

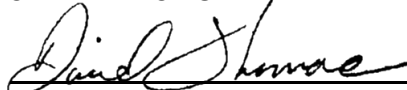
STATE OF CALIFORNIA  
DEPARTMENT OF INDUSTRIAL RELATIONS  
OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD  
2520 Venture Oaks Way, Suite 350  
Sacramento, California 95833  
(916) 274-5721

In the Matter of a Petition by: )  
)  
Ronald High )  
Ronald High Elevator Advocate )  
8129 El Extenso Court )  
San Diego, CA 92119-1134 )  
)  
\_\_\_\_\_  
Applicant. )

PETITION FILE NO. 589

The Occupational Safety and Health Standards Board hereby adopts the attached PROPOSED DECISION.

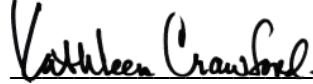
OCCUPATIONAL SAFETY AND HEALTH  
STANDARDS BOARD



\_\_\_\_\_  
DAVID THOMAS, Chairman



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BARBARA BURGEL, Member



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KATHLEEN CRAWFORD, Member

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DAVE HARRISON, Member



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NOLA KENNEDY, Member



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CHRIS LASZCZ-DAVIS, Member



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LAURA STOCK, Member

By:   
Christina Shupe, Executive Officer

DATE: October 21, 2021  
Attachments

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PROPOSED PETITION DECISION OF THE  
OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD  
(PETITION FILE NO. 589)

INTRODUCTION

The Occupational Safety and Health Standards Board (Board) received a petition on March 15, 2021, from Mr. Ronald High (Petitioner). The Petitioner requests the Board amend title 8, article 14 of the Construction Safety Orders (CSO), regarding construction hoists.

Labor Code section 142.2 permits interested persons to propose new or revised regulations concerning occupational safety and health and requires the Board to consider such proposals and render a decision no later than six months following receipt.

Further, as required by Labor Code section 147, any proposed occupational safety and health standard received by the Board from a source other than the Division of Occupational Safety and Health (Division) must be referred to the Division for evaluation. The Division has 60 days after the receipt to submit an evaluation regarding the proposal.

SUMMARY

The Petitioner requests the Board take the following course of action:

- Update the references to the American National Standards Institute (ANSI)/American Society of Safety Engineers (ASSE) A10.4-1973 "Safety Requirements for Personnel Hoists" within title 8, article 14 of the CSO to the 2016 edition of the same standard.

The Petitioner provided examples of many safety improvements contained in sections from the ANSI/ASSE A10.4-2016 standard that are not contained in the 1973 edition, including, but not limited to: fall protection, qualifications for hoist personnel, overhead protection, counterweighting, fire retardant enclosures and cartop guard railing.

DIVISION'S EVALUATION

The Division's evaluation report dated September 9, 2021, states that the majority of requirements contained in the ANSI/ASSE A10.4-2016 standard represent an enhancement in the level of safety currently provided by the 1973 edition. However, the Division's evaluation also states that some of the requirements contained in the ANSI/ASSE A10.1-2016 standard do

not represent an enhancement over the present level of safety provided by the 1973 edition, and identified some as being either duplicative or unnecessary.

The Division recommends that the portion of the petition to include sections 5.1.1, 17.8, 17.10, 26.4, 26.5, 26.6, 27.3 and 30.3 of the ANSI/ASSE A10.4-2016 standard be denied. The Division also recommended that ANSI/ASSE A10.4-2016 sections 5.5.1.1, 5.6.3, 15.2, 17.1, 19.5, 19.5, 19.10.2, 20.9, 21.5, 22.10, 22.11, and 25.5 be granted to the extent that an advisory committee (AC) be convened to determine appropriate regulatory language and determine any potential conflicts with other state or local laws and regulations. The Division also recommends that any title 8 changes made to elevator counterweight design in response to the ANSI/ASSE 10.4-2016 section 15.2 be limited to the maximum counterweight established in existing title 8, section 1604.15(b).

#### BOARD STAFF EVALUATION

After investigation, Board staff understands the Petitioner's primary concerns to be as follows:

- The ANSI/ASSE A10.4-2016 standard represents an enhancement to the present level of safety provided by the 1973 edition of this standard concerning equipment use, employer and employee responsibilities and overall operational safety.
- The authors of the ANSI/ASSE A10.4-2016 standard define negligence by the General Constructor, the [Manufacturer] of the equipment, and/or individuals who have the responsibility to ensure safety in the workplace. Defining these terms is critical to employee safety and not addressed in the 1973 edition.

The Board staff evaluation states that a predecessor Petition File No. 574 submitted by Michael Vlaming, Executive Director of Construction Elevator Contractors Association, in December of 2018, brought to the Board's attention ANSI/ASSE A10.4-2016 standards pertaining to the required spacing of tie-ins for construction personnel hoists (CPH). Mr. Vlaming suggested CSO section 1604.5(d)(2) be amended to incorporate these ANSI/ASSE A10.4-2016 spacing requirements. In its discussion leading up to the denial of Petition 574, the Board took the position that successive editions *"of the code [do] not necessarily provide greater protections than the superseded code"*.

The Board staff evaluation also noted that Federal OSHA standards for this issue reference the ANSI A10.4-1963 standard and provide only general performance based language for the operation and use of CPH.

The ANSI/ASSE A10.4-2016 standard is the most current version of this standard. The Petitioner has identified a total of 19 sections or chapters from this standard that he believes merit inclusion in title 8. However, the Board staff and Division evaluations determined that some of the A10.4-2016 sections listed by the Petitioner are already addressed by other title 8 sections, rendering them both duplicative and unnecessary, while others are not as protective as those currently contained in article 14.

The Board staff evaluation states that while much of the ANSI/ASSE A10.4-2016 standard is similar to the language of the 1973 version, there are substantive differences between the two editions. Staff notes that the ANSI/ASSE A10.4 development committee has regularly updated the construction hoist standard with best practices and consensus recommendations, yet no comprehensive update to article 14 has occurred since the 1973 edition was adopted into title 8. Consequently, Board staff concurs with the Petitioner that a full review of the article is warranted to ensure that necessary safety improvements in construction hoist best practices and technologies are recognized in article 14.

#### DISCUSSION

Board staff and the Division agree that there are a substantial number of the ANSI/ASSE A10.4-2016 sections brought forth by the Petitioner that are enhancements in CPH safety over the 1973 edition referenced in article 14.

As Board staff noted, while the ANSI/ASSE A10.4-1973 does not include the elements listed by the Petitioner, they are not necessarily prohibited by the 1973 standard. It is also Board staff's finding that CPH manufactured today are built in accordance with the latest applicable standards. Board staff also notes that while the Division Elevator Unit states that it has not been made aware of any urgent matters that need to be addressed through a review and update of article 14 from the 1973 standard, it is more than reasonable to expect that there have been significant improvements in CPH safety over the more than 40 years of technological development and advancement since the 1973 version was used as a foundation for the article.

Despite the fact that much of the ANSI/ASSE A10.4-2016 standard is similar to the language of the 1973 edition, there are key and subtle differences as recognized by the Petitioner, Board staff and the Division. Given the fact that the ANSI/ASSE A10.4 development committee has been providing regular updates to its CPH standard and there has been no comprehensive review of article 14 since the 1973 edition was adopted into title 8, the Board concurs that a review of article 14 is warranted. Such a review is needed to ensure that California workers are provided with the latest developments in CPH best practices, design, use, maintenance, installation and technologies are reflected in article 14.

#### CONCLUSION AND ORDER

Having considered Petition 589, and evaluations by the Division and Board staff, the Board hereby GRANTS the petition to the extent that Board staff are directed to convene an Advisory Committee to perform a review of title 8, article 14 of the CSO as it relates to ANSI/ASSE A10.4-2016 (or a later edition, when available). The Board notes that as part of the Advisory Committee process, those consensus standard sections that are deemed via committee deliberation to be either duplicative/unnecessary, or do not represent either an enhancement to or equivalent safety, will be excluded from further consideration for inclusion into article 14. The Petitioner should be extended an invitation to participate in the Advisory Committee deliberations.