

DEPARTMENT OF INDUSTRIAL RELATIONS
Occupational Safety and Health Standards Board
2520 Venture Oaks Way, Suite 350
Sacramento, CA 95833
Tel: (916) 274-5721 Fax: (916) 274-5743
Website address www.dir.ca.gov/oshsb



TITLE 8. CALIFORNIA CODE OF REGULATIONS

Construction Safety Orders

Section 1630(a)

(Published on January 31, 2020)

[Elevators for Hoisting Workers](#)

NOTICE IS HEREBY GIVEN that the Occupational Safety and Health Standards Board (Board) proposes to adopt, amend or repeal the foregoing provisions of Title 8 of the California Code of Regulations in the manner described in the Informative Digest, below.

PUBLIC HEARING

The Board will hold a public hearing starting at 10:00 a.m. on **March 19, 2020** in the **Council Chambers**, of the **Pasadena City Hall, 100 North Garfield Avenue, Pasadena, California**. At this public hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest.

WRITTEN COMMENT PERIOD

In addition to written or oral comments submitted at the public hearing, written comments may also be submitted to the Board's office. The written comment period commences on **January 31, 2020** and closes at 5:00 p.m. on **March 19, 2020**. Comments received after that deadline will not be considered by the Board unless the Board announces an extension of time in which to submit written comments. Written comments can be submitted as follows:

By mail to Sarah Money, Occupational Safety and Health Standards Board, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833; or

By e-mail sent to oshsb@dir.ca.gov.

AUTHORITY AND REFERENCE

Labor Code Section 142.3 establishes the Board as the only agency in the State authorized to adopt occupational safety and health standards. In addition, Labor Code Section 142.3 requires the adoption of occupational safety and health standards that are at least as effective as federal occupational safety and health standards.

INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT
OVERVIEW

This rulemaking was initiated in response to Occupational Safety and Health Standards Board (Standards Board) Petition File No. 577 submitted by Mr. Donald A. Zampa, President of the District Council of Iron Workers, and Mr. Greg McClelland, Executive Director of the Western Steel Council, dated June 7, 2019. In the Standards Board's Decision, dated June 20, 2019, the Petitioners' request was granted to the extent that Standards Board staff was directed to promptly develop a highly expedited permanent rulemaking limited in scope to clarify the definition of height as used in Section 1630, such that it is more clearly understood to require that an elevator be installed in a building or structure that will ultimately be at least 60 feet, at the time it reaches 36 feet.

The Division of Occupational Safety and Health (Division) reports and stakeholder comments concur, that it has been a prevalent practice during the construction of buildings designed to be 60 feet or more in height upon completion. Federal OSHA does not have an equivalent regulation.

The Board evaluated the proposed regulations pursuant to Government Code section 11346.5(a)(3)(D) and has determined that the regulations are not inconsistent or incompatible with existing state regulations. This proposal is part of a system of occupational safety and health regulations. The consistency and compatibility of that system's component regulations is provided by such things as: (1) the requirement of the federal government and the Labor Code to the effect that the State regulations be at least as effective as their federal counterparts, and (2) the requirement that all state occupational safety and health rulemaking be channeled through a single entity (the Standards Board).

Anticipated Benefit

1630(a) states that buildings or structures at least 60 feet tall require an elevator for hoisting workers. Subsection (d) states that the first landing be installed at 36 feet. A long-standing acceptance within the construction industry resulted in the elevator being installed when the building or structure reached 36 feet.

An Occupational Safety and Health Appeals Board (Appeals Board), Decision After Reconsideration (DAR) of May 29, 2019, ruled that the elevator was not required to be installed until the building reached 60 feet. The ruling has created confusion in the construction industry and creates a hazard to workers who, without an elevator, would need to climb stairs to access the 60-foot building or structure.

Benefits of having an elevator installed at 36 feet versus 60 feet include:

- Allows emergency responders to reach and evacuate workers expeditiously in the event of an injury;
- Faster labor productivity of the workforce due to not using stairs for overall access to the building from lower floors;

- Allows stocking of the building without the use of additional hoisting equipment such as forklifts and cranes;
- Allows for a safer work environment where workers are able to use the hoist rather than stairs to haul tools and equipment to upper floors; and
- Allows for emergency access to upper floors in a more timely manner.

The specific change is as follows:

Existing Section 1630(a) is modified to reflect that an elevator for hoisting workers is to be installed at 36 feet on a building or structure which will be at least 60 feet tall upon completion.

The proposed revision will make it clear that the elevator is required to be installed at the time the building or structure reaches 36 feet in height. The revision will end the confusion created by the Appeals Board decision and ensure it is clear to construction industry employers what their duty to comply is with regard to CPH installation.

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on Local Agencies or School Districts: None

Cost or Savings to State Agencies: None

Cost to Any Local Government or School District Which Must be Reimbursed in Accordance with Government Code Sections 17500 through 17630: None

Other Nondiscretionary Cost or Savings Imposed on Local Agencies: None

Cost or Savings in Federal Funding to the State: None

Cost Impact on a Representative Private Person or Business:

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Statewide Adverse Economic Impact Directly Affecting Businesses and Individuals: Including the Ability of California Businesses to Compete:

The Board has made an initial determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses/individuals, including the ability of California businesses to compete with businesses in other states.

The proposed revision to Section 1630 is not a new requirement but rather the clarification of a requirement prevalently conformed to within the building industry. As a result of the Appeals Board decision, the proposed revision is necessary to further clarify the requirements of Section 1630(a).

Significant Affect on Housing Costs: None.

SMALL BUSINESS DETERMINATION

The Board has determined that the proposed amendment will not affect small businesses, because the regulation applies to buildings or structures that are 60 feet and higher. Resources required to complete such projects are beyond the scope of small businesses.

**RESULTS OF THE ECONOMIC IMPACT
ASSESSMENT/ANALYSIS**

The proposed regulation will not have any effect on the creation or elimination of California jobs or the creation of new businesses or the elimination of existing California businesses or affect the expansion of existing California businesses, since this is only a clarification of a long-term understanding that an elevator is to be installed at 36 feet.

BENEFITS OF THE PROPOSED ACTION

The benefits of the regulation to the health and welfare of California residents and worker safety are:

- Allows emergency responders to reach and evacuate workers expeditiously in the event of an injury;
- Allows for a safer work environment where workers are able to use the hoist rather than stairs to haul tools and equipment to upper floors;
- Allows for emergency access to upper floors in a more timely manner; and
- Allows stocking of the building without the use of additional hoisting equipment such as forklifts and cranes.

This regulation provides no identified benefit to the state's environment.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law than the proposal described in this Notice.

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the scheduled public hearing or during the written comment period.

CONTACT PERSONS

Inquiries regarding this proposed regulatory action may be directed to Christina Shupe (Executive Officer) or the back-up contact person, Michael Manieri (Principal Safety Engineer) at the Occupational Safety and Health Standards Board, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833; (916) 274-5721.

AVAILABILITY OF STATEMENT OF REASONS, TEXT OF THE PROPOSED REGULATIONS AND RULEMAKING FILE

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this Notice of Proposed Action is published in the Notice Register, the rulemaking file consists of this Notice, the proposed text of the regulations, the Initial Statement of Reasons, supporting documents, or other information upon which the rulemaking is based. Copies may be obtained by contacting Ms. Shupe or Mr. Manieri at the address or telephone number listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this Notice. If the Board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public at least 15 days before the Board adopts the regulations as revised. Please request copies of any modified regulations by contacting Ms. Shupe or Mr. Manieri at the address or telephone number listed above. The Board will accept written comments on the modified regulations for at least 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Ms. Shupe or Mr. Manieri at the address or telephone number listed above or via the internet.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

The Board will have rulemaking documents available for inspection throughout the rulemaking process on its web site. Copies of the text of the regulations in an underline/strikeout format, the Notice of Proposed Action and the Initial Statement of Reasons can be accessed through the Standards Board's website at <http://www.dir.ca.gov/oshsb>