

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD
(Board)

PETITION FILE NO. 587

BOARD STAFF EVALUATION

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INTRODUCTION

Petition File No. 587 (Petition) was received from Donald A. Zampa, President, District Council of Iron Workers of the State of California and Vicinity, and Greg McClelland, Executive Director, Western Steel Council (Petitioners) on October 15, 2020. The Petition requests the Board expedite the pending changes to title 8, section 1630, regarding construction personnel hoists (CPHs), and proposes additional issues for consideration during an upcoming advisory committee (AC) meeting on the subject.

REQUESTED ACTION

The Petitioners' request restates the issues raised by the Division of Occupational Safety and Health (Division) in an April 3, 2019 "Request for New, Or Change in Existing, Safety Order" (Form 9) to the Board. Additionally, the Petitioners request that a discussion of "alternative access in lieu of a CPH" be added to the AC agenda. As part of the discussion on alternative access, they request that engineering calculations be provided to the Division during the permit application evaluation process, substantiating the infeasibility of installing a CPH for the project, as well as information on the safety and effectiveness of the proposed means of alternative access.

The Petitioners have also requested the rulemaking be expedited.

PETITIONERS' ASSERTIONS

The Petitioners assert:

- The requested changes are necessary to "keep up with new types of construction as well as to correct gaps in the existing language that have created substantial confusion over the years."
- "Without these changes, the safety of construction workers on structures subject to section 1630 will continue to be in serious jeopardy."
- Division district offices vary when interpreting the criteria for determining when alternative access is permissible in lieu of a CPH.
- The current criteria for determining when alternative access is allowable are general and can conflict with "the basic necessity to have CPH access when feasible."
- Various problems with ambiguities in section 1630 demonstrate "that clearer, more effective language is needed."

STAFF EVALUATION

On June 7, 2019, the Petitioners submitted Petition File No. 577 to the Board requesting an emergency standard to clarify, in part, that CPHs need to be installed when a building that is intended to be at least 60 feet in height reaches 36 feet. Instead of promulgating an emergency regulation, the Board expedited the rulemaking to add a definition for height to section 1630 and effectively address the Petitioners' immediate concern.

Prior to Petition File No. 577, the Division submitted a Form 9, dated April 3, 2019, to the Board proposing amendments to section 1630, regarding issues relating to CPHs. According to the Form 9, the Division states that “Section 1630 needs changes to:

- 1) Expressly require a [CPH] when a structure reaches an initial height or depth of 36 feet if the final height of the structure will be 60 feet or greater or if the final depth of the structure will be 48 feet or greater.
- 2) Expressly require [CPH] access to roofs.
- 3) Expressly require [CPH] service to each landing.
- 4) Require more than one [CPH] for structures with extraordinarily large floor plans.”

Relevant Standards

As this Petition is on the same topic as the previous Petition File No. 577 submitted by the Petitioners, the previous Board staff evaluation’s findings are excerpted below.

Federal Standards

29 CFR 1926.552 contains the requirements for personnel hoists but there is no requirement to actually have one.

California Standards

Section 1630(a) has been a regulation since before 1975. It has been amended several times over the years. The most recent amendment to the Standard (prior to the amendment brought about by Petition File No. 577) was in 1997.

Germane to the issue at hand is a memo from John Bobis, Principal Safety Engineer to the Standards Board members, dated December 29, 1979, which summarized the results of AC meetings and which stated in part:

The committee was also of the opinion that the regulations should not be further revised to attempt to indicate at what stage of construction a construction hoist should be provided. Apparently, this has not been a problem in the past and both the Division and the committee were of the opinion that, during preconstruction conference, these matters are routinely resolved by the parties involved.

Consensus Standards

ASSE 10.4 (2016) has requirements for the installation and operation but not the requirement to provide one for access.

Position of Division

The Division evaluation, dated April 6, 2021, recommends granting the Petition to the extent that an AC is convened to discuss the necessary language to require detailed engineering calculations substantiating the infeasibility of a CPH and the written documentation demonstrating the safety and effectiveness of alternatives to a CPH. The Division is not

opposed to discussing concerns with the meaning of “unusual site conditions or unusual structure configurations” during the committee meeting and is supportive of the Petitioners’ request to expedite the Board staff’s review of the Division’s Form 9 from April 3, 2019.

Analysis

Although federal regulations and consensus standards do not require the installation of CPHs on construction sites, the presence of a CPH can have a positive effect on employee safety and health. On buildings where the CPHs are required, the absence of the hoist could mean that employees are required to climb ladders, stairs or ramps to reach the working levels of the building, putting them at increased risk of slips, trips, falls and musculoskeletal disorders. In situations where an employee is injured, the CPH can be used to expedite the arrival of medical personnel to the injured employee as well as the removal of the injured to receive further care offsite.

Board staff believes that the Petitioners’ request to require the Division to amend its permit process is outside the authority of the Board, as the request relates to the administrative regulations of the Division. Additionally, the assertion that the Division’s district offices vary in their interpretation of the requirements for providing alternate access in lieu of a CPH falls outside the control of the Board. Board staff is amenable, however, to having a discussion during the AC meeting to determine if the Petitioners’ concerns can be addressed through amendments to section 1630. The Petitioners may also wish to discuss their concerns directly with the Division.

The Petitioners’ request that engineering calculations be provided to the Division to substantiate the need for employing alternative access in lieu of a CPH can also benefit from further discussion in an AC meeting. Section 1630(c) states that “At unusual site conditions or structure configurations, the Division shall permit alternate means of access...”, but the only guidance on what constitutes “unusual site conditions or structure configurations” is provided in a note, which may not be enforceable. The note explains that unusual site conditions or structure configurations “exist at those work locations where the installation of a construction passenger elevator is not feasible.” Stakeholders may benefit from clearer requirements specifying when alternative access can be provided in lieu of a CPH, including necessary documents to support the need for and potential benefits of alternative access.

Board staff intends to convene an AC to discuss the issues contained in the Division’s Form 9 described above and included with this evaluation. The first item in the Form 9 has already been addressed, in part, by the previously expedited rulemaking resulting from Petition File No. 577. The remaining items within the Form 9, as well as the Petitioners’ request for a discussion on determining when alternative access is permissible in lieu of a CPH can appropriately be discussed during the upcoming AC meeting.

With regard to the Petitioners’ request that rulemaking be expedited to address the issues described herein, Board staff believes that with the completion of rulemaking work in progress and barring any unforeseen higher priority project activity or issues, convening an AC to discuss the aforementioned issues by the end of 2021 may be possible.

STAFF RECOMMENDATION

Consistent with the foregoing discussion, Board staff recommends that Petition File No. 587 be GRANTED to the extent that Board staff be directed to convene an advisory committee to discuss the unresolved issues contained in the April 3, 2019 Form 9 from the Division and the Petitioners' concerns regarding alternative access in lieu of a CPH. The Board should direct Board staff to convene the advisory committee meeting as soon as current workload obligations permit and resources allow. The Board staff should extend an invitation to the Petitioners to join in the advisory committee deliberations.