



Christina Shupe, Executive Officer
Occupational Safety and Health Standards Board
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Submitted VIA electronic mail: cshupe@dir.ca.gov

Dear Ms. Shupe:

We are writing to urge the Standards Board to adopt an emergency amendment to 8 CCR section 1630(a) to remedy a situation that is on the verge of causing widespread disruption in the construction industry and will likely create an unacceptable, life-threatening hazard to construction workers if the amendment is not adopted.

We are requesting that this matter be agendaized for the June 2019 Standards Board Meeting so that the Board can vote at that meeting on whether to proceed with the emergency rulemaking process pursuant to Government Code section 11346.1 to adopt the amendment proposed below.

On 29 May 2019 the Occupational Safety and Health Appeals Board issued a Decision After Reconsideration (DAR) that has nullified a long-standing enforcement posture of the Division of Occupational Safety and Health (DOSH) and custom and practice in the construction industry that calls for a construction passenger elevator (CPH) on any building designed to be 60 feet or more in height when the building reaches 36 feet in height.

Widespread confusion and disruption in the construction industry.

This situation is resulting in widespread confusion between subcontractors and general contractors over the need to comply with this practice, both in continuing with existing construction projects and bidding on new contracts.

A giant step backwards instead of moving forward to prevent imminent hazards to construction workers.

In those situations where there is a failure to install a CPH, construction workers performing some of the most hazardous work in construction will be working in situations where, should a life-threatening injury occur, there will be no elevator access for emergency personnel to reach the injured worker or to perform an evacuation.

These accidents happen far too often, and far too often the result is a fatality. Arrival of emergency personnel as fast as possible is critical when a worker may be bleeding to death, in life-threatening shock, in need of CPR, or in any other life-threatening situation where seconds count. In addition, if an injured worker with fractured ribs or other bones must be evacuated, minimizing motion to avoid the possibility of fractured bones piercing lung tissue or other critical tissue is made much more difficult if the evacuation must occur via a stairway.

This issue is entirely separate and distinct from other issues that have arisen with section 1630.

We are aware the DOSH has filed a Form 9 requesting a number of changes to section 1630, and we are also interested in participating in the normal advisory committee and rulemaking process to improve this important safety standard. However, this single issue needs to be addressed separately from that process and has become an emergency because of the unanticipated DAR referenced above.

There is no cost impact to be caused by adopting this amendment.

Adopting this amendment is about preserving the status quo. There is no cost impact associated with it, other than the fact that if it is not adopted, costs to the industry will increase due to the disruption and creation of new hazards the above-reference DAR will cause.

We urge the Standards Board to adopt the following amendment to section 1630 on an emergency basis.

(a) In addition to the stairways required in Section 1629, a construction passenger elevator for hoisting workers shall be installed and in operation on or in any building, or structure designed to be 60 feet or more in height above or 48 feet in depth below ground level when completed. The elevator shall be installed and operational when the building or structure reaches 36 feet in height or 36 feet in depth below ground level. The building or structure height shall be determined by measuring from ground level to the highest structural level including the parapet walls, mechanical rooms, stair towers and elevator penthouse structures but excluding antennas, smokestacks, flag poles and other similar attachments.

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We urge you to place this matter on the agenda for the Board meeting to take place on 20 June 2019. We will be attending the meeting to further explain why this action is necessary and to answer any questions the Board members may have.

Sincerely,

Donald A. Zampa, President
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