

DEPARTMENT OF INDUSTRIAL RELATIONS
Occupational Safety and Health Standards Board
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**PROPOSED PETITION DECISION OF THE
OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
(PETITION FILE NO. 587)**

INTRODUCTION

The Standards Board (Board) received a petition on October 15, 2020, from Donald A. Zampa, President, District Council of Ironworkers of the State of California and Vicinity and Greg McClellan, Executive Director, Western Steel Council (Petitioners). The Petitioners request the Board to expedite the pending changes to title 8, section 1630, regarding construction personnel hoists (CPH's), and proposes additional requests for consideration during an upcoming advisory committee meeting on the subject.

SUMMARY

The Petitioners request the Board to take the following actions:

- Consider all of the remaining issues raised in the Division of Occupational safety and Health's, Form 9 request dated April 3, 2019.
- Consider amendments to Title 8 to address "alternative access" in lieu of a CPH.
- Consider having engineering calculations be provided to the Division of Occupational Safety and Health (Division) as part of the permit process substantiating the infeasibility of installing a CPH with a statement to document why the alternative access is safe and effective.
- Expediting the rulemaking process.

DIVISION'S EVALUATION

The Division's evaluation report dated April 6, 2021, states the Division recommends granting the Petitioner's request to the extent that a committee be convened to consider amendments to section 1630 to address the engineering calculation/substantiating documentation issues mentioned earlier. The Division is not opposed to having committee discussion about the meaning of the phrase "*unusual site conditions or unusual structural configurations*" and any necessary clarifications. The Division stated it was in support of Board staff expediting the consideration of the remaining Form 9 issues contained in the April 3, 2019 Form 9 via the advisory committee process.

BOARD STAFF'S EVALUATION

Board staff prepared an evaluation dated May 17, 2021.

Board staff notes that the Petitioners request to require the Division to amend its permit process is outside the authority of the Board since such Division regulations are administrative in nature. Staff noted that any discrepancies in the way individual Division district offices interpret CPH requirements and alternative access is also beyond the Board's authority. However, Board staff opined that the Petitioners' concerns should be addressed via the advisory committee process which may result in amendments to section 1630.

Board staff further suggested that variations in interpretation should be discussed by the Petitioners with the Division.

Board staff also believes that the part of the Petitioners request pertaining to engineering calculations and alternative access justification would benefit from advisory committee (committee) consideration. Presently section 1630 contains language that addresses unusual site conditions or unusual structure configurations and allows the Division to permit alternative means of access. Regardless, staff believes this issue would still benefit from committee consideration of clarifying language specifying what are unusual site conditions or structure configurations, when alternative means can be provided and what specific documentation is required to justify it.

Finally, the convening of a section 1630 committee to discuss the foregoing issues less the one issue which has already been addressed as a result of previously adopted expedited rulemaking stemming from Petition File No. 577 which requested an emergency standard to address the first issue in the Divisions' April 3, 2020 Form 9 to clarify when CPH installation is to occur based on the height or depth of the structure.

DISCUSSION

Both the Division and Board staff are in general agreement that the advisory committee process should be used to consider amendments to section 1630 to address the remaining unresolved issues contained in the Divisions April 3, 2019 Form 9 request which relate to CPH roof access, CPH service to all landings and additional CPHs for structures with very large floor plans. Staff and Division agree that in addition, issues pertaining to alternative access, the use of engineering calculations as part of the permit process to substantiate infeasibility of CPH use and the efficacy of alternative access. The Board staff will, to the extent possible, reprioritize workload to expedite the advisory committee/rulemaking process.

CONCLUSION AND ORDER

Petition No. 587, by Donald A. Zampa, President, District Council of Ironworkers of the State of California and Vicinity and Greg McClellan, Executive Director, Western Steel Council (Petitioners) is **GRANTED** to the extent that an advisory committee (AC) be convened to discuss the issues outlined in this proposed petition decision, as follows:

- Consider unresolved issues raised in the Division of Occupational safety and Health's, Form 9 request dated April 3, 2019.
- Consider amendments to Title 8 to address "alternative access" in lieu of a CPH.
- Consider having engineering calculations be provided to the Division of Occupational Safety and Health (Division) as part of the permit process substantiating the infeasibility of installing a CPH with a statement to document why the proposed alternative access is safe and effective.

Staff shall, to the extent practicable, expedite the convening of an advisory committee to consider the issues above.

The Petitioners shall be extended an invitation to participate in the advisory committee deliberations.