja and Mark Wickens appeared on behalf of the Division of Occupational Safety and Health (“Cal/OSHA”).
3. Oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence:

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<sup>1</sup> Unless otherwise noted, references are to the California Code of Regulations, title 8.

Exhibit Number	Description of Exhibit
PD-1	Application(s) for Permanent Variance per Section A.1 table
PD-2	OSHSB Notice of Hearing
PD-3	Cal/OSHA Review of Variance Application
PD-4	Review Draft-1 Proposed Decision

Official notice taken of the Board’s files, records, recordings and decisions concerning Otis elevators. At close of hearing on , the record was closed, and the matter taken under submission by the Hearing Officer.

C. Findings of Fact

1. The installation contracts for elevators, the subject of permanent variance application(s) specified per section A.1 table, were signed on or after May 1, 2008, making the elevators subject to the Group IV Elevator Safety Orders (“ESO”).
2. Each Applicant proposes the use of a Safety Integrity Level (SIL) rated software system and circuits consisting of three computer control boards that communicate on a Control Area Network (CAN) to monitor elevator safety devices and perform certain safety functions. Elevator electrical protective devices (EPDs) and other control devices are connected to these control boards. Software specifically designed for this SIL system continuously monitors these devices and performs certain elevator safety functions. The design of this SIL rated software system and its related circuits includes a required redundant means to remove the power from the driving machine motor and brake under certain conditions. Currently in effect ESOs do not allow this redundancy to be solely dependent on a software controlled means as proposed by the Applicant.
3. Use of the SIL rated software system and its related circuits, as proposed by the Applicant, would be compliant with requirements of ASME A17.1-2013, section 2.26.9.3.2.
4. Section 3141 [referencing 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. A safety enhancing purpose of this code requirement is to provide fall protection from a potentially hazardous condition. The code requires the handrails to be installed at the perimeter of the car to prevent persons or objects from occupying the area beyond the handrail adjacent to an opening through which a person could fall a distance posing risk of serious injury or death.

6. Each Applicant proposes to inset the car top railings in a manner consistent with previous permanent variances granted to Otis Gen2S products. (e.g. Permanent Variance Nos. 14-V-375, 16-V-360)
7. Use of inset car top railings as proposed by the Applicant, subject to conditions per below section E, Decision and Order, will provide safety equivalent to that of ASME A17.1-2004, section 2.14.1.7.1, requirements from which permanent variance is sought.
8. Section 3141 [referencing ASME A17.1-2004, section 2.18.7.4], as well as 8 CCR § 3141.7(a)(10) specify the pitch diameter of governor sheaves and governor tension sheaves relative to the diameter of the governor rope, given certain rope construction and material.
9. A safety enhancing purpose of ASME A17.1-2004, section 2.18.7.4, is to prevent the bending of the governor rope around a sheave of insufficient diameter, such that it could reduce the rope's life expectancy and working strength.
10. Each Applicant's proposed use of a governor with sheave pitch diameter of not less than the product of the governor rope diameter and a multiplier of 30, in conjunction with a steel governor rope with a diameter of 8 mm (0.315 in.), 8 strand construction, and a factor of safety of 8 or greater, subject to conditions per below section E, Decision and Order, will provide safety equivalent to that of the subject ESO requirements from which permanent variance is sought.
11. In its evaluation of application for permanent variance 16-V-042, dated February 24, 2016, Cal/OSHA states that the Occupational Safety and Health Standards Board has granted permanent variances for installations similar to those for which variance is now sought (e.g. Permanent Variance No. 15-V-169).
12. Both by way of its written evaluation (Exhibit PD-3), and statements at hearing, Cal/OSHA has taken the position that each Applicant's proposal for permanent variance and means of safety equivalence, subject to Cal/OSHA recommended conditions (in substantial part incorporated into the below Decision and Order), will provide safety equivalent to the standards from which permanent variance is sought. Further, at hearing in the matter, Board staff stated full concurrence with the foregoing position of Cal/OSHA.

D. Conclusive Findings

A preponderance of the evidence supports the finding 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 that is the subject of this proceeding, as specified per the section A.1 table, is conditionally GRANTED as specified below, and to the extent, as of the date the Board adopts this Proposed Decision, each specified Applicant shall have permanent variance from section 3141 [ASME A17.1-2004, sections 2.26.9.4, 2.14.1.7.1, 2.18.7.4, and 2.18.5.1] of the Elevator Safety Orders, with respect to the means of removing power from driving machine motor and brakes, car top railings, and reduced governor sheave diameter, subject to the following conditions:

1. 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 the car top area outside the railing, shall be clearly marked. The markings shall consist of alternating four-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).
2. The speed governor rope and sheaves shall comply with the following:
  - a. The governor shall be used in conjunction with a 8 mm (0.315 in.) diameter steel governor rope with 8-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 240 mm (9.45 in.).
3. The SIL rated software system and its related circuits shall comply with the following:
- a. The SIL-rated software system and related circuits shall consist of three circuit board components (SSIB, KSIB, and HSIB), each 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 (AEB 012, EU-ESD 012 or both) followed by the applicable revision number (as in AEB 012/2, EU-ESD 012/1).
  - b. The software system and related 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:

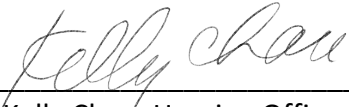
**Assembly contains SIL rated devices.  
Refer to Maintenance Control Program and  
wiring diagrams prior to performing work.**

- d. Unique maintenance procedures or methods required for the inspection, tests and replacement of the SIL rated circuits shall be developed and a copy maintained in the elevator machine room. The procedures or methods shall include clear color photographs of each SIL rated component, with notations indicating part identification and location installed.
- e. Wiring diagrams that include part identification, SIL, and certification information, shall be maintained in the elevator machine room.
- f. A successful test of the SIL rated software system and its related 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. Alterations to the SIL rated software system and its related 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. Replacement of the SIL rated software system or its related 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. Repairs to the SIL rated software system and its related 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 software or circuits shall be maintained within the temperature and humidity range specified by Otis Elevator Company. The temperature and humidity range shall be posted on each enclosure containing SIL rated software or circuits.
  - k. Field software changes are not permitted. Any changes to the TUV certified SIL rated software will require updated documentation and recertification.
4. 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 elevator system (including SIL 3-rated devices) in accordance with the written procedures and criteria required by Condition No. 3 and in accordance with the terms of this permanent variance.
  5. Any Certified Qualified Conveyance Company performing inspections, maintenance, servicing, or testing of the elevators shall be provided a copy of this variance decision.
  6. Cal/OSHA shall be notified when the elevator is ready for inspection. The elevator shall be inspected by Cal/OSHA, and a Permit to Operate shall be issued before the elevator is placed in service.
  7. 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.
  8. This Decision and Order shall remain in effect unless modified or revoked upon application by the Applicant, affected employee(s), Cal/OSHA, or by the Board on its own motion, in the procedural manner prescribed.

Pursuant to section 426(b), the Proposed Decision is submitted to the Board for consideration of adoption.

Dated: October 23, 2024

  
\_\_\_\_\_  
Kelly Chau, 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 Gen20 and/or Gen3Peak Alteration  
(Group IV)

Permanent Variance No.: See Section A.1  
Table Below  
Proposed Decision Dated: October 23, 2024

DECISION

The Occupational Safety and Health Standards Board hereby adopts the attached  
PROPOSED DECISION by Kelly Chau, Hearing Officer.

\_\_\_\_\_  
JOSEPH M. ALIOTO JR., Chairman

\_\_\_\_\_  
KATHLEEN CRAWFORD, Member

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DAVID HARRISON, Member

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NOLA KENNEDY, Member

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CHRIS LASZCZ-DAVIS, Member

\_\_\_\_\_  
DAVID THOMAS, Member

\_\_\_\_\_  
DEREK URWIN, Member

OCCUPATIONAL SAFETY AND HEALTH  
STANDARDS BOARD

Date of Adoption: November 21, 2024

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>Otis Gen20 and/or Gen3Peak Alteration (Group IV)</p>	<p>Permanent Variance No: See Section A.1 Table Below</p> <p><u>PROPOSED DECISION</u></p> <p>Hearing Date: October 23, 2024          Location: Zoom</p>
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A. Subject Matter

- Each applicant (“Applicant”) below has applied for permanent variances from provisions of the Elevator Safety Orders, found at title 8 of the California Code of Regulations<sup>1</sup>, as follows:

Permanent Variance No.	Applicant Name	Variance Location Address	No. of Conveyances
24-V-465	California Masonic Memorial Temple	Masonic Center 1111 California St. San Francisco, CA	2

- This Proceeding is conducted in accordance with Labor Code section 143 and section 401, et seq. of the Occupational Safety and Health Standards Board’s (“Board” or “OSHSB”) procedural regulations.

B. Procedural

- This hearing was held on October 23, 2024, via videoconference, by the Board with Hearing Officer Kelly Chau, both presiding and hearing the matter on its merit, as a basis of proposed decision to be advanced to the Board for its consideration.
- At the hearing, Dan Leacox of Leacox & Associates, and Wolter Geesink with Otis Elevator Company, appeared on behalf of each Applicant; Jose Ceja and Mark Wickens appeared on behalf of the Division of Occupational Safety and Health (“Cal/OSHA”).
- Oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence:

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

<b>Exhibit Number</b>	<b>Description of Exhibit</b>
PD-1	Application(s) for Permanent Variance per section A.1 table
PD-2	OSHSB Notice of Hearing
PD-3	Cal/OSHA Review of Variance Application
PD-4	Review Draft-1 Proposed Decision

4. Official notice is taken of the Board’s files, records, recordings and decisions concerning the Elevator Safety Order requirements from which variance shall issue. On October 23, 2024, the hearing and record closed, and the matter was taken under submission by the Hearing Officer.

C. Applicable Regulations

1. The Applicants request variance from some or all of the following sections of ASME A17.1-2004 that section 3141 makes applicable to the elevators the subject of those applications:
  - a. Applicability of Alteration Requirements; 8.7.1.1(b) (to permit variance from the code sections below)
  - b. 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 (to permit the use of the Elastomeric Coated Steel Belts proposed by the Applicant in lieu of circular steel suspension ropes.);
  - c. Cartop Railing: 2.14.1.7.1 (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);
  - d. Inspection transfer switch: 2.26.1.4.4(a) (to permit the inspection transfer switch to reside at a location other than the machine room);
  - e. Seismic reset switch: 8.4.10.1.1(a)(2)(b) (to permit the seismic reset switch to reside at a location other than the machine room);

D. Findings of Fact

1. The Board incorporates by reference the findings stated in:
  - a. Items 3 through 5.c, 5.e, and 5.f of the “Findings of Fact” section of the Proposed Decision adopted by the Board on February 19, 2009, in Permanent Variance No. 08-V-247;
  - b. Item D.3 of the Proposed Decision adopted by the Board on July 16, 2009, Permanent Variance No. 09-V-042;
  - c. Item D.4 of the Proposed Decision adopted by the Board on September 16, 2010, in Permanent Variance No. 10 V 029;

- d. Items D.4, D.5, and D.7 of the Proposed Decision adopted by the Board on July 18, 2013, in Permanent Variance No. 12-V-146; and
  - e. Items D.4 and D.5 of the Proposed Decision adopted by the Board on September 25, 2014, in Permanent Variance No. 14-V-170.
2. The alterations will be performed after May 1, 2008, and the contracts for the alterations were or will be signed on or after May 1, 2008, making those alterations subject to the Group IV Elevator Safety Orders.
  3. Cal/OSHA safety engineers, by way of written submissions to the record (Exhibit PD-3), and positions stated at hearing, is 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.

E. Conclusive Findings

A preponderance of the evidence supports the finding 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.

F. 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, Applicant shall have permanent variances from sections 3141 and 3141.2(a), only to the extent necessary to allow variances from the following provisions of ASME A17.1-2004 made applicable by those provisions:

- 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 (to permit the use of the Elastomeric Coated Steel Belts proposed by the Applicant in lieu of circular steel suspension ropes.);
- Cartop Railing: 2.14.1.7.1 (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);
- Inspection transfer switch: 2.26.1.4.4(a) (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) (to permit the seismic reset switch to reside at a location other than the machine room);

The variance shall be subject to, and limited by, the following additional conditions:

1. Each elevator subject to this variance shall comply with all applicable Group IV Elevator Safety Orders and with all ASME provisions made applicable by those Group IV Elevator Safety Orders, except those from which variances are granted, as set forth in the prefatory portion of this Decision and Order.
2. The suspension system shall comply with the following:
  - a. The coated steel belt shall have a factor of safety at least equal to the factor of safety that ASME A17.1-2004, section 2.20.3, would require for wire ropes if the elevator were suspended by wire ropes rather than the coated steel belt.
  - b. Steel-coated belts that have been installed and used on another installation shall not be reused.
  - c. The coated steel belt shall be fitted with a monitoring device which has been accepted by Cal/OSHA 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 Cal/OSHA.
  - 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 Cal/OSHA.
  - g. The installation of belts and connections shall be in conformance with the manufacturer's specifications, which shall be provided to Cal/OSHA.
3. With respect to each elevator subject to this variance, the Applicant shall comply with Cal/OSHA Circular Letter E-10-04, a copy of which is attached hereto as Addendum 1 and incorporated herein by this reference.
4. The Applicant shall not utilize each 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 shall make those procedures and criteria available to Cal/OSHA upon request.
5. 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 who, 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;
  - g. Lubrication information.
6. 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).
  7. 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.
  8. 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.
  9. When the inspection and test control 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.
  10. 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.
  11. 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 from the car top perimeter shall be limited to no more than 6 inches.

- c. All exposed areas of the car top 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 the car top outside the railing, shall be clearly marked. The markings shall consist of alternating four-inch diagonal red and white stripes.
- e. The Applicant shall provide, on each inset railing, durable signs with lettering not less than ½ inch on a contrasting background. Each sign shall state:

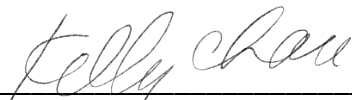
**CAUTION**

**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).
12. Each 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 Gen2(O) and/or Gen3 Peak elevator system the Applicant proposes to use, in accordance with the written procedures and criteria required by Condition No. 4 and the terms of this permanent variance.
  13. Any Certified Qualified Conveyance Company performing inspections, maintenance, servicing, or testing of the elevators shall be provided a copy of this variance decision.
  14. Cal/OSHA shall be notified when each elevator is ready for inspection. Each elevator shall be inspected by Cal/OSHA, and a Permit to Operate shall be issued before the elevator is placed in service.
  15. The Applicant shall be subject to the suspension means replacement reporting condition stated in Addendum 2; that condition is incorporated herein by this reference.
  16. 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 application for permanent variance, per sections 411.2 and 411.3.
  17. This Decision and Order shall remain in effect unless modified or revoked upon application by the Applicant, affected employee(s), Cal/OSHA, or by the Board on its own motion, in the procedural manner prescribed.

Pursuant to section 426(b), the Proposed Decision, is submitted to the Board for consideration of adoption.

Dated: October 23, 2024

  
\_\_\_\_\_  
Kelly Chau, 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 Cal/OSHA 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 Cal/OSHA 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 Cal/OSHA, 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 Cal/OSHA 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 Cal/OSHA to permit new conveyances utilizing Coated Steel Belts.

Debra Tudor  
Principal Engineer  
Cal/OSHA-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 Cal/OSHA 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 Cal/OSHA, to the following address (or to such other address as Cal/OSHA might specify in the future): Cal/OSHA 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 Permanent Variance 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.
  - 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 Cal/OSHA regarding the replacement of the suspension means or fastenings.
3. In addition to the submission of the report to Cal/OSHA, 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 Cal/OSHA 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 By:  
  
Mani Brothers Real Estate Group

Permanent Variance No.: 24-V-467

Proposed Decision Dated: October 23, 2024

DECISION

The Occupational Safety and Health Standards Board hereby adopts the attached PROPOSED DECISION by Kelly Chau, Hearing Officer.

\_\_\_\_\_  
JOSEPH M. ALIOTO JR., Chairman

OCCUPATIONAL SAFETY AND HEALTH  
STANDARDS BOARD

\_\_\_\_\_  
KATHLEEN CRAWFORD, Member

Date of Adoption: November 21, 2024

\_\_\_\_\_  
DAVID HARRISON, Member

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.

\_\_\_\_\_  
NOLA KENNEDY, Member

\_\_\_\_\_  
CHRIS LASZCZ-DAVIS, Member

\_\_\_\_\_  
DAVID THOMAS, Member

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.

\_\_\_\_\_  
DEREK URWIN, Member

BEFORE THE  
OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD  
DEPARTMENT OF INDUSTRIAL RELATIONS  
STATE OF CALIFORNIA

In the Matter of Application for Permanent Variance by:  Mani Brothers Real Estate Group	Permanent Variance No.: 24-V-467  Proposed Decision  Hearing Date: October 23, 2024 Location: Zoom
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A. Subject Matter

Mani Brothers Real Estate Group (“Applicant”) has applied for a permanent variance from provisions of title 8 of the California Code of Regulations<sup>1</sup>, regarding vertical platform (wheelchair) lifts, with respect to one vertical platform (wheelchair) lift proposed to be located at:

1401 Ocean Ave., Santa Monica, California

B. The safety orders at issue are stated in the prefatory part of the Decision and Order. This proceeding is conducted in accordance with Labor Code section 143 and 401, et seq. of the Occupational Safety and Health Standards Board’s (“Board” or “OSHSB”) procedural regulations.

1. This hearing was held on October 23, 2024 via videoconference by the Board with Hearing Officer, Kelly Chau, presiding and hearing the matter on its merit in accordance with section 426.
2. At the hearing, Randy Thurston with Thurston Elevator Concepts Inc. appeared on behalf of Applicant. Jose Ceja and Mark Wickens appeared on behalf of the Division of Occupational Safety and Health (“Cal/OSHA”).
3. Documentary and oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence:

<b>Exhibit Number</b>	<b>Description of Exhibit</b>
PD-1	Application for Permanent Variance
PD-2	OSHSB Notice of Hearing
PD-3	Cal/OSHA Review of Variance Application

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<sup>1</sup> Unless otherwise noted, references are to the California Code of Regulations, title 8.



Exhibit Number	Description of Exhibit
PD-4	Review Draft-1 Proposed Decision

4. Official notice is taken of the Board’s files, records, recordings and decisions concerning the Elevator Safety Order requirements from which variance shall issue. On October 23, 2024 the hearing and record closed, and the matter was taken under submission by the Hearing Officer.

C. Findings of Fact

1. The Applicant proposes to install one vertical platform (wheelchair) lift at 1401 Ocean Ave., Santa Monica, California. Applicant requests variance solely from section 3142(a) and section 3142.1.
2. The subject vertical lift is a RAM commercial Lift model STRATUS with a vertical travel range of approximately 168 inches. That range of travel exceeds the 12 foot maximum vertical rise allowed by ASME A18.1-2003, section 2.7.1—the State of California standard in force at the time of this Decision.
3. Cal/OSHA evaluation in this matter states that the more recent consensus code ASME A18.1-2005 allows for vertical platform lifts to have a travel not exceeding 14 feet (168 in.).
4. Permanent variances regarding the extended travel of vertical platform lifts, of similar configuration to that of the subject proposed model, have been previously granted. (e.g. Permanent Variance Nos. 13-V-260, 15-V-097, 15-V-297, 17-V-198)
5. It is the well informed professional opinion of Cal/OSHA (per Exhibit PD-3) that equivalent safety will be achieved upon grant of presently requested permanent variance, subject to conditions materially equivalent to those imposed by Board adopted Decision and Order, In Matters of Application for Permanent Variance Nos. 15-V-297, and 18-V-069.
6. With respect to the equivalence or superior of safety, conditions and limitations of the below Decision and Order are in material conformity with those of previously issued Permanent Variance Nos. 15-V-297, and 18-V-069.

D. Conclusive Findings

A preponderance of the evidence supports the finding 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

The Application for Permanent Variance of Mani Brothers Real Estate Group«Applicant\_Company\_Name», Permanent Variance No. 24-V-467, is conditionally GRANTED to the limited extent, upon the Board’s adoption of this Proposed Decision. Mani Brothers Real Estate Group, shall have permanent variance from sections 3142(a) and 3142.1 incorporated ASME A18.1-2003, section 2.7.1, inasmuch as each restricts the vertical rise of a wheelchair lift to a maximum of 12 feet, with respect to one RAM commercial Lift model STRATUS Vertical Platform Lift, to be located at:

1401 Ocean Ave., Santa Monica, California

The vertical platform lift shall be subject to the following further conditions and limitations:

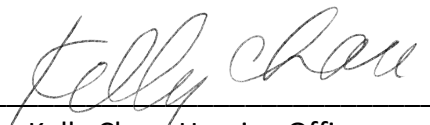
1. This lift may travel up to 168 inches, unless the manufacturer’s instructions provide for a lesser vertical travel limit, or lesser total elevation change, in which case, travel shall be limited to the lesser limit or elevation change.
2. The wheelchair lift shall be installed and operated in accordance with the manufacturer’s instructions, unless the provisions of this variance or applicable provisions of the law provide or require otherwise.
3. Durable signs with lettering not less than 5/16 inch on a contrasting background shall be permanently and conspicuously posted inside the car and at all landings indicating that the lift is for the exclusive use of persons with physical impairments and that the lift is not to be used to transport material or equipment. The use of the lift shall be limited in accordance with these signs.
4. A maintenance contract shall be executed between the owner/operator and a Certified Qualified Conveyance Company (CQCC). The contract shall stipulate that the routine preventive maintenance required by section 3094.5(a)(1) shall be performed at least quarterly and shall include but not be limited to:
  - (a) Platform driving means examination;
  - (b) Platform examination;

- (c) Suspension means examination;
  - (d) Platform alignment;
  - (e) Vibration examination;
  - (f) Door/gate electrical; and
  - (g) Mechanical lock examination.
5. The lift shall be tested annually for proper operation under rated load conditions. Cal/OSHA Elevator Unit District Office shall be provided written notification in advance of the test, and the test shall include a check of car or platform safety device.
  6. The lift shall be shut down immediately if the lift experiences unusual noise and vibration, and the Applicant shall notify the CQCC immediately. The lift shall only be restarted by the CQCC.
  7. The Applicant shall notify the CQCC if the lift shuts down for any reason. The lift shall only be restarted by the CQCC.
  8. Service logs including, but not limited to, the device shutdown(s) shall be kept in the maintenance office and shall be available to Cal/OSHA. The shutdown information shall contain the date of the shutdown, cause of the shutdown, and the action taken to correct the shutdown.
  9. The Applicant shall provide training on the safe operation of the lift in accordance with section 3203. Such training shall be conducted annually for all employees using or who will be assisting others in using the lift. The Applicant shall notify Cal/OSHA in writing that training has been conducted. A copy of the training manual (used for the subject training), and documentation identifying the trainer and attendees shall be maintained for at least 1 year and provided to Cal/OSHA upon request.
  10. Any CQCC performing inspections, maintenance, servicing or testing of the elevators shall be provided a copy of this variance decision.
  11. Cal/OSHA shall be notified when the lift is ready for inspection, and the lift shall be inspected by Cal/OSHA and a Permit to Operate shall be issued before the lift is put into service.

12. 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.
13. This Decision and Order shall remain in effect unless modified or revoked upon application by Applicant, affected employee(s), Cal/OSHA, or by the Board on its own motion, in the procedural manner prescribed.

Pursuant to section 426(b), the Proposed Decision is submitted to the Board for consideration of adoption.

Dated: October 23, 2024

  
\_\_\_\_\_  
Kelly Chau, Hearing Officer

# Occupational Safety and Health Standards Board

## Business Meeting Executive Officer's Report

# Memorandum



Date: August 30, 2024

To: Joseph Alioto, Board Chair  
Millicent Barajas, Executive Officer  
Autumn Gonzalez, Chief Counsel  
Amalia Neidhardt, Principal Safety Engineer  
Occupational Safety and Health Standards Board

From: Debra Lee, Chief  
Eric Berg, Deputy Chief of Health  
Division of Occupational Safety and Health (Cal/OSHA)

Subject: Request for an advisory committee to discuss possible regulation of autonomous vehicles in agriculture

## 1.0 INTRODUCTION

Petitions [571](#) (November 26, 2018) and [596](#) (Dec. 20, 2021) requested title 8 be amended to permit the use of autonomous agricultural vehicles. Cal/OSHA recommended denial of the petitions because the technology was not yet proven safe around workers.

Since the denial of the of the petitions, Cal/OSHA through review of manufacturers' literature, discussions with manufacturers, experts and academia, and observing the vehicles operate during site visits and tests, has learned much about the autonomous vehicle technology.

Based on the new knowledge, Cal/OSHA rescinds its opposition to the use of autonomous vehicles in agriculture. Cal/OSHA supports the use of certain autonomous vehicles that are unlikely to cause injury or harm. Cal/OSHA recommends that a balanced advisory committee be convened to further discuss possible regulations for certain autonomous vehicles in agriculture.

## 2.0 BACKGROUND

### 2.1 Title 8 does not currently allow the use of autonomous tractors

Title 8 section 3441 Operation of Agricultural Equipment contains the requirements for agricultural vehicles.

Subsection 3441(b) requires that all self-propelled equipment have an operator stationed at the vehicular controls. An exception to this requirement is in subsection 3441(b)(1), which permits certain furrow guided vehicles that travel less than two miles per hour to have an operator not on the equipment. However, an operator is still required and must have access to vehicle controls and a good view of the course of travel of the equipment and any employees in the immediate vicinity.

Both subsections 3441(b) and 3441(b)(1) require an operator for self-powered agricultural equipment. Thus, these subsections do not permit the use of an autonomous vehicle controlled solely by artificial intelligence or other type of computer control.

## **2.2 Not all autonomous agricultural vehicle use is prohibited**

If there are no employees at a worksite and no employee access to a worksite, autonomous agricultural vehicles usage at that site does not constitute a violation of title 8 per decisions from the Occupational Safety and Health Appeals Board (OSHAB).

Per case law from the OSHAB, Cal/OSHA must prove employee exposure to a hazard for it to be able to cite an employer. According to the OSHAB, employee exposure exists where employees can access the zone of danger or area of the hazard while in the course of their assigned work duties, pursuing personal activities during or at work, and normal means of ingress and egress at work. The area of the hazard is accessible to employees if it is reasonably predictable by operational necessity or otherwise, including inadvertence, that employees have been, are, or will be in the zone of danger. The zone of danger is that area surrounding a violative condition that presents the danger to employees that the regulation is intended to prevent.

For further details regarding employee exposure, please see the following Decisions after Reconsideration from the OSHAB:

- Dynamic Construction Services, Inc. (Dec. 1, 2016)
- Ja-Con Construction Systems, Inc. (Mar. 27, 2006)
- Benicia Foundry & Iron Works (April 24, 2003)

## **2.3 Experimental Variance with Monarch Tractor**

On August 6, 2021, Cal/OSHA granted an experimental variance to Monarch Tractor to operate autonomous tractors in two fields for a period of five years. The experimental variance contained numerous conditions for required safety protocols and reporting including requiring an operator at the controls in the initial stages of the experimental variance.

On January 28, 2022, Operating Engineers Local 3 (OE3), filed an appeal of the experimental variance with the Occupational Safety and Health Standards Board (Standards Board) and requested the experimental variance be vacated. OE3 alleged that its union members are adversely affected by the experimental variance. On December 21, 2023, Cal/OSHA, OE3, and

Monarch reached a settlement agreement prior to an appeal hearing. The agreement partially consists of the following:

1. OE3 withdrew its appeal
2. Cal/OSHA will provide OE3 with periodic updates on the progress of the experimental variance in January, April, July and October of each calendar year in which the experimental variance is in effect.
3. Cal/OSHA will provide OE3 notice of potential changes to the terms of the experimental variance and allow OE3 30 days to comment and provide input about any changes to the experimental variance, as well as to provide recommendations regarding questions and information for Cal/OSHA representative to ask and collect from workers and the employer as part of Cal/OSHA's evaluation of the experimental variance.
4. OE3 may ask Cal/OSHA questions about the TEV and Cal/OSHA will provide timely responses and may include information from Monarch.

The experimental variance has not produced data to evaluate autonomous tractor safety around workers as anticipated because there have been no workers in the fields where the Monarch tractors operate. Cal/OSHA has permitted the experimental variance to continue as it is still able to gather data and knowledge on the operation of the tractors.

### **3.0 Future Advisory Committee Recommendation.**

Cal/OSHA believes that lightweight, low power, and slow autonomous vehicles (under 500 lbs., less than 20 horsepower total, and a maximum speed under two miles per hour (normal walking speed and consistent with subsection 3441(b)(1)) would be appropriate to consider for an advisory meetings and possible future rulemaking.

Autonomous vehicles in this class are already available on the market and are designed to work collaboratively with and in close proximity to workers. Several anti-collision safety features would be necessary, which at a minimum would include:

- Vehicle control by a computer with a deep learning neural network,
- Three-dimensional cameras all around the vehicle to detect persons and objects to slow and stop the vehicle to prevent collisions.
- Energy absorbing bumpers around the vehicle that will automatically and immediately stop the vehicle on contact in case other safety systems do not operate properly or fail. The bumpers would function independently of any other technology or safety system.

Use of lightweight, low power, and slow vehicles initially is the best way to collect data on how the autonomous and anti-collision technology works in practice around persons. Since they work closely with people, there would be ample data to collect on person-vehicle interactions. Part of any proposal would be a requirement for the vehicles to record and store detailed data (video, audio, computer control commands, etc.) before and after near misses and contacts. The data would be uploaded to a central database that could be analyzed and studied.



Lightweight, low power, and slow vehicles are ideal for initial usage of autonomous technology because in the event that such a vehicle contacts a person, an injury is unlikely. Whereas a larger tractor would be much more likely to cause injury. Once sufficient data is collected and studied, a determination can be made about expanding the use of autonomous technology to larger vehicles.

#### **4.0 MAKE-UP OF AN ADVISORY COMMITTEE**

To ensure the credibility of the advisory committee, it is important that it be well balanced and not dominated by any one perspective on autonomous vehicles.

The advisory committee should consist of: manufacturers of autonomous vehicles, agricultural employers, labor organizations, labor advocates, agricultural workers, academia and researchers with expertise in agriculture and occupational safety, and applicable governmental agencies.

# Occupational Safety and Health Standards Board

**Business Meeting**  
**Legislative Update**

**Legislative Update**  
**Prepared November 8, 2024 for the November 21, 2024**  
**Meeting of the Occupational Safety and Health Standards Board**

AB-1 Oil refineries: maintenance. (2023-2024) - **UPDATE**

<b>AB-1</b>	<b>AB-1 Oil refineries: maintenance. (2023-2024)</b>	
	(Ting)	
	Date	Action
	03/27/23	Died at Desk.
	12/06/22	From printer.
12/05/22	Read first time. To print.	
<p><u>Summary:</u></p> <p>AB 1, as introduced, Ting. Oil refineries: maintenance.</p> <p>The California Refinery and Chemical Plant Worker Safety Act of 1990 requires, among other things, every petroleum refinery employer to submit to the Division of Occupational Safety and Health a full schedule of planned turnarounds, meaning a planned, periodic shutdown of a refinery process unit or plant to perform maintenance, overhaul, and repair operations and to inspect, test, and replace process materials and equipment, as provided.</p> <p>This bill would express the intent of the Legislature to enact subsequent legislation to ensure that only one oil refinery in the state is undergoing scheduled maintenance at a time.</p> <p>Board staff is monitoring for potential impacts on Board operations.</p>		

AB-1976 Occupational safety and health standards: first aid kits: naloxone hydrochloride. (2023-2024) - No Update

<b>AB-1976</b>	<p><b>AB-1976</b> Occupational safety and health standards: first aid materials: opioid antagonists. <b>(2023-2024)</b></p> <p style="text-align: center;">(Haney)</p>
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**Prepared November 8, 2024 for the November 21, 2024**  
**Meeting of the Occupational Safety and Health Standards Board**

Date	Action
09/27/24	Chaptered by Secretary of State - Chapter 689, Statutes of 2024.
09/27/24	Approved by the Governor.
09/10/24	Enrolled and presented to the Governor at 4:30 p.m.
08/28/24	Senate amendments concurred in. To Engrossing and Enrolling. (Ayes 76. Noes 0.).
08/28/24	Assembly Rule 77 suspended.
08/28/24	In Assembly. Concurrence in Senate amendments pending. May be considered on or after August 30 pursuant to Assembly Rule 77.
08/27/24	Read third time. Passed. Ordered to the Assembly. (Ayes 40. Noes 0.).
08/26/24	Read second time. Ordered to third reading.
08/23/24	Read third time and amended. Ordered to third reading.
08/19/24	Read second time. Ordered to third reading.
08/15/24	Read second time and amended. Ordered returned to second reading.
08/15/24	From committee: Amend, and do pass as amended. (Ayes 7. Noes 0.) (August 15).
6/24/24	In committee: Referred to suspense file.

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**Prepared November 8, 2024 for the November 21, 2024**  
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06/13/2024	Read second time and amended. Re-referred to Com. on APPR.
06/12/2024	From committee: Amend, and do pass as amended and re-refer to Com. on APPR. (Ayes 5. Noes 0.) (June 12).
06/05/24	Referred to Com. on L., P.E. & R.
05/23/24	In Senate. Read first time. To Com. on RLS. for assignment.
05/22/24	Read third time. Passed. Ordered to the Senate. (Ayes 69. Noes 0.)
05/21/24	Read second time. Ordered to third reading.
05/20/24	Read second time and amended. Ordered returned to second reading.
05/20/24	From committee: Amend, and do pass as amended. (Ayes 11. Noes 0.) (May 16).
4/17/24	In committee: Set, first hearing. Referred to suspense file.
4/4/24	From committee: Do pass and re-refer to Com. on APPR. (Ayes 6. Noes 0.) (April 3). Re-referred to Com. on APPR.
03/13/24	In committee: Set, first hearing. Hearing canceled at the request of author.
02/12/24	Referred to Com. On L. and E.
01/31/24	From printer. May be heard in committee March 1.
01/30/24	Read first time. To print.
<p><b><u>Summary:</u></b></p> <p>AB 1976, as amended, Haney. Occupational safety and health standards: first aid materials: opioid antagonists.</p>	

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**Meeting of the Occupational Safety and Health Standards Board**

Existing law grants the Division of Occupational Safety and Health, which is within the Department of Industrial Relations, jurisdiction over all employment and places of employment, and the power necessary to enforce and administer all occupational health and safety laws and standards. The Occupational Safety and Health Standards Board, an independent entity within the department, has the exclusive authority to adopt occupational safety and health standards within the state. Existing law, the California Occupational Safety and Health Act of 1973 (OSHA), requires employers to comply with certain safety and health standards, as specified, and charges the division with enforcement of the act.

Existing law requires the division, before December 1, 2025, to submit to the standards board a rulemaking proposal to consider revising certain standards relating to the prevention of heat illness, protection from wildfire smoke, and toilet facilities on construction jobsites. Existing law also requires the standards board to review the proposed changes and consider adopting revised standards on or before December 31, 2025.

This bill would require the division, before December 1, 2027, to submit a rulemaking proposal to revise specified regulations on first aid materials and emergency medical services to require first aid materials in a workplace to include naloxone hydrochloride or another opioid antagonist approved by the United States Food and Drug Administration to reverse opioid overdose and instructions for using the opioid antagonist. The bill would also require the division, in drafting the rulemaking proposal, to consider, and provide guidance to employers on, proper storage of the opioid antagonist in accordance with the manufacturer's instructions. The bill would require the standards board to consider for adoption revised standards for the standards described above on or before December 1, 2028.

Under existing law, a person who, in good faith and not for compensation, renders emergency treatment at the scene of an opioid overdose or suspected opioid overdose by administering an opioid antagonist is not liable for civil damages resulting from an act or omission related to the rendering of the emergency treatment, except if the act or omission constitutes gross negligence or willful or wanton misconduct.

This bill would expressly provide that an individual who administers naloxone hydrochloride or another opioid antagonist approved by the United States Food and Drug Administration to reverse opioid overdose in a suspected opioid overdose emergency shall not be liable for civil damages, as provided by, and subject to, the above-described provisions. The bill would also provide that an individual who is licensed as part of a local emergency medical services agency shall not be held responsible for administering nasal naloxone hydrochloride or another opioid antagonist approved by the United States Food and Drug Administration to reverse opioid overdose, regardless of whether the individual was certified for that activity, unless the individual was acting as a paid first responder at the time of the action.

Board staff is monitoring for potential impacts on Board operations.

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**Prepared November 8, 2024 for the November 21, 2024**  
**Meeting of the Occupational Safety and Health Standards Board**

AB-2408 Firefighter personal protective equipment: perfluoroalkyl and polyfluoroalkyl substances. (2023-2024) - No Update

<b>AB-2408</b>	<b>AB-2408</b> Firefighter personal protective equipment: perfluoroalkyl and polyfluoroalkyl substances. <b>(2023-2024)</b>	
	(Haney)	
	Date	Action
	08/15/24	In committee: Held under submission.
	08/05/24	In committee: Referred to APPR suspense file.
	06/26/24	From committee: Do pass and re-refer to Com. on APPR with recommendation: To Consent Calendar. (Ayes 5. Noes 0.) (June 26). Re-referred to Com. on APPR.
	06/19/24	From committee: Do pass and re-refer to Com. on L., P.E. & R. with recommendation: To Consent Calendar. (Ayes 7. Noes 0.) (June 19). Re-referred to Com. on L., P.E. & R.
	05/29/24	Referred to Coms. on E.Q. and L., P.E. & R.
	05/22/24	In Senate. Read first time. To Com. on RLS. for assignment.
	05/21/24	Read third time. Passed. Ordered to the Senate.
	05/20/24	Read second time. Ordered to third reading.
	05/16/24	Read second time and amended. Ordered returned to second reading.
	05/16/24	From committee: Amend, and do pass as amended. (Ayes 11. Noes 0.) (May 16)
05/16/24	Assembly Rule 63 suspended.	
05/08/24	In committee: Set, first hearing. Referred to suspense file.	

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**Prepared November 8, 2024 for the November 21, 2024**  
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04/18/24	From committee: Do pass and re-refer to Com. on APPR. with recommendation: To Consent Calendar. (Ayes 7. Noes 0.) (April 17). Re-referred to Com. on APPR.
04/10/24	From committee: Do pass and re-refer to Com. on L. and E. (Ayes 7. Noes 0.) (April 9). Re-referred to Com. on L. and E.
04/01/24	Re-referred to Com. on E.S. & T.M.
03/21/24	From committee chair, with author's amendments: Amend, and re-refer to Com. on E.S. & T.M. Read second time and amended.
03/21/24	Referred to Coms. on E.S. & T.M. and L. & E.
02/13/24	From printer. May be heard in committee March 14.
02/12/24	Read first time. To print.

Summary:

AB 2408, as amended, Haney. Firefighter personal protective equipment: perfluoroalkyl and polyfluoroalkyl substances.

Existing law requires any person that sells firefighter personal protective equipment to provide written notice to the purchaser if the equipment contains intentionally added perfluoroalkyl and polyfluoroalkyl substances (PFAS). Existing law requires the seller to retain a copy of the written notice and provide the notice to specified law enforcement entities, including the Attorney General, upon request. Existing law makes a violation of those provisions subject to a penalty of up to \$5,000 for a first violation and up to \$10,000 for a subsequent violation.

This bill, commencing July 1, 2026, would prohibit a person from manufacturing, knowingly selling, offering for sale, distributing for sale, distributing for use, or purchasing or accepting for future use in this state firefighter personal protective equipment containing intentionally added PFAS chemicals. The bill would make a violation of this provision subject to the civil penalty provisions described above. The bill would specify that an individual firefighter shall not be personally liable for payment of the civil penalty.

Existing law requires the Occupational Safety and Health Standards Board, in consultation with the Department of Industrial Relations, every 5 years, as specified, to review all revisions to National Fire Protection Association (NFPA) standards pertaining to personal protective equipment covered by specified safety orders. If the review finds the revisions provide a greater degree of personal protection than the



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	<p>safety orders, existing law requires the board to consider modifying existing safety orders and to render a decision regarding changing safety orders or other standards and regulations to maintain alignment of the safety orders with the NFPA standards no later than July 1 of the subsequent year.</p> <p>This bill would require the board, in consultation with the department, within one year of the NFPA updating a specified standard on protective ensemble for structural firefighting and proximity firefighting to include PFAS-free turnout gear, to update the applicable safety orders, or other standards or regulations, to maintain alignment with the NFPA standard.</p> <p>The bill would state related findings and declarations of the Legislature.</p> <p>Board staff is monitoring for potential impacts on Board operations.</p>
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AB-2975 Occupational safety and health standards: workplace violence prevention plan: hospitals. (2023-2024) - No Update

<b>AB-2975</b>	<b>AB-2975</b> Occupational safety and health standards: workplace violence prevention plan: hospitals. <b>(2023-2024)</b>	
	(Gipson)	
	Date	Action
	09/27/24	Chaptered by Secretary of State - Chapter 749, Statutes of 2024.
	09/27/24	Approved by the Governor.
	09/11/24	Enrolled and presented to the Governor at 4 p.m
	08/29/24	Senate amendments concurred in. To Engrossing and Enrolling. (Ayes 72. Noes 0.).
08/29/24	Assembly Rule 77 suspended.	

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**Prepared November 8, 2024 for the November 21, 2024**  
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08/28/24	In Assembly. Concurrence in Senate amendments pending. May be considered on or after August 30 pursuant to Assembly Rule 77.
08/28/24	Read third time. Passed. Ordered to the Assembly. (Ayes 38. Noes 0.).
8/22/24	Read third time and amended. Ordered to second reading.
08/19/24	Read second time. Ordered to third reading.
08/15/24	Read second time and amended. Ordered returned to second reading.
08/15/24	From committee: Amend, and do pass as amended. (Ayes 5. Noes 0.) (August 15).
08/05/24	In committee: Referred to APPR suspense file.
07/03/24	Read second time and amended. Re-referred to Com. on APPR.
07/03/24	From committee: Amend, and do pass as amended and re-refer to Com. on APPR. (Ayes 9. Noes 0.) (July 3).
6/27/24	Read second time and amended. Re-referred to Com. on HEALTH.
6/26/24	From committee: Amend, and do pass as amended and re-refer to Com. on HEALTH. (Ayes 5. Noes 0.) (June 26).
6/17/24	In committee: Hearing postponed by committee.
06/05/24	Referred to Coms. on L., P.E. and R. and HEALTH.

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05/23/24	In Senate. Read first time. To Com. on RLS. for assignment.
05/22/24	Read third time. Passed. Ordered to the Senate. (Ayes 55. Noes 0.)
05/20/24	Read second time. Ordered to third reading.
05/16/24	From committee: Do pass. (Ayes 11. Noes 1.) (May 16).
05/08/24	In committee: Set, first hearing. Referred to suspense file.
04/18/24	From committee: Do pass and re-refer to Com. on APPR. (Ayes 6. Noes 0.) (April 17). Re-referred to Com. on APPR.
04/03/24	Re-referred to Com. on L. & E.
04/02/24	From committee chair, with author's amendments: Amend, and re-refer to Com. on L. & E. Read second time and amended.
04/01/24	Re-referred to Com. on L. & E.
03/21/24	From committee chair, with author's amendments: Amend, and re-refer to Com. on L. & E. Read second time and amended.
03/21/24	Referred to Com. On L. and E.
02/17/24	From printer. May be heard in committee March 18.
02/16/24	Read first time. To print.

**Summary:**

AB 2975, as amended, Gipson. Occupational safety and health standards: workplace violence prevention plan: hospitals.

Existing law, the California Occupational Safety and Health Act of 1973, imposes safety responsibilities on employers and employees, including the requirement that an employer establish, implement, and maintain an effective injury prevention program, and makes specified violations of these provisions a crime. Existing law also requires the Occupational Safety and Health Standards Board to adopt standards

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	<p>developed by the Division of Occupational Safety and Health that require specified types of hospitals to adopt a workplace violence prevention plan as part of the hospital's injury and illness prevention plan to protect health care workers and other facility personnel from aggressive and violent behavior.</p> <p>This bill would require the standards board, by March 1, 2025, to amend the standards to include a requirement that a hospital implement a weapons detection screening policy that requires the use of weapons detection devices at specific entrances of the hospital, a requirement that a hospital assign appropriate personnel who meet specified training standards, a requirement that a hospital have reasonable protocols for alternative search and screening for patients, family, or visitors who refuse to undergo weapons detection device screening, and a requirement that a hospital adopt reasonable protocols for storage or confiscation, and return, of patient, family, or visitor property that might be used as a weapon.</p> <p>Among other provisions, the bill would require that the standards include a requirement that a hospital post, in a conspicuous location, within reasonable proximity of any public entrances where weapons detection devices are utilized, a notice notifying the public that the hospital conducts screenings for weapons upon entry but that no person shall be refused medical care, pursuant to specified federal law.</p> <p>By expanding the scope of an existing 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>Board staff is monitoring for potential impacts on Board operations.</p>
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AB-3043 Occupational safety: fabrication activities. (2023-2024) - No Update

<b>AB-3043</b>	<p>AB-3043 Occupational safety: fabrication activities (2023-2024)</p> <p style="text-align: center;">(Rivas)</p>
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Date	Action
07/03/24	In committee: Set, first hearing. Hearing canceled at the request of author.
06/05/24	Referred to Com. on L., P.E. and R.
05/23/24	In Senate. Read first time. To Com. on RLS. for assignment.
05/22/24	Read third time. Passed. Ordered to the Senate. (Ayes 62. Noes 0.)
05/21/24	Read second time. Ordered to third reading.
05/20/24	Read second time and amended. Ordered returned to second reading.
05/20/24	From committee: Amend, and do pass as amended. (Ayes 11. Noes 4.) (May 16).
05/08/24	In committee: Set, first hearing. Referred to suspense file.
04/23/24	From committee: Do pass and re-refer to Com. on APPR. (Ayes 9. Noes 0.) (April 23). Re-referred to Com. on APPR
04/18/24	From committee: Do pass and re-refer to Com. on JUD. (Ayes 6. Noes 1.) (April 17). Re-referred to Com. on JUD.
04/09/24	Re-referred to Com. on L. & E.
04/08/24	From committee chair, with author's amendments: Amend, and re-refer to Com. on L. and E. Read second time and amended.
03/21/24	In committee: Set, first hearing. Hearing canceled at the request of author.

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03/11/24	Referred to Coms. on L. & E. and JUD.
02/17/24	From printer. May be heard in committee March 18.
02/16/24	Read first time. To print.

Summary:

AB 3043, as amended, Luz Rivas. Occupational safety: fabrication activities.

Existing law establishes the Occupational Safety and Health Standards Board within the Department of Industrial Relations to promulgate and enforce occupational safety and health standards for the state, including standards dealing with exposure to harmful airborne contaminants. Existing law requires the Division of Occupational Safety and Health within the department to enforce all occupational safety and health standards, as specified. A violation of these standards and regulations under specific circumstances is a crime.

This bill would prohibit a person engaged in fabrication activities or fabrication shops from using dry methods, and require the use of effective wet methods in any fabrication activities. The bill would make a violation of these provisions grounds for, among other disciplinary action, an immediate order prohibiting continued fabrication activities.

The bill would require, on or before July 1, 2025, the department to consult with representatives of approved apprenticeship programs to adopt a training curriculum regarding the safe performance of fabrication activities that meets specified requirements, including classroom instruction, and to certify an individual who has completed that curriculum immediately upon completion. The bill would prohibit, beginning July 1, 2026, an owner or operator of a slab product fabrication shop from permitting any individual from performing fabrication activities or employing an individual to perform work on the shop floor where those activities are conducted, unless the individual is certified by the department as having completed the training curriculum, except as specified.

The bill would require, on or before January 1, 2026, the department to develop an application and licensing process for fabrication shops to lawfully engage in fabrication activities known as a “slab product fabrication activity” license. The bill would authorize fabrication shops to engage in fabrication activities during the pendency of the application development and licensing process.

The bill would require, beginning January 1, 2026, the department to grant a 3-year license to a fabrication shop that demonstrates satisfaction of specified criteria involving workplace safety conditions and precautions, and would authorize license renewal, as specified. Among other conditions, the bill would establish certain

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regulatory fees in specified amounts for the license and renewal thereof. The bill would authorize the department to suspend or revoke a licensee in certain cases, including for gross negligence, as specified. The bill would prohibit a person or entity, or an employee thereof, from engaging in fabrication activities unless the person or entity has a license.

The bill would prohibit, beginning January 1, 2026, a person from supplying a slab product directly to a person or entity engaged in fabrication activities if the person or entity does not have a valid license. The bill would require a person that, among other things, supplies a slab product to a person or entity engaged in fabrication services to verify the person or entity has a license, as specified. The bill would require a person that supplies a slab product to a person or entity that is not engaged in fabrication activities to rely on written certification issued under penalty of perjury that, among other things, they will not directly engage in fabrication activities with the product without a license. By expanding the scope of the crime of perjury, the bill would impose a state-mandated local program.

The bill would specify that a violation of any of the above-described provisions may be grounds for disciplinary action, as specified, but is not a crime. The bill would establish the Slab Fabrication Activity Account in the Occupational Safety and Health Fund in the State Treasury, and require all fees, penalties, or other moneys collected by the department under the above-described provisions to be deposited into the account. The bill would authorize moneys in the account to be expended by the department for the purposes of administering the above-described provisions, and would make that authorization contingent on an appropriation of funds for that express purpose.

The bill would require, beginning January 1, 2026, the Director of Industrial Relations to maintain a publicly accessible database on the department's internet website that includes, among other things, information on any active orders issued by the department in the prior 12 months prohibiting an activity at a fabrication shop, as specified.

On or before July 1, 2025, the bill would require the department, in consultation with specified agencies, to submit a report to the Legislature pursuant to prescribed requirements, including specifying the number of violations issued for failure to comply with any temporary or future standards relating to respirable crystalline silica adopted by the board, and the geographic areas in the state with the highest numbers of those violations. On or before January 1, 2027, and January 1, 2029, the bill would require the department, in consultation with other specified entities, to submit a report to the Legislature pursuant to prescribed requirements, including, in addition to the information contained in the initial report, the number of licenses issued by the department pursuant to the above-described provisions. The bill would require the department to collect and include in those reports the disaggregation of applicable data by stone industry, as specified. The bill would also require the department and the division to consider the findings of the reports to prioritize enforcement of the

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	<p>requirements of the bill’s provisions in geographic areas with the highest numbers of violations or other penalties issued by the department relating to respirable crystalline silica.</p> <p>The bill would define various terms for these purposes. The bill would make findings and declarations related to these provisions.</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>Board staff is monitoring for potential impacts on Board operations.</p>
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AB-3106 School employees: COVID-19 cases: protections. (2023-2024) - No Update

<b>AB-3106</b>	<b>AB-3106</b> School employees: COVID-19 cases: protections <b>(2023-2024)</b>	
	(Schiavo)	
	Date	Action
	05/16/24	In committee: Held under submission.
	05/08/24	In committee: Set, first hearing. Referred to suspense file.
	04/18/24	From committee: Do pass and re-refer to Com. on APPR. (Ayes 6. Noes 0.) (April 17). Re-referred to Com. on APPR.
	04/02/24	Re-referred to Com. on L. & E.
04/01/24	From committee chair, with author's amendments: Amend, and re-refer to Com. on L. & E. Read second time and amended.	



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03/11/24	Referred to Com. on L. & E.
02/17/24	From printer. May be heard in committee March 18.
02/16/24	Read first time. To print.

Summary:

AB 3106, as amended, Schiavo. School employees: COVID-19 cases: protections.

Existing law grants the Division of Occupational Safety and Health, which is within the Department of Industrial Relations, jurisdiction over all employment and places of employment, with the power necessary to enforce and administer all occupational health and safety laws and standards. The Occupational Safety and Health Standards Board, an independent entity within the department, has the exclusive authority to adopt occupational safety and health standards within the state. 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, and charges the division with enforcement of the act. Other existing law relating to occupational safety imposes special provisions on certain industries and charges the division with enforcement of these provisions.

This bill would require employer, defined to be a school district, county office of education, or charter school, to ensure that COVID-19 cases, defined as specified school employees, who have a positive COVID-19 test, are excluded from the workplace until prescribed return-to-work requirements are met. To the extent administering these provisions imposes additional duties on local educational agencies, the bill would impose a state-mandated local program. The bill, with specified exceptions, would require an employer to continue and maintain an excluded school employee's earnings, wages, seniority, and all other employee rights and benefits, including the employee's right to their former job status, as if the employee had not been excluded from the workplace, as prescribed. The bill would require the standards board, by February 3, 2025, to adopt a standard that extends these protections to any occupational infectious disease covered by any permanent infectious disease standard adopted to succeed an existing standard for COVID-19 prevention for those school employees. The bill would require the division to enforce the bill by the issuance of a citation alleging a violation and a notice of civil penalty, as specified. The bill would authorize any person who receives a citation and penalty to appeal the citation and penalty to the Occupational Safety and Health Appeals Board.

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.

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	<p>This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.</p> <p>Board staff is monitoring for potential impacts on Board operations.</p>
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AB-3258 Refineries and chemical plants. (2023-2024) - No Update

<b>AB-3258</b>	<b>AB-3258 Refineries and chemical plants. (2023-2024)</b>	
	(Bryan)	
	Date	Action
	09/29/24	Chaptered by Secretary of State - Chapter 978, Statutes of 2024.
	09/29/24	Approved by the Governor.
	09/05/24	Enrolled and presented to the Governor at 4 p.m.
	08/27/24	Senate amendments concurred in. To Engrossing and Enrolling. (Ayes 77. Noes 0.).
	08/27/24	Assembly Rule 77 suspended.
	08/26/24	In Assembly. Concurrence in Senate amendments pending. May be considered on or after August 28 pursuant to Assembly Rule 77.
	08/26/24	Read third time. Passed. Ordered to the Assembly. (Ayes 38. Noes 0.).
08/21/24	Read second time. Ordered to third reading.	
08/20/24	Read third time and amended. Ordered to second reading.	

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08/20/24	Ordered to third reading.
08/20/24	Action rescinded whereby the bill was read third time, passed, and to Assembly.
08/05/24	In Senate. Held at Desk.
08/05/24	Ordered to the Senate.
6/27/24	In Assembly. Concurrence in Senate amendments pending. May be considered on or after June 29 pursuant to Assembly Rule 77.
6/27/24	Read third time. Passed. Ordered to the Assembly. (Ayes 40. Noes 0.).
6/25/24	From committee: Be ordered to second reading file pursuant to Senate Rule 28.8 and ordered to Consent Calendar.
06/12/2024	From committee: Do pass and re-refer to Com. on APPR with recommendation: To Consent Calendar. (Ayes 5. Noes 0.) (June 12). Re-referred to Com. on APPR.
06/03/24	From committee chair, with author's amendments: Amend, and re-refer to committee. Read second time, amended, and re-referred to Com. on L., P.E. & R.
05/29/24	Referred to Com. on L., P.E. & R.
05/16/24	In Senate. Read first time. To Com. on RLS. for assignment.
05/16/24	In Senate. Read first time. To Com. on RLS. for assignment.
05/16/24	Read third time. Passed. Ordered to the Senate. (Ayes 71. Noes 0.)

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05/09/24	Read second time. Ordered to Consent Calendar.
05/08/24	From committee: Do pass. To Consent Calendar. (Ayes 15. Noes 0.) (May 8).
04/18/24	From committee: Do pass and re-refer to Com. on APPR. with recommendation: To Consent Calendar. (Ayes 7. Noes 0.) (April 17). Re-referred to Com. on APPR.
04/01/24	Re-referred to Com. on L. & E.
03/21/24	From committee chair, with author's amendments: Amend, and re-refer to Com. on L. & E. Read second time and amended.
03/21/24	Referred to Com. on L. & E.
02/17/24	From printer. May be heard in committee March 18.
02/16/24	Read first time. To print.

**Summary:**

AB 3258, as amended, Bryan. Refinery and chemical plants.

Existing law, the California Refinery and Chemical Plant Worker Safety Act of 1990, requires the Occupational Safety and Health Standards Board to adopt process safety management standards for refineries, chemical plants, and other manufacturing facilities, as prescribed. Existing law requires a petroleum refinery employer to submit an annual schedule of planned turnarounds, as defined, for all affected units for the following calendar year and to provide prescribed access onsite and to related documentation. Existing law also establishes requirements for Division of Occupational Safety and Health access to, and disclosure of, trade secrets, as defined, including information relating to planned turnarounds of petroleum refinery employers.

This bill would remove references in existing law to petroleum refineries and petroleum refinery employers and, instead, refer to refineries and refinery employers. The bill would define "refinery" to mean an establishment that produces gasoline, diesel fuel, aviation fuel, or biofuel, as defined, through the processing of crude oil or alternative

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	<p>feedstock. The bill would, by January 1, 2026, require the division to propose, and the board to consider for adoption, regulations that implement this part for refineries.</p> <p>Board staff is monitoring for potential impacts on Board operations.</p>
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