# Occupational Safety and Health Standards Board

Public Meeting and Business Meeting

June 15, 2023

Walnut Creek City Hall
Council Chambers
1666 N. Main Street
Walnut Creek, California

AND

Via teleconference / videoconference

# Occupational Safety and Health Standards Board

## Meeting Agenda

**STATE OF CALIFORNIA** GAVIN NEWSOM, *Governor*

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

*MISSION STATEMENT*

*The mission of the Occupational Safety and Health Standards Board is to promote, adopt, and maintain reasonable and enforceable standards that will ensure a safe and healthful workplace for California workers.*

# AGENDA

PUBLIC MEETING AND BUSINESS MEETING
OF THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

**June 15, 2023 at 10:00 a.m.**

## Attend the meeting in person:

Walnut Creek City Hall
Council Chambers
1666 N. Main Street
Walnut Creek, CA 94596

## Attend the meeting via Video-conference:

1. Go to www.webex.com
2. Select "Join"
3. Enter the meeting information: **268 984 996**
4. Enter your name and email address then click "Join Meeting"
5. Video-conference will be opened to the public at 9:50 a.m.

## Attend the meeting via Teleconference:

1. Dial (844) 992-4726
2. When prompted, enter **268-984-996**
3. When prompted for an Attendee ID, press #
4. Teleconference will be opened to the public at 9:50 a.m.

## Live video stream and audio stream (English and Spanish):

1. Go to https://videobookcase.com/california/oshsb/
2. Video stream and audio stream will launch as the meeting starts at 10:00 a.m.

## Public Comment Queue:

Those attending the meeting in person will be added to the public comment queue on the day of the meeting.

Those attending the meeting remotely who wish to comment on agenda items may submit a request to be added to the public comment queue either in advance of or during the meeting through one of the following methods:

**ONLINE:** Provide your information through the online comment queue portal at https://videobookcase.org/oshsb/public-comment-queue-form/

**PHONE:** Call **510-868-2730** to access the automated comment queue voicemail and provide*: 1) your name as you would like it listed; 2) your affiliation or organization; and 3) the topic you would like to comment on.
**Information requested is voluntary and not required to address the Board.*

I. **CALL TO ORDER AND INTRODUCTIONS**

II. **PRESENTATION**

A. California Cotton Ginner & Growers Association Presentation on Heat Illness Prevention in Indoor Places of Employment

- Roger Isom, President/CEO California Cotton Ginner & Growers Association

III. **PUBLIC MEETING (Open for Public Comment)**

This portion of the Public Meeting is open to any interested person to propose new or revised standards to the Board or to make any comment concerning occupational safety and health (Labor Code section 142.2). *The Board is not permitted to take action on items that are not on the noticed agenda, but may refer items to staff for future consideration.*

This portion of the meeting is also open to any person who wishes to address the Board on any item on today's Business Meeting Agenda (Government Code (GC) section 11125.7).

Any individual or group wishing to make a presentation during the Public Meeting is requested to contact Sarah Money, Executive Assistant, at (916) 274-5721 in advance of the meeting so that any logistical concerns can be addressed.

A. PUBLIC COMMENT

B. ADJOURNMENT OF THE PUBLIC MEETING

IV. **BUSINESS MEETING – All matters on this Business Meeting agenda are subject to such discussion and action as the Board determines to be appropriate.**

The purpose of the Business Meeting is for the Board to conduct its monthly business.

A. PROPOSED VARIANCE DECISIONS FOR ADOPTION

1. **Consent Calendar**

B. REPORTS

1. Division Update

2. Legislative Update

3. Executive Officer's Report

C. NEW BUSINESS

1. Future Agenda Items

Although any Board Member may identify a topic of interest, the Board may not substantially discuss or take action on any matter raised during the meeting that is not included on this agenda, except to decide to place the matter on the agenda of a future meeting. (GC sections 11125 & 11125.7(a).).

D. CLOSED SESSION

Matters Pending Litigation

1. Western States Petroleum Association (WSPA) v. California Occupational Safety and Health Standards Board (OSHSB), et al. United States District Court (Eastern District of California) Case No. 2:19-CV-01270

2. WSPA v. OSHSB, et al., County of Sacramento, CA Superior Court Case No. 34-2019-00260210

Personnel

E. RETURN TO OPEN SESSION

1. Report from Closed Session

F. ADJOURNMENT OF THE BUSINESS MEETING

**Next Meeting:** July 20, 2023
Cal/EPA Building
Byron Sher Auditorium
1001 I Street
Sacramento, CA 95814
10:00 a.m.

**CLOSED SESSION**

1. If necessary, consideration of personnel matters. (GC section 11126(a)(1)).

2. If necessary, consideration of pending litigation pursuant to GC section 11126(e)(1).

**PUBLIC COMMENT**

Efforts will be made to accommodate each individual who has signed up to speak. However, given time constraints, there is no guarantee that all who have signed up will be able to address the State body.

Each speaker is invited to speak for up to two minutes. The Board Chair may extend the speaking time allotted where practicable.

The total time for public comment is 120 minutes, unless extended by the Board Chair.

The public can speak/participate at the meetings before items that involve decisions.

In addition to public comment during Public Hearings, the Occupational Safety and Health Standards Board (Board) affords an opportunity to members of the public to address the Board on items of interest that are either on the Business Meeting agenda, or within the Board's jurisdiction but are not on the noticed agenda, during the Public Meeting. The Board is not permitted to take action on items that are not on the noticed agenda, but may refer items to staff for future consideration. The Board reserves the right to limit the time for speakers.

**DISABILITY ACCOMMODATION NOTICE**

Disability accommodation is available upon request. Any person with a disability requiring an accommodation, auxiliary aid or service, or a modification of policies or procedures to ensure effective communication and access to the public hearings/meetings of the Occupational Safety and Health Standards Board should contact the Disability Accommodation Coordinator at (916) 274-5721 or the state-wide Disability Accommodation Coordinator at 1-866-326-1616 (toll free). The state-wide Coordinator can also be reached through the California Relay Service, by dialing 711 or 1-800-735-2929 (TTY) or 1-800-855-3000 (TTY-Spanish).

Accommodations can include modifications of policies or procedures or provision of auxiliary aids or services. Accommodations include, but are not limited to, an Assistive Listening System (ALS), a Computer-Aided Transcription System or Communication Access Realtime Translation (CART), a sign-language interpreter, documents in Braille, large print or on computer disk, and audio cassette recording. Accommodation requests should be made as soon as possible. Requests for an ALS or CART should be made no later than five (5) days before the meeting.

**TRANSLATION**

Requests for translation services should be made no later than five (5) days before the meeting.

NOTE: Written comments may be emailed directly to oshsb@dir.ca.gov no later than 5:00 p.m. on the Tuesday prior to a scheduled Board Meeting.

Under GC section 11123, subdivision (a), all meetings of a state body are open and public, and all persons are permitted to attend any meeting of a state body, except as otherwise provided in that article. The Board Chair may adopt reasonable time limits for public comments in order to ensure that the purpose of public discussion is carried out. (GC section 11125.7, subd. (b).)

Members of the public who wish to participate in the meeting may do so via livestream on our website at https://videobookcase.com/california/oshsb/. The video recording and transcript of this meeting will be posted on our website as soon as practicable.

For questions regarding this meeting, please call (916) 274-5721.

# Occupational Safety and Health Standards Board

## Meeting Notice

**STATE OF CALIFORNIA** GAVIN NEWSOM, *Governor*

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

# NOTICE OF PUBLIC MEETING AND BUSINESS MEETING OF THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Pursuant to Government Code Section 11346.4 and the provisions of Labor Code Sections 142.1, 142.2, 142.3, 142.4, and 144.6, the Occupational Safety and Health Standards Board of the State of California has set the time and place for a Public Meeting and Business Meeting:

PUBLIC MEETING: On **June 15, 2023,** at 10:00 a.m.
in the Council Chambers of the Walnut Creek City Hall
1666 N. Main Street, Walnut Creek, California

as well as via the following:

- Video-conference at www.webex.com (meeting ID 268 984 996)
- Teleconference at (844) 992-4726 (Access code 268 984 996)
- Live video stream and audio stream (English and Spanish) at https://videobookcase.com/california/oshsb/

At the Public Meeting, the Board will make time available to receive comments or proposals from interested persons on any item concerning occupational safety and health.

BUSINESS MEETING: On **June 15, 2023,** at 10:00 a.m.
in the Council Chambers of the Walnut Creek City Hall
1666 N. Main Street, Walnut Creek, California

as well as via the following:

- Video-conference at www.webex.com (meeting ID 268 984 996)
- Teleconference at (844) 992-4726 (Access code 268 984 996)
- Live video stream and audio stream (English and Spanish) at https://videobookcase.com/california/oshsb/

At the Business Meeting, the Board will conduct its monthly business.

**DISABILITY ACCOMMODATION NOTICE**: Disability accommodation is available upon request. Any person with a disability requiring an accommodation, auxiliary aid or service, or a modification of policies or procedures to ensure effective communication and access to the public hearings/meetings of the Occupational Safety and Health Standards Board should contact the Disability Accommodation Coordinator at (916) 274-5721 or the state-wide Disability Accommodation Coordinator at 1-866-326-1616 (toll free). The state-wide Coordinator can also be reached through the California Relay Service, by dialing 711 or 1-800-735-2929 (TTY) or 1-800-855-3000 (TTY-Spanish).

Accommodations can include modifications of policies or procedures or provision of auxiliary aids or services. Accommodations include, but are not limited to, an Assistive Listening System (ALS), a Computer-Aided Transcription System or Communication Access Realtime Translation (CART), a

sign-language interpreter, documents in Braille, large print or on computer disk, and audio cassette recording. Accommodation requests should be made as soon as possible. Requests for an ALS or CART should be made no later than five (5) days before the hearing.

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD

_____

DAVE THOMAS, Chairman

# Occupational Safety and Health Standards Board

## Business Meeting

# Occupational Safety and Health Standards Board

## Business Meeting

## Proposed Variance Decisions

**CONSENT CALENDAR—PROPOSED VARIANCE DECISIONS**
**JUNE 15, 2023, MONTHLY BUSINESS MEETING**
**OF THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD**

**PROPOSED DECISIONS FOR BOARD CONSIDERATION, HEARD ON MAY 24, 2023**

| Docket Number | Applicant Name | Safety Order(s) at Issue | Proposed Decision Recommendation |
|---|---|---|---|
| 1. 16-V-334M1 | MIM Intersect Owner LLC | Elevator | GRANT |
| 2. 16-V-335M1 | MIM Intersect Owner LLC | Elevator | GRANT |
| 3. 20-V-097M2 | Los Angeles World Airports | Elevator | GRANT |
| 4. 21-V-527M1 | Welcome To The Depot LLC | Elevator | GRANT |
| 5. 23-V-094 | The Boeing Company | Elevator | GRANT |
| 6. 23-V-113 | La Mesa 694 L.P. | Elevator | GRANT |
| 7. 23-V-133 | 11727 Kiowa Tower, LLC | Elevator | GRANT |
| 8. 23-V-134 | Delta Lane Housing Partners II, LP | Elevator | GRANT |
| 9. 23-V-135 | Blake Apartments, L.P. | Elevator | GRANT |
| 10. 23-V-136 | 1361 Kelton LLC | Elevator | GRANT |
| 11. 23-V-137 | University Heights Associates LLC | Elevator | GRANT |
| 12. 23-V-138 | Intergulf Development (495 Hartford) LLC | Elevator | GRANT |
| 13. 23-V-139 | Onyx on Park, LLC | Elevator | GRANT |
| 14. 23-V-140 | Hoag Memorial Hospital Presbyterian | Elevator | GRANT |
| 15. 23-V-141 | Hoag Memorial Hospital Presbyterian | Elevator | GRANT |
| 16. 23-V-142 | Hoag Memorial Hospital Presbyterian | Elevator | GRANT |
| 17. 23-V-143 | Hoag Memorial Hospital Presbyterian | Elevator | GRANT |
| 18. 23-V-144 | Hoag Memorial Hospital Presbyterian | Elevator | GRANT |
| 19. 23-V-145 | Hoag Memorial Hospital Presbyterian | Elevator | GRANT |
| 20. 23-V-146 | SRM Culver City, LP | Elevator | GRANT |
| 21. 23-V-147 | BMR-Gateway of Pacific V LP | Elevator | GRANT |

| Docket Number | Applicant Name | Safety Order(s) at Issue | Proposed Decision Recommendation |
|---|---|---|---|
| 22. 23-V-148 | BMR-Gateway of Pacific V LP | Elevator | GRANT |
| 23. 23-V-149 | BMR-Gateway of Pacific V LP | Elevator | GRANT |

**PROPOSED DECISIONS FOR BOARD CONSIDERATION, HEARD ON JUNE 12, 2023**

| Docket Number | Applicant Name | Safety Order(s) at Issue | Proposed Decision Recommendation |
|---|---|---|---|
| 24. 22-V-657 | Homewood Mountain Resort | 3162 (a) ANSI 577.1-1982, Section 3.1.4.5.2 | GRANT or DENY |

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 Application to Modify Permanent Variance by:

MIM Intersect Owner LLC

OSHSB File No.: 16-V-334M1 & 16-V-335M1
Proposed Decision Dated: May 26, 2023

DECISION

The Occupational Safety and Health Standards Board hereby adopts the attached PROPOSED DECISION by Autumn Gonzalez, Hearing Officer.

_____
DAVID THOMAS, Chairman

_____
BARBARA BURGEL, Member

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KATHLEEN CRAWFORD, Member

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DAVID HARRISON, Member

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NOLA KENNEDY, Member

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CHRIS LASZCZ-DAVIS, Member

_____
LAURA STOCK, Member

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Date of Adoption: June 15, 2023

THE FOREGOING VARIANCE DECISION WAS ADOPTED ON THE DATE INDICATED ABOVE. IF YOU ARE DISSATISFIED WITH THE DECISION, A PETITION FOR REHEARING MAY BE FILED BY ANY PARTY WITH THE STANDARDS BOARD WITHIN TWENTY (20) DAYS AFTER SERVICE OF THE DECISION. YOUR PETITION FOR REHEARING MUST FULLY COMPLY WITH THE REQUIREMENTS OF CALIFORNIA CODE OF REGULATIONS, TITLE 8, SECTIONS 427, 427.1 AND 427.2.

Note: A copy of this Decision must be posted for the Applicant's employees to read, and/or a copy thereof must be provided to the employees' Authorized Representatives.

BEFORE THE
OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
DEPARTMENT OF INDUSTRIAL RELATIONS
STATE OF CALIFORNIA

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|---|---|
| In the Matter of Application to Modify Permanent Variance by:<br><br>MIM Intersect Owner LLC | OSHSB File No.: 16-V-334M1 & 16-V-335M1<br><br>PROPOSED DECISION<br><br>Hearing Date: May 24, 2023 |

A. Subject Matter and Jurisdiction

1. The following person or entity ("Applicant") has applied for a modification of permanent variance from provisions of the Elevator Safety Orders, found at Title 8 of the California Code of Regulations, as follows:,[1]:

| Preexisting Permanent Variance Nos. | Preexisting Variance Holder of Record |
|---|---|
| 16-V-334 | Quintana Office Property LLC |
| 16-V-335 | Quintana Office Property LLC |

2. This proceeding is conducted in accordance with Labor Code section 143, and Board's procedural regulations.

B. Procedural Matters

1. This hearing was held on May 24, 2023, in Sacramento, California, via videoconference, by Occupational Safety and Health Standards Board ("Board"), with Hearing Officer Michelle Iorio, both presiding and hearing the matter on its merit, as a basis of proposed decision to be advanced to the Board for its consideration, in accordance with section 426.

2. At the hearing, Kyndal Nulph, appeared on behalf of the Applicant; Jose Ceja and David Morris appeared on behalf of the Division of Occupational Safety and Health ("Division"); and Michael Nelmida appeared on behalf of Board staff, in a technical advisory role apart from the Board.

[1] Unless otherwise stated, all references are to title 8, California Code of Regulations.

3. Documentary and oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence:

| Exhibit Number | Description of Exhibit |
|---|---|
| PD-1 | Application for modification of Permanent Variance |
| PD-2 | OSHSB Notice of Hearing |
| PD-3 | Board Staff Review of Variance Application |
| PD-4 | Division Review of Variance Application |
| PD-5 | Review Draft-1 Proposed Decision |

Official notice is taken of the Board's files, records, recordings and decisions concerning the Elevator Safety Order requirements from which variance shall issue. On May 24, 2023, the hearing and record closed, and the matter was taken under submission by the Hearing Officer.

C. Findings of Fact

Based on the record of this hearing, the Board makes the following findings of fact:

1. The Applicant requests modification of the variance holder specified within Board records for each elevator the subject of previously granted Permanent Variance Nos. 16-V-334 and 16-V-335.

2. Application Section E, declared to be wholly truthful under penalty of perjury by Application signatory, states that the person or entity named in Application Section A, acquired the variance from the employer to whom it was issued subject to the existing variance referenced in Application Section E.

3. The Division has evaluated the request for modification of person or entity of record holding Permanent Variance Nos. 16-V-334 and 16-V-335, finds no issue with it, and recommends that the application for modification be granted subject to the same conditions of the Decision and Order in Permanent Variance Nos. 16-V-334 and 16-V-335.

4. The Board finds the Application Section E, declaratory statements of the Applicant signatory to be credible, uncontroverted, and consistent with available, sufficient facts, and of no bearing as to the finding of equivalent occupational health and safety upon which, in substantial part, grant of preexisting Permanent Variance Nos. 16-V-334 and 16-V-335 were based.

5. The Board finds the current person or entity having custody of each elevator the subject of Permanent Variance Nos. 16-V-334 and 16-V-335, to be in fact:

MIM Intersect Owner LLC

D. Decision and Order

1. Variance application 16-V-334M1 and 16-V-335M1 is conditionally GRANTED, as specified below, such that, within Board records, the person or entity holding Permanent Variance Nos. 16-V-334M1 and 16-V-335M1, and Permanent Variance Nos. 16-V-334 and 16-V-335 respectively, shall be:

MIM Intersect Owner LLC

2. Permanent Variance Nos. 16-V-334 and 16-V-335, being only modified as specified in above Decision and Order section 1, is otherwise unchanged and remaining in full force and effect, as hereby incorporated by reference into this Decision and Order of Permanent Variance Nos. 16-V-334M1 and 16-V-335M1, respectively.

Pursuant to section 426(b), the above Proposed Decision is submitted to the Board for consideration of adoption.

Dated: May 26, 2023

Michelle Iorio

Michelle Iorio, Hearing Officer

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 Application to Modify Permanent Variance by:

Los Angeles World Airports

OSHSB File No.: 20-V-097M2
Proposed Decision Dated: May 26, 2023

DECISION

The Occupational Safety and Health Standards Board hereby adopts the attached PROPOSED DECISION by Autumn Gonzalez, Hearing Officer.

_____
DAVID THOMAS, Chairman

_____
BARBARA BURGEL, Member

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KATHLEEN CRAWFORD, Member

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DAVID HARRISON, Member

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NOLA KENNEDY, Member

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CHRIS LASZCZ-DAVIS, Member

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LAURA STOCK, Member

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Date of Adoption: June 15, 2023

THE FOREGOING VARIANCE DECISION WAS ADOPTED ON THE DATE INDICATED ABOVE. IF YOU ARE DISSATISFIED WITH THE DECISION, A PETITION FOR REHEARING MAY BE FILED BY ANY PARTY WITH THE STANDARDS BOARD WITHIN TWENTY (20) DAYS AFTER SERVICE OF THE DECISION. YOUR PETITION FOR REHEARING MUST FULLY COMPLY WITH THE REQUIREMENTS OF CALIFORNIA CODE OF REGULATIONS, TITLE 8, SECTIONS 427, 427.1 AND 427.2.

Note: A copy of this Decision must be posted for the Applicant's employees to read, and/or a copy thereof must be provided to the employees' Authorized Representatives.

BEFORE THE
OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
DEPARTMENT OF INDUSTRIAL RELATIONS
STATE OF CALIFORNIA

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|---|---|
| In the Matter of Application to Modify Permanent Variance by:<br><br>Los Angeles World Airports | OSHSB File No.: 20-V-097M2<br><br>PROPOSED DECISION<br><br>Hearing Date: May 24, 2023 |

A. Subject Matter

1. The following person or entity ("Applicant") has applied for a modification of permanent variance from provisions of the Elevator Safety Orders, found at title 8 of the California Code of Regulations[1], for each escalator having the specified preexisting variance location address of record:

| Preexisting OSHSB File No. | Applicant Name | Preexisting Variance Address of Record |
|---|---|---|
| 20-V-097 | Los Angeles World Airports | American Airlines Terminal 4.5<br>500 World Way<br>Los Angeles, CA |
| 20-V-097M1 | Los Angeles World Airports | American Airlines Terminal 4.5<br>400 World Way<br>Los Angeles, CA |

2. This proceeding is conducted in accordance with Labor Code section 143 and the Board's procedural rules, found at section 401, et. seq. of the Board's procedural regulations.

B. Procedural Matters

1. This hearing was held on May 24, 2023, in Sacramento, California, via videoconference, by Occupational Safety and Health Standards Board ("Board"), with Hearing Officer Michelle Iorio, both presiding and hearing the matter on its merit, as a basis of proposed decision to be advanced to the Board for its consideration, in accordance with section 426.

2. At the hearing, Jennifer Linares appeared on behalf of the Applicant's representative, the Schindler Elevator Company; David Morris and Jose Ceja appeared on behalf of the

[1] Unless otherwise noted, all references are to title 8, California Code of Regulations.

Division of Occupational Safety and Health ("Division"); and Michael Nelmida appeared on behalf of Board staff, in a technical advisory role apart from the Board.

3. Documentary and oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence: the subject modification of permanent variance application captioned above as Exhibit PD-1, Notice of Hearing as Exhibit PD-2, Board staff Pending Application(s) for Permanent Variance evaluaiton as PD-3, Division evaluation as PD-4, Review Draft 1 Proposed Decision as PD-5, and official notice taken of the Board's files, records, recordings and decisions concerning the Elevator Safety Order requirements from which variance shall issue. On May 24, 2023, the hearing and record closed, and the matter was taken under submission by the Hearing Officer.

C. Findings of Fact

Based on the record of this hearing, the Board makes the following:

1. The Applicant requests modification of Permanent Variance 20-V-097M1 to identify the eight (8) conveyance(s) as: **T4-ES-30, T4-ES-31, T4-ES-32, T4-ES-33, T4-ES-34, T4-ES-35, T4-ES-36 and T4-ES-37.** Applicant has declared the indentifiers to be wholly truthful under penalty of perjury on its application received by the Board on February 23, 2023.

2. The Division has evaluated the request, finds no issue with it, and recommends that the application for modification be granted subject to the same conditions of the Decision and Order in OSHSB Permanent Variance File No. 20-V-097 and 20-V-097M1.

D. Decision and Order

1. Permanent Variance Application No. 20-V-097M2 is conditionally GRANTED, thereby modifying Board records, such that, without change in variance location, each conveyance being the subject of Permanent Variance Nos. 20-V-097, and 20-V-097M1, shall have the following address designations: **T4-ES-30, T4-ES-31, T4-ES-32, T4-ES-33, T4-ES-34, T4-ES-35, T4-ES-36 and T4-ES-37.**

2. Permanent Variance No. 20-V-097, and 20-V-097M1 being only modified as to the address designations specified above, is otherwise unchanged and remaining in full force and effect, as hereby incorporated by reference into this Decision and Order of Permanent Variance No. 20-V-097M2.

Pursuant to section 426(b), the above Proposed Decision is submitted to the Board for consideration of adoption.

Dated: May 26, 2023

Michelle Iorio

Michelle Iorio, Hearing Officer

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 Application to Modify Permanent Variance by:

Welcome To The Depot LLC

OSHSB File No.: 21-V-527M1
Proposed Decision Dated: May 26, 2023

DECISION

The Occupational Safety and Health Standards Board hereby adopts the attached PROPOSED DECISION by Autumn Gonzalez, Hearing Officer.

_____
DAVID THOMAS, Chairman

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BARBARA BURGEL, Member

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KATHLEEN CRAWFORD, Member

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DAVID HARRISON, Member

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NOLA KENNEDY, Member

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CHRIS LASZCZ-DAVIS, Member

_____
LAURA STOCK, Member

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Date of Adoption: June 15, 2023

THE FOREGOING VARIANCE DECISION WAS ADOPTED ON THE DATE INDICATED ABOVE. IF YOU ARE DISSATISFIED WITH THE DECISION, A PETITION FOR REHEARING MAY BE FILED BY ANY PARTY WITH THE STANDARDS BOARD WITHIN TWENTY (20) DAYS AFTER SERVICE OF THE DECISION. YOUR PETITION FOR REHEARING MUST FULLY COMPLY WITH THE REQUIREMENTS OF CALIFORNIA CODE OF REGULATIONS, TITLE 8, SECTIONS 427, 427.1 AND 427.2.

Note: A copy of this Decision must be posted for the Applicant's employees to read, and/or a copy thereof must be provided to the employees' Authorized Representatives.

BEFORE THE
OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
DEPARTMENT OF INDUSTRIAL RELATIONS
STATE OF CALIFORNIA

| | |
|---|---|
| In the Matter of Application to Modify Permanent Variance by:<br><br>Welcome To The Depot LLC | OSHSB File No.: 21-V-527M1<br><br>PROPOSED DECISION<br><br>Hearing Date: May 24, 2023 |

A. Subject Matter

1. The following person or entity ("Applicant") has applied for a modification of permanent variance from provisions of the Elevator Safety Orders, found at title 8 of the California Code of Regulations[1], as follows:

| Preexisting Permanent Variance No | Applicant Name | Variance Address of Record | Preexisting Number of Elevators |
|---|---|---|---|
| 21-V-527 | Welcome To The Depot LLC | 3609 S 10th Ave<br>Los Angeles, CA | 1 |

2. This proceeding is conducted in accordance with Labor Code Section 143, section 401, et. seq. of the Board's procedural regulations.

B. Procedural Matters

1. This hearing was held on May 24, 2023 , in Sacramento, California, and via videoconference, by Occupational Safety and Health Standards Board ("Board") with Hearing Officer Autumn Gonzalez, both presiding and hearing the matter on its merit, as a basis of proposed decision to be advanced to the Board for its consideration, in accordance with section 426.

2. At the hearing, Wolter Geesink with Otis Elevator and Dan Leacox of Leacox & Associates appeared on behalf of the Applicant; David Morris and Jose Ceja appeared on behalf of the Division of Occupational Safety and Health ("Division"); and Board staff Michael Nelmida appeared in a technical advisory role apart from the Board.

[1] All references are to title 8, California Code of Regulations, unless otherwise stated.

3. Documentary and oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence: permanent variance applications per Section A table as Exhibit PD-1, Notice of Hearing as Exhibit PD-2, Division evaluation as PD-3, Review Draft 1 Proposed Decision as PD-4, and official notice taken of the Board's files, records, recordings and decisions concerning Otis elevators. On May 26, 2023, the hearing and record closed, and the matter was taken under submission by the Hearing Panel.

C. Findings and Basis

1. The Applicant requests modification of the quantity of elevators the subject of previously granted Permanent Variance No. 21-V-527, to increase the quantity of elevators from one (1) to two (2).

2. Application Section 3, declared to be wholly truthful under penalty of perjury by the Applicant signatory, states facts upon which to reasonably find that additional requested subject elevator is to be of the same manufacturer model type and material technical characteristics and specifications, as the existing elevator the subject of Permanent Variance No. 21-V-527.

3. The Division has evaluated the immediate request for modification of variance, finds no issue with it, and recommends that the application for modification be granted subject to the same conditions of the Decision and Order in Permanent Variance File No. 21-V-527.

4. The Board finds the Application declaration to be credible, uncontroverted, and consistent with available, sufficient facts, and finds modification of Permanent Variance 21-V-527, increasing the quantity of subject elevators from one (1) to two (2), to be of no bearing upon the finding of equivalent occupational health and safety upon which grant of preexisting Permanent Variance No. 21-V-527 was, in part, based.

D. Decision and Order

1. Application for Modification of Permanent Variance, No. , is conditionally GRANTED, as specified below, such that a total of two (2) elevators are the subject of Permanent Variance No. 21-V-527 as hereby modified.

2. Permanent Variance No. 21-V-527 being only modified as to the subject quantity of elevators specified in above Decision and Order Section 1, is otherwise unchanged and remaining in full force and effect, as hereby incorporated by reference into Modification of Permanent Variance No. 21-V-527M1.

3. The applicant shall notify its employees or their authorized representative(s), or both, of this order in the same way that the Applicant was required to notify them of the application for permanent variance, per sections 411.2 and 411.3.

4. This Decision and Order shall remain in effect unless modified or revoked upon application by the Applicant, affected employee(s), the Division, or by the Board on its own motion, in the manner prescribed for its issuance.

Pursuant section 426(b), the above duly completed Proposed Decision is submitted to the Board for consideration of adoption.

Dated: May 26, 2023

Autumn Gonzalez, Hearing Officer

**THE PROPOSED DECISION FOR OSHSB FILE NO. 22-V-657, HOMEWOOD MOUNTAIN RESORT, WILL BE PROVIDED WHEN IT IS READY FOR THE BOARD'S CONSIDERATION.**

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 Application for Permanent Variance by:

The Boeing Company

OSHSB File No.: 23-V-094
Proposed Decision Dated: May 26, 2023

DECISION

The Occupational Safety and Health Standards Board hereby adopts the attached PROPOSED DECISION by Autumn Gonzalez, Hearing Officer.

_____
DAVID THOMAS, Chairman

_____
BARBARA BURGEL, Member

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KATHLEEN CRAWFORD, Member

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DAVID HARRISON, Member

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NOLA KENNEDY, Member

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CHRIS LASZCZ-DAVIS, Member

_____
LAURA STOCK, Member

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Date of Adoption: June 15, 2023

THE FOREGOING VARIANCE DECISION WAS ADOPTED ON THE DATE INDICATED ABOVE. IF YOU ARE DISSATISFIED WITH THE DECISION, A PETITION FOR REHEARING MAY BE FILED BY ANY PARTY WITH THE STANDARDS BOARD WITHIN TWENTY (20) DAYS AFTER SERVICE OF THE DECISION. YOUR PETITION FOR REHEARING MUST FULLY COMPLY WITH THE REQUIREMENTS OF CALIFORNIA CODE OF REGULATIONS, TITLE 8, SECTIONS 427, 427.1 AND 427.2.

Note: A copy of this Decision must be posted for the Applicant's employees to read, and/or a copy thereof must be provided to the employees' Authorized Representatives.

BEFORE THE
OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
DEPARTMENT OF INDUSTRIAL RELATIONS
STATE OF CALIFORNIA

| | |
|---|---|
| In the Matter of Application for Permanent Variance by:<br><br>The Boeing Company | OSHSB File No.: 23-V-094<br><br>Proposed Decision<br><br>Hearing Date: May 24, 2023 |

A. Procedural Matters

1. The Boeing Company("Applicant") has applied for a permanent variance from provisions of title 8 of the California Code of Regulations[1] regarding vertical platform (wheelchair) lifts, with respect to one vertical platform (wheelchair) lift proposed to be located at:

   2060 E. Imperial Hwy
   El Segundo, CA

2. The safety orders at issue are stated in the prefatory part of the Decision and Order. This proceeding is conducted in accordance with Labor Code section 143, and section 401, et. seq.

3. This hearing was held on May 24, 2023, in Sacramento, California, via videoconference, by delegation of the Occupational Safety and Health Standards Board ("Board"), with Hearing Officer Autumn Gonzalez, both presiding and hearing the matter on its merit, as a basis of proposed decision to be advanced to the Board for its consideration, in accordance with section 426.

4. Appearing at hearing were Craig Fiore with McKinley Elevator Corporation appearing on behalf of the Applicant; Jose Ceja and David Morris appeared on behalf of the Division of Occupational Safety and Health ("Division"); and Michael Nelmida appeared on behalf of Board staff acting in a technical advisory role apart from the Board.

5. Documentary and oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence:

[1] All references are to title 8, Code of Regulations, unless otherwise stated.

| Exhibit Number | Description of Exhibit |
|---|---|
| PD-1 | Application for Permanent Variance |
| PD-2 | OSHSB Notice of Hearing |
| PD-3 | Board Staff Review of Variance Application |
| PD-4 | Division Review of Variance Application |
| PD-5 | Review Draft-1 Proposed Decision |

Official notice is taken of the Board's files, records, recordings and decisions concerning the Elevator Safety Order requirements from which variance shall issue. On May 24, 2023, the hearing and record closed, and the matter was taken under submission by the Hearing Officer.

B. Findings of Fact

Based on the record of this proceeding, and officially noticed Board records per (above section A.5) stipulation of Applicant and Division—inclusive of permanent variance file records of sworn testimony, findings and decisions in Permanent Variance No. 15-V-297, the Board finds the following:

1. The Applicant proposes to install one vertical platform (wheelchair) lift at a location having the address of:

   2060 E. Imperial Hwy
   El Segundo, CA

2. Applicant requests variance solely from section 3142(a) and section 3142.1.

3. The subject vertical lift is proposed to be a Ascension model Clarity 16D platform lift, with a vertical travel range of approximately 168 inches. That range of travel exceeds the 12-foot maximum vertical rise allowed by ASME A18.1-2003, section 2.7.1—the State of California standard in force at the time of this Decision.

4. The Division's evaluation states that the more recent consensus code, ASME A18.1-2005, allows for vertical platform lifts to have a travel not exceeding 14 feet (168 in.).

5. Permanent variances regarding the extended travel of vertical platform lifts, of similar configuration to that of the subject proposed model, have been previously granted, without subsequent safety problems attributable to such variance being reported. (e.g. Permanent Variance Nos. 13-V-260, 15-V-097, 15-V-297, 18-V-069)

6. Board staff and Division find that equivalent safety will be achieved upon grant of presently requested permanent variance, subject to conditions materially equivalent to

those imposed by the Board in Permanent Variance No. 23-V-094. Board Staff concurs with Division recommending such conditional grant.

7. With respect to the equivalence or superior of safety, conditions and limitations of the below Decision and Order are in material conformity with those of previously issued Permanent Variance Nos. 15-V-297 and 18-V-069.

C. Conclusive Findings

A preponderance of the evidence supports the finding that each Applicants' proposal, subject to all conditions and limitations set forth in the below Decision and Order, will provide equivalent safety and health to that which would prevail upon full compliance with the requirements of the Elevator Safety Orders from which variance is being sought.

D. Decision and Order

The Application for Permanent Variance of The Boeing Company, Permanent Variance No. 23-V-094, is conditionally GRANTED to the limited extent, upon the Board's adoption of this Proposed Decision, The Boeing Company, shall have permanent variance from sections 3142(a) and 3142.1 incorporated ASME A18.1-2003, section 2.7.1, inasmuch as each restricts the vertical rise of a wheelchair lift to a maximum of 12 feet, with respect to one (1) Ascension model Clarity 16D platform lift, to be located at:

2060 E. Imperial Hwy
El Segundo, CA

The above referenced vertical platform lift shall be subject to the following further conditions and limitations:

1. This lift may travel up to 168 inches, unless the manufacturer's instructions provide for a lesser vertical travel limit, or lesser total elevation change, in which case, travel shall be limited to the lesser limit or elevation change.

2. The wheelchair lift shall be installed and operated in accordance with the manufacturer's instructions, unless the provisions of this variance or applicable provisions of the law provide or require otherwise.

3. Durable signs with lettering not less than 5/16 inch on a contrasting background shall be permanently and conspicuously posted inside the car and at all landings indicating that the lift is for the exclusive use of persons with physical impairments and that the lift is not to be used to transport material or equipment. The use of the lift shall be limited in accordance with these signs.

4. A maintenance contract shall be executed between the owner/operator and a Certified Qualified Conveyance Company (CQCC). The contract shall stipulate that the routine preventive maintenance required by section 3094.5(a)(1) shall be performed at least quarterly and shall include but not be limited to:

   (a) Platform driving means examination;

   (b) Platform examination;

   (c) Suspension means examination;

   (d) Platform alignment;

   (e) Vibration examination;

   (f) Door/gate electrical; and

   (g) Mechanical lock examination.

5. The lift shall be tested annually for proper operation under rated load conditions. The Division's Elevator Unit District Office shall be provided written notification in advance of the test, and the test shall include a check of car or platform safety device.

6. The lift shall be shut down immediately if the lift experiences unusual noise and vibration, and the Applicant shall notify the Certified Qulaified Conveyance Company (CQCC) immediately. The lift shall only be restarted by the CQCC.

7. The Applicant shall notify the CQCC if the lift shuts down for any reason. The lift shall only be restarted by the CQCC.

8. Service logs including, but not limited to, the device shutdown(s) shall be kept in the maintenance office and shall be available to the Division. The shutdown information shall contain the date of the shutdown, cause of the shutdown, and the action taken to correct the shutdown.

9. Before any employee uses the lift of assists others in using the lift, the Applicant shall train the employee on the safe operation of the lift in accordance with section 3203. The training shall be performed annually. The Applicant shall notify the Division in writing that training has been conducted. A copy of the training manual, name of the trainorer, and list of attendees shall be provided to the Division upon request. The documentation of the training shall be maintained for at least 1 year.

10. Any CQCC performing inspections, maintenance, servicing or testing of the elevators shall be provided a copy of this variance decision.

11. The Division shall be notified when the lift is ready for inspection, and the lift shall be inspected by the Division and a Permit to Operate shall be issued before the lift is put into service.

12. The Applicant shall notify its employees or their authorized representative(s), or both, of this order in the same way and to the same extent that employees and authorized representatives are to be notified of docketed permanent variance applications pursuant to sections 411.2 and 411.3.

13. This Decision and Order shall remain in effect unless modified or revoked upon application by the Applicant, affected employee(s), the Division, or by the Board on its own motion, in the procedural manner prescribed by the Board's procedural rules.

Pursuant to section 426(b), the above Proposed Decision is submitted to the Board for consideration of adoption.

Dated: May 26, 2023

Autumn Gonzalez, Hearing Officer

BEFORE THE
OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
DEPARTMENT OF INDUSTRIAL RELATIONS
STATE OF CALIFORNIA

| | |
|---|---|
| In the Matter of Application for Permanent Variance Regarding:<br><br>Schindler 3300 with SIL-Rated Drive to De-energize Drive Motor (Group IV) | OSHSB File Nos.: Per table, in Jurisdictional and Procedural Matters below<br><br>PROPOSED DECISION<br><br>Hearing Date: May 24, 2023 |

A. Jurisdictional and Procedural Matters

1. Each below listed applicant ("Applicant") has applied for permanent variance from certain provisions of the Elevator Safety Orders, found at title 8 of the California Code of Regulations[1], as follows:

| Variance No. | Applicant Name | Variance Location Address | No. of Elevators |
|---|---|---|---|
| 23-V-113 | La Mesa 694 L.P. | 8181 Allison Ave.<br>La Mesa, CA | 2 |
| 23-V-137 | University Heights Associates LLC | 2724 El Cajon Blvd.<br>San Diego, CA | 2 |

2. This proceeding is conducted in accordance with Labor Code section 143, and section 401, et. seq..

3. This hearing was held on May 24, 2023, in Sacramento, California, via videoconference, by Occupational Safety and Health Standards Board ("Board"), with Hearing Officer Michelle Iorio, both presiding and hearing the matter on its merit, as a basis of proposed decision to be advanced to the Board for its consideration, in accordance with section 426.

4. At the hearing, Jennifer Linares with the Schindler Elevator Corporation appeared on behalf of each Applicant; David Morris and Jose Ceja appeared on behalf of the Division of Occupational Safety and Health ("Division"), and Michael Nelmida appeared on behalf of Board staff, in a technical advisory role apart from the Board.

5. Oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence:

[1] All references are to title 8, California Code of Regulations, unless otherwise stated.

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 Application for Permanent Variance Regarding:<br><br>Schindler 3300 with SIL-Rated Drive to De-energize Drive Motor (Group IV) | OSHSB File No.: Per table, in Jurisdictional and Procedural Matters below<br>Proposed Decision Dated: May 26, 2023<br><br>DECISION |

The Occupational Safety and Health Standards Board hereby adopts the attached PROPOSED DECISION by Autumn Gonzalez, Hearing Officer.

_____
DAVID THOMAS, Chairman

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BARBARA BURGEL, Member

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KATHLEEN CRAWFORD, Member

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DAVID HARRISON, Member

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NOLA KENNEDY, Member

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CHRIS LASZCZ-DAVIS, Member

_____
LAURA STOCK, Member

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Date of Adoption: June 15, 2023

THE FOREGOING VARIANCE DECISION WAS ADOPTED ON THE DATE INDICATED ABOVE. IF YOU ARE DISSATISFIED WITH THE DECISION, A PETITION FOR REHEARING MAY BE FILED BY ANY PARTY WITH THE STANDARDS BOARD WITHIN TWENTY (20) DAYS AFTER SERVICE OF THE DECISION. YOUR PETITION FOR REHEARING MUST FULLY COMPLY WITH THE REQUIREMENTS OF CALIFORNIA CODE OF REGULATIONS, TITLE 8, SECTIONS 427, 427.1 AND 427.2.

Note: A copy of this Decision must be posted for the Applicant's employees to read, and/or a copy thereof must be provided to the employees' Authorized Representatives.

| Exhibit Number | Description of Exhibit |
|---|---|
| PD-1 | Permanent variance applications per section A.1 table |
| PD-2 | OSHSB Notice of Hearing |
| PD-3 | Board Staff Reviews of Variance Application |
| PD-4 | Division Reviews of Variance Application |
| PD-5 | Review Draft-1 Proposed Decision |

Official notice taken of the Board's rulemaking records, and variance decisions concerning the safety order requirements from which variance is requested. At close of hearing on May 24, 2023, the record was closed, and the matter taken under submission by the Hearing Officer.

B. Relevant Safety Order Provisions

Applicant seeks a permanent variance from section 3141 [ASME A17.1-2004, sections 2.20.1, 2.20.2.1, 2.20.2.2(a), 2.20.2.2(f), 2.20.3, 2.20.4, 2.20.9.5.4, 2.26.1.4.4(a), 8.4.10.1.1(a)(2)(B), 2.14.1.7.1, and 2.26.9.6.1]. The relevant language of those sections are below.

1. Suspension Means

Section 3141 [ASME A17.1-2004, section 2.20.1, Suspension Means] states in part:

> Elevator cars shall be suspended by steel wire ropes attached to the car frame or passing around sheaves attached to the car frame specified in 2.15.1. Ropes that have previously been installed and used on another installation shall not be reused. Only iron (low-carbon steel) or steel wire ropes, having the commercial classification "Elevator Wire Rope," or wire rope specifically constructed for elevator use, shall be used for the suspension of elevator cars and for the suspension of counterweights. The wire material for ropes shall be manufactured by the open-hearth or electric furnace process, or their equivalent.

Section 3141 [ASME A17.1-2004, section 2.20.2.1(b), On Crosshead Data Plate] states in part:

> The crosshead data plate required by 2.16.3 shall bear the following wire-rope data:
>
> (b) the diameter in millimeters (mm) or inches (in.)

Section 3141 [ASME A17.1-2004, section 2.20.2.2(a) and (f) On Rope Data Tag] states in part:

> A metal data tag shall be securely attached-to-one of the wire-rope fastenings. This data tag shall bear the following wire-rope data:
>
> (a) the diameter in millimeters (mm) or inches (in.)
>
> […]

(f) whether the ropes were non preformed or preformed

Section 3141 [ASME A17.1-2004, section 2.20.3, Factor of Safety] states:

> The factor of safety of the suspension wire ropes shall be not less than shown in Table 2.20.3. Figure 8.2.7 gives the minimum factor of safety for intermediate rope speeds. The factor of safety shall be based on the actual rope speed corresponding to the rated speed of the car.
>
> The factor of safety shall be calculated by the following formula:
>
> $$f = \frac{S\ x\ N}{W}$$
>
> where:
>
> N= number of runs of rope under load. For 2:1 roping, N shall be two times the number of ropes used, etc.
>
> S= manufacturer's rated breaking strength of one rope
>
> W= maximum static load imposed on all car ropes with the car and its rated load at any position in the hoistway

Section 3141 [ASME A17.1-2004, section 2.20.4, Minimum Number and Diameter of Suspension Ropes] states:

> The minimum number of hoisting ropes used shall be three for traction elevators and two for drum-type elevators.
>
> Where a car counterweight is used, the number of counterweight ropes used shall be not less than two.
>
> The term "diameter," where used in reference to ropes, shall refer to the nominal diameter as given by the rope manufacturer.
>
> The minimum diameter of hoisting and counterweight ropes shall be 9.5 mm (0.375 in.). Outer wires of the ropes shall be not less than 0.56 mm (0.024 in.) in diameter.

Section 3141 [ASME A17.1-2004, section 2.20.9.3.4] states:

> Cast or forged steel rope sockets, shackle rods, and their connections shall be made of unwelded steel, having an elongation of not less than 20% in a gauge length of 50 mm (2 in.), when measured in accordance with ASTM E 8, and conforming to ASTM A 668, Class B for forged steel, and ASTM A 27, Grade 60/30

for cast steel, and shall be stress relieved. Steels of greater strength shall be permitted, provided they have an elongation of not less than 20% in a length of 50 mm (2 in.).

Section 3141 [ASME A17.1-2004, section 2.20.9.5.4] states:

> When the rope has been seated in the wedge socket by the load on the rope, the wedge shall be visible, and at least two wire-rope retaining clips shall be provided to attach the termination side to the load-carrying side of the rope (see Fig. 2.20.9.5). The first clip shall be placed a maximum of 4 times the rope diameter above the socket, and the second clip shall be located within 8 times the rope diameter above the first clip. The purpose of the two clips is to retain the wedge and prevent the rope from slipping in the socket should the load on the rope be removed for any reason. The clips shall be designed and installed so that they do not distort or damage the rope in any manner.

2. Inspection Transfer Switch

Section 3141[ASME A17.1-2004, section 2.26.1.4.4(a), Machine Room Inspection Operation] states:

> When machine room inspection operation is provided, it shall conform to 2.26.1.4.1, and the transfer switch shall be
>
> (a) located in the machine room[.]

3. Seismic Reset Switch

Section 3141[ASME A17.1-2004, section 8.4.10.1.1(a)(2)(b), Earthquake Equipment] states:

> *(a)* All traction elevators operating at a rated speed of 0.75 m/s (150 ft/min) or more and having counterweights located in the same hoistway shall be provided with the following:
>
> *(1)* seismic zone 3 or greater: a minimum of one seismic switch per building
>
> *(2)* seismic zone 2 or greater:
>
> > *(a)* a displacement switch for each elevator
> >
> > *(b)* an identified momentary reset button or switch for each elevator, located in the control panel in the elevator machine room

4. Car-top Railings

Section 3141[ASME A17.1-2004, section 2.14.1.7.1] states:

> A standard railing conforming to 2.10.2 shall be provided on the outside perimeter of the car top on all sides where the perpendicular distance between the edges of

the car top and the adjacent hoistway enclosure exceeds 300 mm (12 in.) horizontal clearance.

5. SIL-Rated System to Inhibit Current Flow to AC Drive Motor

Section 3141[ASME A17.1-2004, section 2.26.9.6.1] states:

> Two separate means shall be provided to independently inhibit the flow of alternating current through the solid state devices that connect the direct current power source to the alternating-current driving motor. At least one of the means shall be an electromechanical relay.

C. Findings of Fact

Based on the record of this proceeding, the Board finds the following:

1. Applicant intends to utilize Schindler model 3300 MRL elevator cars at the locations listed in Jurisdictional and Procedural Matters, section 1.

2. The installation contract for these elevator was or will be signed on or after May 1, 2008, thus making the elevator subject to the Group IV Elevator Safety Orders.

3. The Schindler model 3300 MRL elevator cars are not supported by circular steel wire ropes, as required by the Elevator Safety Orders (ESO). They utilize non-circular elastomeric-coated steel belts and specialized suspension means fastenings.

4. No machine room is provided, preventing the inspection transfer switch from being located in the elevator machine room. The lack of machine room also prevents the seismic reset switch from being located in the elevator machine room.

5. Applicant proposes to relocate the inspection transfer switch and seismic reset switch in an alternative enclosure.

6. The driving machine and governor are positioned in the hoistway and restrict the required overhead clearance to the elevator car top.

7. Applicant proposes to insert the car-top railings at the perimeter of the car top.

8. Applicant intends to use an elevator control system, model CO NX100NA, with a standalone, solid-state motor control drive system that includes devices and circuits having a Safety Integrity Level (SIL) rating to execute specific elevator safety functions.

D. Conclusive Findings

A preponderance of the evidence supports the finding that each Applicants' proposal, subject to all conditions and limitations set forth in the below Decision and Order, will provide equivalent safety and health to that which would prevail upon full compliance with the requirements of the Elevator Safety Orders from which variance is being sought.

E. Decision and Order

Each Application being the subject of this proceeding, per the table in Jurisdictional and Procedural Matters, section 1 above, is conditionally GRANTED, to the extent that each such Applicant shall be issued permanent variance from section 3141 shall be GRANTED subject to the following conditions and limitations:

Elevator Safety Orders

• Suspension Means: 2.20.1, 2.20.2.1, 2.20.2.2(a), 2.20.2.2(f), 2.20.3, 2.20.4, 2.20.9.3.4, and 2.20.9.5.4 (Only to the extent necessary to permit the use of the Elastomeric-coated Steel Belts proposed by the Applicant, in lieu of circular steel suspension ropes.);

• Inspection transfer switch: 2.26.1.4.4(a) (Only to the extent necessary to permit the inspection transfer switch to reside at a location other than the machine room);

• Seismic reset switch: 8.4.10.1.1(a)(2)(b) (Only to the extent necessary to permit the seismic reset switch to reside at a location other than the machine room. room);

• Car-Top Railing: 2.14.1.7.1 (Only to the extent necessary to permit the use of the car-top railing system proposed by the Applicant, where the railing system is located inset from the elevator car top perimeter);

• Means of Removing Power: 2.26.9.6.1 (Only to the extent necessary to permit the use of SIL-rated devices and circuits as a means to remove power from the AC driving motor, where the redundant monitoring of electrical protective devices is required by the Elevator Safety Orders).

Conditions

1. The elevator suspension system shall comply to the following:

    a. The suspension traction media (STM) members and their associated fastenings shall conform to the applicable requirements of ASME A17.1-2013, sections:

        2.20.4.3 – Minimum Number of Suspension Members
        2.20.3 – Factor of Safety
        2.20.9 – Suspension Member Fastening

    b. The Applicant shall not utilize the elevator unless the manufacturer has written procedures for the installation, maintenance, inspection and testing of the STM members and fastenings and related monitoring and detection systems and criteria for STM replacement, and the Applicant shall make those procedures and criteria available to the Certified Competent Conveyance Mechanic (CCCM) at the location of the elevator, and to the Division upon request.

        STM member mandatory replacement criteria shall include:

i. Any exposed wire, strand or cord;
ii. Any wire, strand or cord breaks through the elastomeric coating;
iii. Any evidence of rouging (steel tension element corrosion) on any part of the elastomeric-coated steel suspension member;
iv. Any deformation in the elastomeric suspension member such as, but not limited to, kinks or bends;

c. Traction drive sheaves must have a minimum diameter of 72 mm. The maximum speed of STM members running on 72 mm, 87 mm and 125 mm drive sheaves shall be no greater than 2.5 m/s, 6.0 m/s and 8.0 m/s respectively.

d. If any one STM member needs replacement, the complete set of suspension members on the elevator shall be replaced. Exception: if a new suspension member is damaged during installation, and prior to any contemporaneously installed STM having been placed into service, it is permissible to replace the individual damaged suspension member. STM members that have been installed on another installation shall not be re-used.

e. A traction loss detection means shall be provided that conforms to the requirements of ASME A17.1-2013, section 2.20.8.1. The means shall be tested for correct function annually in accordance with ASME A17.1-2013, section 8.6.4.19.12.

f. A broken suspension member detection means shall be provided that conforms to the requirements of ASME A17.1-2013, section 2.20.8.2. The means shall be tested for correct function annually in accordance with ASME A17.1-2013, section 8.6.4.19.13(a).

g. An elevator controller integrated bend cycle monitoring system shall monitor actual STM bend cycles, by means of continuously counting, and storing in nonvolatile memory, the number of trips that the STM makes traveling, and thereby being bent, over the elevator sheaves. The bend cycle limit monitoring means shall automatically stop the car normally at the next available landing before the bend cycle correlated residual strength of any single STM member drops below 80 percent of full rated strength. The monitoring means shall prevent the car from restarting. The bend cycle monitoring system shall be tested annually in accordance with the procedures required by condition 1b above.

h. The elevator shall be provided with a device to monitor the remaining residual strength of each STM member. The device shall conform to the requirements of Division Circular Letter E-10-04, a copy of which is attached hereto as Exhibit 1 and incorporated herein by reference.

i. The elevator crosshead data plate shall comply with the requirements of ASME A17.1-2013, section 2.20.2.1.

j. A suspension means data tag shall be provided that complies with the requirements of ASME A17.1-2013, section 2.20.2.2.

k. Comprehensive visual inspections of the entire length of each and all installed suspension members, to the criteria developed in condition 1b, shall be conducted and documented every six months by a CCCM.

l. The Applicant shall be subject to the requirements set out in Exhibit 2 of this Decision and Order, "Suspension Means Replacement Reporting Condition," Incorporated herein by this reference.

m. Records of all tests and inspections shall be maintenance records subject to ASME A17.1-2004, sections 8.6.1.2 and 8.6.1.4, respectively.

2. If the inspection transfer switch required by ASME A17.1-2004, section 2.26.1.4.4 does not reside in a machine room, that switch shall not reside in the elevator hoistway. The switch shall reside in the control/machinery room/space containing the elevator's control equipment in an enclosure secured by a lock openable by a Group 1 security key. The enclosure is to remain locked at all times when not in use.

3. If the seismic reset switch does not reside in the machine room, that switch shall not reside in the elevator hoistway. The switch shall reside in the control/machinery room/space containing the elevator's control equipment in an enclosure secured by a lock openable by a Group 1 security key. The enclosure is to remain locked at all times when not in use.

4. If there is an inset car-top railing:

   a. Serviceable equipment shall be positioned so that mechanics and inspectors do not have to climb on the railings to perform adjustments, maintenance, repairs or inspections. The Applicant shall not permit anyone to stand or climb over the car-top railing.

   b. The distance that the railing can be inset shall be limited to not more than 6 inches.

   c. All exposed areas of the car top outside the car-top railing where the distance from the railing to the edge of the car top exceeds 2 inches, shall be beveled with metal, at an angle of not less than 75 degrees with the horizontal, from the mid or top rail to the outside of the car top, such that no person or object can stand, sit, kneel, rest, or be placed in the exposed areas.

   d. The top of the beveled area and/or car top outside the railing shall be clearly marked. The markings shall consist of alternating 4-inch diagonal red and white stripes.

   e. The applicant shall provide durable signs with lettering not less than 1/2 inch on a contrasting background on each inset railing. Each sign shall state:

**CAUTION**
**STAY INSIDE RAILING**
**NO LEANING BEYOND RAILING**
**NO STEPPING ON, OR BEYOND, RAILING**

f. The Group IV requirements for car-top clearances shall be maintained (car-top clearances outside the railing will be measured from the car top and not from the required bevel).

5. The SIL-rated devices and circuits used to inhibit electrical current flow in accordance with ASME A17.1-2004, section 2.26.9.6.1 shall comply with the following:

   a. The SIL-rated devices and circuits shall consist of a Variodyn SIL-3 rated Regenerative, Variable Voltage Variable Frequency (VVVF) motor drive unit, model VAF013 or VAF023, labeled or marked with the SIL rating (not less than SIL 3), the name or mark of the certifying organization, and the SIL certification number (968/FSP 1556.00), and followed by the applicable revision number (as in 968/FSP 1556.00/19).

   b. The devices and circuits shall be certified for compliance with the applicable requirements of ASME A17.1-2013, section 2.26.4.3.2.

   c. The access door or cover of the enclosures containing the SIL-rated components shall be clearly labeled or tagged on their exterior with the statement:

      **Assembly contains SIL-rated devices.**
      **Refer to Maintenance Control Program and**
      **wiring diagrams prior to performing work.**

   d. Unique maintenance procedures or methods required for the inspection, testing, or replacement of the SIL-rated circuits shall be developed and a copy maintained in the elevator machine/control room/space. The procedures or methods shall include clear color photographs of each SIL-rated component, with notations identifying parts and locations.

   e. Wiring diagrams that include part identification, SIL, and certification information shall be maintained in the elevator machine/control room/space.

   f. A successful test of the SIL-rated devices and circuits shall be conducted initially and not less than annually in accordance with the testing procedure. The test shall demonstrate that SIL-rated devices, safety functions, and related circuits operate as intended.

   g. Any alterations to the SIL-rated devices and circuits shall be made in compliance with the Elevator Safety Orders. If the Elevator Safety Orders do not contain specific provisions for the alteration of SIL-rated devices, the alterations shall be made in conformance with ASME A17.1-2013, section 8.7.1.9.

   h. Any replacement of the SIL-rated devices and circuits shall be made in compliance with the Elevator Safety Orders. If the Elevator Safety Orders do not contain specific provisions for the replacement of SIL-rated devices, the replacement shall be made in conformance with ASME A17.1-2013, section 8.6.3.14.

i. Any repairs to the SIL-rated devices and circuits shall be made in compliance with the Elevator Safety Orders. If the Elevator Safety Orders do not contain specific provisions for the repair of SIL-rated devices, the repairs shall be made in conformance with ASME A17.1-2013, section 8.6.2.6.

j. Any space containing SIL-rated devices and circuits shall be maintained within the temperature and humidity range specified by Schindler Elevator Corporation. The temperature and humidity range shall be posted on each enclosure containing SIL-rated devices and circuits.

k. Field changes to the SIL-rated system are not permitted. Any changes to the SIL-rated system's devices and circuitry will require recertification and all necessary updates to the documentation and diagrams required by conditions d. and e. above.

6. The Division shall be notified when the elevator is ready for inspection. The elevator shall be inspected by the Division, and all applicable requirements met, including conditions of this permanent variance, prior to a Permit to Operate the elevator being issued. The elevator shall not be placed in service prior to the Permit to Operate being issued by Division.

7. The Applicant shall notify its employees or their authorized representative(s), or both, of this order in the same way that the Applicant was required to notify them of the docketed application for permanent variance per sections 411.2 and 411.3.

8. This Decision and Order shall remain in effect unless modified or revoked upon application by the Applicant, affected employee(s), the Division of Occupational Safety and Health, or by the Board on its own motion, as provided by the Board's procedural rules.

Pursuant to section 426(b), the above Proposed Decision is submitted to the Board for consideration of adoption.

DATED: May 26, 2023

Michelle Iorio

Michelle Iorio, Hearing Officer

EXHIBIT 1

October 6, 2010

CIRCULAR LETTER E-10-04

TO: Installers, Manufacturers of Conveyances and Related Equipment and Other Interested Parties

SUBJECT: Coated Steel Belt Monitoring

The Elevator Safety Orders require routine inspection of the suspension means of an elevator to assure its safe operation.

The California Labor Code section 7318 allows the Division to promulgate special safety orders in the absence of regulation.

As it is not possible to see the steel cable suspension means of a Coated Steel Belt, a monitoring device which has been accepted by the Division is required on all Coated Steel Belts which will automatically stop the car if the residual strength of any belt drops below 60%. The Device shall prevent the elevator from restarting after a normal stop at a landing.

The monitoring device must be properly installed and functional. A functioning device may be removed only after a determination has been made that the residual strength of each belt exceeds 60%. These findings and the date of removal are to be conspicuously documented in the elevator machine room. The removed device must be replaced or returned to proper service within 30 days.

If upon routine inspection, the monitoring device is found to be in a non-functional state, the date and findings are to be conspicuously documented in the elevator machine room.

If upon inspection by the Division, the monitoring device is found to be non-functional or removed, and the required documentation is not in place, the elevator will be removed from service.

If the device is removed to facilitate belt replacement, it must be properly installed and functional before the elevator is returned to service.

A successful test of the device's functionality shall be conducted once a year.

This circular does not preempt the Division from adopting regulations in the future, which may address the monitoring of Coated Steel Belts or any other suspension means.

This circular does not create an obligation on the part of the Division to permit new conveyances utilizing Coated Steel Belts.

Debra Tudor
Principal Engineer
DOSH-Elevator Unit HQS

EXHIBIT 2

**Suspension Means – Replacement Reporting Condition**

Beginning on the date the Board adopts this Proposed Decision and continuing for a period of two years, the Applicant shall report to the Division within 30 days any and all replacement activity performed on the elevator(s) pursuant to the requirements of ASME A17.1-2004, section 8.6.3 involving the suspension means or suspension means fastenings. Further:

1. A separate report for each elevator shall be submitted, in a manner acceptable to the Division, to the following address (or to such other address as the Division might specify in the future): DOSH Elevator Unit, 2 MacArthur Pl., Suite 700, Santa Ana, CA 92707, Attn: Engineering section.

2. Each such report shall contain, but not necessarily be limited to, the following information:

    a. The State-issued conveyance number, complete address, and OSHSB file number that identifies the permanent variance.

    b. The business name, complete address, telephone number, and contact person of the elevator responsible party (presumably the Applicant or the subsequent holder of this variance).

    c. The business name, complete address, telephone number, and Certified Qualified Conveyance Company (CQCC) certification number of the firm performing the replacement work.

    d. The name (as listed on certification), Certified Competent Conveyance Mechanic (CCCM) certification number, certification expiration date, and signature of each CCCM performing the replacement work.

    e. The date and time the elevator was removed from normal service for suspension replacement, the date and time the replacement work commenced, the date and time the replacement work was completed, and the date and time the elevator was returned to normal service.

    f. A detailed description of, and clear color photographs depicting, (1) all the conditions that existed in the suspension components requiring their replacement and (2) any conditions that existed to cause damage or distress to the suspension components being replaced.

    g. A detailed list of all elevator components adjusted, repaired, or replaced in conjunction with the suspension component replacement.

    h. All information provided on the crosshead data plate per ASME Al7.l-2004, section 2.20.2.1, unless that ASME requirement is modified by the conditions of a variance that pertains to the elevator in question, in which case, the information to be reported shall be the information required by the ASME provision as modified by the variance.

i. For the suspension means being replaced, all information provided on the data tag required per ASME A17.1-2004, section 2.20.2.2, unless that ASME requirement is modified by the conditions of a variance that pertains to the elevator in question, in which case, the information to be reported shall be the information required by the ASME provision as modified by the variance.

j. For the replacement suspension means, all information provided on the data tag required by ASME A17.1-2004, section 2.20.2.2, unless that ASME requirement is modified by the conditions of a variance that pertains to the elevator in question, in which case, the information to be reported shall be the information required by the ASME provision as modified by the variance.

k. Any other information requested by the Division regarding the replacement of the suspension means or fastenings.

3. In addition to the submission of the report to the Division, the findings of any testing, failure analysis, or other engineering evaluations performed on any portion of the replaced suspension components, or other elevator components replaced in conjunction therewith, shall be submitted to the Division referencing the information contained in item 2a above.

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 Application for Permanent Variance Regarding:<br><br>KONE Monospace 500 Elevators (Group IV) | OSHSB File No.: See Section A.1 Table Below<br>Proposed Decision Dated: May 26, 2023<br><br>DECISION |

The Occupational Safety and Health Standards Board hereby adopts the attached PROPOSED DECISION by Autumn Gonzalez, Hearing Officer.

_____
DAVID THOMAS, Chairman

_____
BARBARA BURGEL, Member

_____
KATHLEEN CRAWFORD, Member

_____
DAVID HARRISON, Member

_____
NOLA KENNEDY, Member

_____
CHRIS LASZCZ-DAVIS, Member

_____
LAURA STOCK, Member

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Date of Adoption: June 15, 2023

THE FOREGOING VARIANCE DECISION WAS ADOPTED ON THE DATE INDICATED ABOVE. IF YOU ARE DISSATISFIED WITH THE DECISION, A PETITION FOR REHEARING MAY BE FILED BY ANY PARTY WITH THE STANDARDS BOARD WITHIN TWENTY (20) DAYS AFTER SERVICE OF THE DECISION. YOUR PETITION FOR REHEARING MUST FULLY COMPLY WITH THE REQUIREMENTS OF CALIFORNIA CODE OF REGULATIONS, TITLE 8, SECTIONS 427, 427.1 AND 427.2.

Note: A copy of this Decision must be posted for the Applicant's employees to read, and/or a copy thereof must be provided to the employees' Authorized Representatives.

BEFORE THE
OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
DEPARTMENT OF INDUSTRIAL RELATIONS
STATE OF CALIFORNIA

| | |
|---|---|
| In the Matter of Application for Permanent Variance Regarding:<br><br>KONE Monospace 500 Elevators (Group IV) | OSHSB File Nos.: See Section A.1 Table Below<br><br>PROPOSED DECISION<br><br>Hearing Date: May 24, 2023 |

A. Subject Matter

1. Each applicant ("Applicant") in the table below applied for a permanent variance from provisions of the Elevator Safety Orders, found at title 8 of the California Code of Regulations[1], as follows:

| Variance No. | Applicant Name | Variance Location Address | No. of Elevators |
|---|---|---|---|
| 23-V-133 | 11727 Kiowa Tower, LLC | 11727 Kiowa Ave.<br>Los Angeles, CA | 1 |
| 23-V-139 | Onyx on Park, LLC | 3922 Park Blvd.<br>San Diego, CA | 2 |
| 23-V-146 | SRM Culver City, LP | 11141 Washington Blvd.<br>Culver City, CA | 2 |
| 23-V-147 | BMR-Gateway of Pacific V LP | 465 Eccles Avenue<br>South San Francisco, CA | 2 |
| 23-V-148 | BMR-Gateway of Pacific V LP | 475 Eccles Avenue<br>South San Francisco, CA | 3 |
| 23-V-149 | BMR-Gateway of Pacific V LP | 485 Eccles Avenue<br>South San Francisco, CA | 3 |

2. Safety order requirements are set out in section 3141 incorporated ASME A17.1-2004, sections 2.18.5.1 and 2.20.4.

B. Procedural

1. This hearing was held on May 24, 2023 in Sacramento, California, via videoconference, by delegation of the Occupational Safety and Health Standards Board ("Board"), with

[1] Unless otherwise noted, references are to the California Code of Regulations, title 8.

Hearing Officer Autumn Gonzalez, both presiding and hearing the matter on its merit, as a basis of proposed decision to be advanced to the Board for its consideration, in accordance with section 426.

2. At the hearing, Fuei Saetern with KONE, Inc., appeared on behalf of Applicant; Jose Ceja and David Morris appeared on behalf of the Division of Occupational Safety and Health ("Division"), and Michael Nelmida appeared on behalf of Board staff in a technical advisory capacity apart from the Board.

3. Documentary and oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence:

| **Exhibit Number** | **Description of Exhibit** |
|---|---|
| PD-1 | Application(s) for Permanent Variance per section A.1 table |
| PD-2 | OSHSB Notice of Hearing |
| PD-3 | Board Staff Review of Variance Application |
| PD-4 | Division Review of Variance Application |
| PD-5 | Review Draft-1 Proposed Decision |

Official notice is taken of the Board's files, records, recordings and decisions concerning the Elevator Safety Order requirements from which variance shall issue. On May 24, 2023 the hearing and record closed, and the matter was taken under submission by the Hearing Officer.

C. Findings of Fact

1. Applicant intends to utilize the KONE Inc. Monospace 500 type elevator, in the quantity, at the location, specified per the above Section A.1 table.

2. The installation contract for this elevator was or will be signed on or after May 1, 2008, thus making the elevator subject to the Group IV Elevator Safety Orders.

3. Applicant proposes to use hoisting ropes that are 8 mm in diameter which also consist of 0.51 mm diameter outer wires, in variance from the express requirements of ASME A17.1-2004, section 2.20.4.

4. In relevant part, ASME A17.1-2004, section 2.20.4 states:

> *2.20.4 Minimum Number and Diameter of Suspension Ropes*
>
> *…The minimum diameter of hoisting and counterweight ropes shall be 9.5 mm (0.375 in.). Outer wires of the ropes shall be not less than 0.56 mm (0.024 in.) in diameter.*

5. An intent of ASME A17.1-2004, section 2.20.4, is to ensure that the number, diameter, and construction of suspension ropes are adequate to provided safely robust and durable suspension means over the course of the ropes' foreseen service life.

6. KONE has represented to Division and Board staff, having established an engineering practice for purposes of Monospace 500 elevator design, of meeting or exceeding the minimum factor of safety of 12 for 8 mm suspension members, as required in ASME A17.1-2010, section 2.20.3—under which, given that factor of safety, supplemental broken suspension member protection is not required.

7. Also, Applicant proposes as a further means of maintaining safety equivalence, monitoring the rope in conformity with the criteria specified within the *Inspector's Guide to 6 mm Diameter Governor and 8 mm Diameter Suspension Ropes for KONE Elevators* (per Application attachment "B", or as thereafter revised by KONE subject to Division approval).

8. In addition, Applicant has proposed to utilize 6 mm diameter governor ropes in variance from section 3141, incorporated ASME A17.1-2004, section 2.18.5.1.

9. ASME A17.1-2004, section 2.18.5.1, specifies, in relevant part:

> *2.18.5.1 Material and Factor of Safety.*
>
> *… [Governor ropes] not less than 9.5 mm (0.375 in.) in diameter. The factor of safety of governor ropes shall be not less than 5…*

10. The Board takes notice of section 3141.7, subpart (a)(10):

> *A reduced diameter governor rope of equivalent construction and material to that required by ASME A17.1-2004, is permissible if the factor of safety as related to the strength necessary to activate the safety is 5 or greater;*

11. Applicants propose use of 6mm governor rope having a safety factor of 5 or greater, in conformity with section 3141.7(a)(10), the specific parameters of which, being expressly set out within the Elevator Safety Orders, take precedence over more generally referenced governor rope diameter requirements per ASME A17.1-2004, section 2.18.5.1. Accordingly, the governor rope specifications being presently proposed, inclusive of a factor of safety of 5 or greater, would comply with current Elevator Safety Orders requirements, and therefore not be subject to issuance of permanent variance.

12. Absent evident diminution in elevator safety, over the past decade the Board has issued numerous permanent variances for use in KONE (Ecospace) elevator systems of 8 mm diameter suspension rope materially similar to that presently proposed (e.g. OSHSB File Permanent Variance Nos. 06-V-203, 08-V-245, and 13-V-303).

13. As noted by the Board in Permanent Variance Nos. 18-V-044 and 18-V-045, Decision and Order Findings, subpart B.17 (hereby incorporated by reference), the strength of wire rope operating as an elevator's suspension means does not remain constant over its years of projected service life. With increasing usage cycles, a reduction in the cross-sectional area of the wire rope normally occurs, resulting in decreased residual strength. This characteristic is of particular relevance to the present matter because, as also noted by Board staff, decreasing wire rope diameter is associated with a higher rate of residual strength loss. This foreseeable reduction in cross-sectional area primarily results from elongation under sheave rounding load, as well as from wear, and wire or strand breaks. However, these characteristics need not compromise elevator safety when properly accounted for in the engineering of elevator suspension means, and associated components.

14. The presently proposed wire rope is Wuxi Universal steel rope Co LTD. 8 mm 8x19S+8x7+PP, with a manufacturer rated breaking strength of 35.8 kN, and an outer wire diameter of less than 0.56 mm, but not less than 0.51 mm. Both Board staff and Division safety engineers have scrutinized the material and structural specifications, and performance testing data, of this particular proposed rope, and conclude it will provide for safety equivalent to ESO compliant 9.5 mm wire rope, with 0.56 mm outer wire (under conditions of use included within the below Decision and Order).

15. The applicant supplies tabulated data regarding the "Maximum Static Load on All Suspension Ropes." To obtain the tabulated data, the applicant uses the following formula derived from ASME A17.1 2004, section 2.20.3:

*W = (S x N)/ f*

*where*

*W = maximum static load imposed on all car ropes with the car and its rated load at any position in the hoistway*

*N = number of runs of rope under load. For 2:1 roping, N shall be two times the number of ropes used, etc.*

*S = manufacturer's rated breaking strength of one rope*

*f = the factor of safety from Table 2.20.3*

16. ASME A17.1-2010 sections 2.20.3 and 2.20.4 utilize the same formula, but provide for use of suspension ropes having a diameter smaller than 9.5 mm, under specified conditions, key among them being that use of ropes having a diameter of between 8 mm to 9.5 mm be engineered with a factor of safety of 12 or higher. This is a higher minimum factor of safety than that proposed by Applicant, but a minimum recommended by both Board staff and Division as a condition of variance necessary to the achieving of safety equivalence to 9.5 mm rope.

17. Board staff and Division are in accord with Applicant, in proposing as a condition of safety equivalence, that periodic physical examination of the wire ropes be performed to confirm the ropes continue to meet the criteria set out in the (Application attachment) *Inspector's Guide to 6 mm Diameter Governor and 8 mm Diameter Suspension Ropes for KONE Elevators.* Adherence to this condition will provide an additional assurance of safety equivalence, regarding smaller minimum diameter suspension rope outer wire performance over the course of its service life.

18. Both Board staff, and Division, by way of written submissions to the record (Exhibits PD-3 and PD-4 respectively), and stated positions at hearing, are of the opinion that grant of permanent variance, as limited and conditioned per the below Decision and Order will provide employment, places of employment, and subject conveyances, as safe and healthful as would prevail given non-variant conformity with the Elevator Safety Order requirements from which variance has been requested.

D. Conclusive Findings

A preponderance of the evidence supports the finding that each Applicants' proposal, subject to all conditions and limitations set forth in the below Decision and Order, will provide equivalent safety and health to that which would prevail upon full compliance with the requirements of the Elevator Safety Orders from which variance is being sought.

E. Decision and Order

Application being the subject of this proceeding, per above section A.1 table, is conditionally GRANTED, to the extent that Applicant shall be issued permanent variance from section 3141 incorporated ASME A17.1-2004, section 2.20.4, in as much as it precludes use of suspension rope of between 8 mm and 9.5 mm, or outer wire of between 0.51 mm and 0.56 mm in diameter, at such locations and numbers of Group IV KONE Monospace 500 elevators identified in each respective Application, subject to the following conditions:

1. The diameter of the hoisting steel ropes shall be not less than 8 mm (0.315 in) diameter and the roping ratio shall be two to one (2:1).

2. The outer wires of the suspension ropes shall be not less than 0.51 mm (0.02 in.) in diameter.

3. The number of suspension ropes shall be not fewer than those specified per hereby incorporated Decision and Order Appendix 1 Table.

4. The ropes shall be inspected annually for wire damage (rouge, valley break etc.) in accordance with "KONE Inc. Inspector's Guide to 6 mm diameter and 8 mm diameter steel ropes for KONE Elevators" (per Application Exhibit B, or as thereafter amended by KONE subject to Division approval).

5. A rope inspection log shall be maintained and available in the elevator controller room / space at all times.

6. The elevator rated speed shall not exceed those speeds specified per the Decision and Order Appendix 1 Table.

7. The maximum suspended load shall not exceed those weights (plus 5%) specified per the Decision and Order Appendix 1 Table.

8. The opening to the hoistway shall be effectively barricaded when car top inspection, maintenance, servicing, or testing of the elevator equipment in the hoistway is required. If the service personnel must leave the area for any reason, the hoistway and control room doors shall be closed.

9. The installation shall meet the suspension wire rope factor of safety requirements of ASME A17.1-2013 section 2.20.3.

10. Any Certified Qualified Conveyance Company performing inspections, maintenance, servicing or testing the elevators shall be provided a copy of this variance decision.

11. The Division shall be notified when the elevator is ready for inspection. The elevator shall be inspected by the Division and a "Permit to Operate" issued before the elevator is placed in service.

12. The Applicant shall comply with suspension means replacement reporting condition per hereby incorporated Decision and Order Appendix 2.

13. The Applicant shall notify its employees or their authorized representative(s), or both, of this order in the same way and to the same extent that employees and authorized representatives are to be notified of docketed permanent variance applications pursuant to sections 411.2 and 411.3.

14. This Decision and Order shall remain in effect unless modified or revoked upon application by the Applicant, affected employee(s), the Division of Occupational Safety and Health, or by the Board on its own motion, in accordance with the Board's procedural rules.

Pursuant to section 426(b), the above Proposed Decision, is submitted to the Board for consideration of adoption.

Dated: May 26, 2023

Autumn Gonzalez, Hearing Officer

**Appendix 1**

Monospace 500 Suspension Appendix 1 Table.

| Variance Number | Elevator ID | Minimum Quantity of Ropes (per Condition 3) | Maximum Speed in Feet per Minute (per Condition 6) | Maximum Suspended Load (per Condition 7) |
|---|---|---|---|---|
| 23-V-133 | 1 | 5 | 200 | 8,254 |
| 23-V-139 | 1 | 8 | 200 | 13,207 |
| 23-V-139 | 2 | 8 | 200 | 13,207 |
| 23-V-146 | 1 | 8 | 200 | 13,207 |
| 23-V-146 | 2 | 8 | 200 | 13,207 |
| 23-V-147 | P1 | 8 | 200 | 13,207 |
| 23-V-147 | P2 | 7 | 200 | 11,556 |
| 23-V-148 | A | 8 | 350 | 11,706 |
| 23-V-148 | B | 8 | 350 | 11,706 |
| 23-V-148 | C | 8 | 350 | 11,706 |
| 23-V-149 | A | 8 | 350 | 11,706 |
| 23-V-149 | B | 8 | 350 | 11,706 |
| 23-V-149 | C | 8 | 350 | 11,706 |

## Appendix 2

### Suspension Means Replacement Reporting Condition

Beginning on the date the Board adopts this Proposed Decision and continuing for a period of two years, the Applicant shall report to the Division within 30 days any and all replacement activity performed on the elevator(s) pursuant to the requirements of ASME A17.1-2004, section 8.6.3 involving the suspension means or suspension means fastenings. Further:

1. A separate report for each elevator shall be submitted, in a manner acceptable to the Division, to the following address (or to such other address as the Division might specify in the future): DOSH Elevator Unit, 2 MacArthur Place, Suite 700, Santa Ana, CA 92707, Attn: Engineering Section.

2. Each such report shall contain, but not necessarily be limited to, the following information:

    a. The State-issued conveyance number, complete address, and OSHSB file number that identifies the permanent variance.

    b. The business name, complete address, telephone number, and contact person of the elevator responsible party (presumably the Applicant or the subsequent holder of this variance).

    c. The business name, complete address, telephone number, and Certified Qualified Conveyance Company (CQCC) certification number of the firm performing the replacement work.

    d. The name (as listed on certification), Certified Competent Conveyance Mechanic (CCCM) certification number, certification expiration date, and signature of each CCCM performing the replacement work.

    e. The date and time the elevator was removed from normal service for suspension replacement, the date and time the replacement work commenced, the date and time the replacement work was completed, and the date and time the elevator was returned to normal service.

    f. A detailed description of, and clear color photographs depicting, (1) all the conditions that existed in the suspension components requiring their replacement and (2) any conditions that existed to cause damage or distress to the suspension components being replaced.

    g. A detailed list of all elevator components adjusted, repaired, or replaced in conjunction with the suspension component replacement.

h. All information provided on the crosshead data plate per ASME A17.1-2004, section 2.20.2.1, unless that ASME requirement is modified by the conditions of a variance that pertains to the elevator in question, in which case, the information to be reported shall be the information required by the ASME provision as modified by the variance.

i. For the suspension means being replaced, all information provided on the data tag required per ASME A17.1-2004, section 2.20.2.2, unless that ASME requirement is modified by the conditions of a variance that pertains to the elevator in question, in which case, the information to be reported shall be the information required by the ASME provision as modified by the variance.

j. For the replacement suspension means, all information provided on the data tag required by ASME A17.1-2004, section 2.20.2.2, unless that ASME requirement is modified by the conditions of a variance that pertains to the elevator in question, in which case, the information to be reported shall be the information required by the ASME provision as modified by the variance.

k. Any other information requested by the Division regarding the replacement of the suspension means or fastenings.

3. In addition to the submission of the report to the Division, the findings of any testing, failure analysis, or other engineering evaluations performed on any portion of the replaced suspension components, or other elevator components replaced in conjunction therewith, shall be submitted to the Division referencing the information contained in above Appendix 2, section 2, subsection (a), above.

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 Application for Permanent Variance Regarding:<br><br>KONE Monospace 300 Elevators (Group IV) | OSHSB File No.: See Section A.1 Table Below<br>Proposed Decision Dated: May 26, 2023<br><br>DECISION |

The Occupational Safety and Health Standards Board hereby adopts the attached PROPOSED DECISION by Autumn Gonzalez, Hearing Officer.

_____
DAVID THOMAS, Chairman

_____
BARBARA BURGEL, Member

_____
KATHLEEN CRAWFORD, Member

_____
DAVID HARRISON, Member

_____
NOLA KENNEDY, Member

_____
CHRIS LASZCZ-DAVIS, Member

_____
LAURA STOCK, Member

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Date of Adoption: June 15, 2023

THE FOREGOING VARIANCE DECISION WAS ADOPTED ON THE DATE INDICATED ABOVE. IF YOU ARE DISSATISFIED WITH THE DECISION, A PETITION FOR REHEARING MAY BE FILED BY ANY PARTY WITH THE STANDARDS BOARD WITHIN TWENTY (20) DAYS AFTER SERVICE OF THE DECISION. YOUR PETITION FOR REHEARING MUST FULLY COMPLY WITH THE REQUIREMENTS OF CALIFORNIA CODE OF REGULATIONS, TITLE 8, SECTIONS 427, 427.1 AND 427.2.

Note: A copy of this Decision must be posted for the Applicant's employees to read, and/or a copy thereof must be provided to the employees' Authorized Representatives.

BEFORE THE
OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
DEPARTMENT OF INDUSTRIAL RELATIONS
STATE OF CALIFORNIA

| | |
|---|---|
| In the Matter of Application for Permanent Variance Regarding:<br><br>KONE Monospace 300 Elevators (Group IV) | OSHSB File Nos.: See Section A.1 Table Below<br><br>PROPOSED DECISION<br><br>Hearing Date: May 24, 2023 |

A. Subject Matter

1. Each applicant ("Applicant") in the table below applied for a permanent variance from provisions of the Elevator Safety Orders, found at title 8 of the California Code of Regulations[1], as follows:

| Variance No. | Applicant Name | Variance Location Address | No. of Elevators |
|---|---|---|---|
| 23-V-134 | Delta Lane Housing Partners II, LP | 802 Delta Lane<br>West Sacramento, CA | 1 |

2. Safety order requirements set out in section 3141 incorporated ASME A17.1-2004, sections 2.18.5.1 and 2.20.4.

B. Procedural

1. This hearing was held on May 24, 2023, in Sacramento, California, via videoconference, by delegation of the Occupational Safety and Health Standards Board ("Board"), with Hearing Officer Autumn Gonzalez, both presiding and hearing the matter on its merit, as a basis of proposed decision to be advanced to the Board for its consideration, in accordance with section 426.

2. At the hearing, Fuei Saetern, with KONE, Inc., appeared on behalf of each Applicant; Jose Ceja and David Morris appeared on behalf of the Division of Occupational Safety and Health ("Division"), and Michael Nelmida appeared on behalf of Board staff in a technical advisory capacity apart from the Board.

3. Documentary and oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence:

[1] Unless otherwise stated, all references are to title 8, California Code of Regulations.

| Exhibit Number | Description of Exhibit |
|---|---|
| PD-1 | Application(s) for Permanent Variance per section A.1 table |
| PD-2 | OSHSB Notice of Hearing |
| PD-3 | Board Staff Review of Variance Application |
| PD-4 | Division Review of Variance Application |
| PD-5 | Review Draft-1 Proposed Decision |

Official notice is taken of the Board's files, records, recordings and decisions concerning the Elevator Safety Order requirements from which variance shall issue. On May 24, 2023, the hearing and record closed, and the matter was taken under submission by the Hearing Officer.

C. Findings of Fact

Based on the record of this proceeding, the Board finds the following:

1. Applicant intends to utilize the KONE Inc. Monospace 300 type elevator, in the quantity, at the location, specified per the above Section A.1 table.

2. The installation contract for this elevator was or will be signed on or after May 1, 2008, thus making the elevator subject to the Group IV Elevator Safety Orders.

3. Applicant proposes to use hoisting ropes that are 8 mm in diameter which also consist of 0.51 mm diameter outer wires, in variance from the express requirements of ASME A17.1-2004, section 2.20.4.

4. In relevant part, ASME A17.1-2004, section 2.20.4 states:

> *2.20.4 Minimum Number and Diameter of Suspension Ropes*
>
> *…The minimum diameter of hoisting and counterweight ropes shall be 9.5 mm (0.375 in.). Outer wires of the ropes shall be not less than 0.56 mm (0.024 in.) in diameter.*

5. An intent of ASME A17.1-2004, section 2.20.4, is to ensure that the number, diameter, and construction of suspension ropes are adequate to provided safely robust and durable suspension means over the course of the ropes' foreseen service life.

6. KONE has represented to Division and Board staff, having established an engineering practice for purposes of Monospace 300 elevator design, of meeting or exceeding the minimum factor of safety of 12 for 8 mm suspension members, as required in ASME A17.1-2010, section 2.20.3—under which, given that factor of safety, supplemental broken suspension member protection is not required.

7. Also, Applicant proposes as a further means of maintaining safety equivalence, monitoring the rope in conformity with the criteria specified within the *Inspector's Guide to 6 mm Diameter Governor and 8 mm Diameter Suspension Ropes for KONE Elevators* (per Application attachment "B", or as thereafter revised by KONE subject to Division approval).

8. In addition, Applicant has proposed to utilize 6 mm diameter governor ropes in variance from section 3141, incorporated ASME A17.1-2004, section 2.18.5.1.

9. ASME A17.1-2004, section 2.18.5.1, specifies, in relevant part:

> *2.18.5.1 Material and Factor of Safety.*
>
> *… [Governor ropes] not less than 9.5 mm (0.375 in.) in diameter. The factor of safety of governor ropes shall be not less than 5…*

10. The Board takes notice of Elevator Safety Order section 3141.7, subpart (a)(10):

> *A reduced diameter governor rope of equivalent construction and material to that required by ASME A17.1-2004, is permissible if the factor of safety as related to the strength necessary to activate the safety is 5 or greater;*

11. Applicant proposes use of 6mm governor rope having a safety factor of 5 or greater, in conformity with section 3141.7(a)(10), the specific parameters of which, being expressly set out within Elevator Safety Orders, take precedence over more generally referenced governor rope diameter requirements per ASME A17.1-2004, section 2.18.5.1. Accordingly, the governor rope specifications being presently proposed, inclusive of a factor of safety of 5 or greater, would comply with current Elevator Safety Orders requirements, and therefore not be subject to issuance of permanent variance.

12. Absent evident diminution in elevator safety, over the past decade the Board has issued numerous permanent variances for use in KONE (Ecospace) elevator systems of 8 mm diameter suspension rope materially similar to that presently proposed (e.g. Permanent Variance Nos. 06-V-203, 08-V-245, and 13-V-303).

13. As noted by the Board in Permanent Variance Nos. 18-V-044, and 18-V-045, Decision and Order Findings, subpart B.17 (hereby incorporated by reference), the strength of wire rope operating as an elevator's suspension means does not remain constant over its years of projected service life. With increasing usage cycles, a reduction in the cross-sectional area of the wire rope normally occurs, resulting in decreased residual strength. This characteristic is of particular relevance to the present matter because, as also noted by Board staff, decreasing wire rope diameter is associated with a higher rate of residual strength loss. This foreseeable reduction in cross-sectional area primarily results from elongation under sheave rounding load, as well as from wear, and wire or strand breaks. However, these characteristics need not compromise elevator safety when properly

accounted for in the engineering of elevator suspension means, and associated components.

14. The presently proposed wire rope is Wuxi Universal steel rope Co LTD. 8 mm 8x19S+8x7+PP, with a manufacturer rated breaking strength of 35.8 kN, and an outer wire diameter of less than 0.56 mm, but not less than 0.51 mm. Both Board staff and Division safety engineers have scrutinized the material and structural specifications, and performance testing data, of this particular proposed rope, and conclude it will provide for safety equivalent to ESO compliant 9.5 mm wire rope, with 0.56 mm outer wire (under conditions of use included within the below Decision and Order).

15. The applicant supplies tabulated data regarding the "Maximum Static Load on All Suspension Ropes." To obtain the tabulated data, the applicant uses the following formula derived from ASME A17.1 2004, section 2.20.3:

    *W = (S x N)/ f*

    *where*

    *W = maximum static load imposed on all car ropes with the car and its rated load at any position in the hoistway*

    *N = number of runs of rope under load. For 2:1 roping, N shall be two times the number of ropes used, etc.*

    *S = manufacturer's rated breaking strength of one rope*

    *f = the factor of safety from Table 2.20.3*

16. ASME A17.1-2010 sections 2.20.3 and 2.20.4 utilize the same formula, but provide for use of suspension ropes having a diameter smaller than 9.5 mm, under specified conditions, key among them being that use of ropes having a diameter of between 8 mm to 9.5 mm be engineered with a factor of safety of 12 or higher. This is a higher minimum factor of safety than that proposed by Applicant, but a minimum recommended by both Board staff and Division as a condition of variance necessary to the achieving of safety equivalence to 9.5 mm rope.

17. Board staff and Division are in accord with Applicant, in proposing as a condition of safety equivalence, that periodic physical examination of the wire ropes be performed to confirm the ropes continue to meet the criteria set out in the (Application attachment) *Inspector's Guide to 6 mm Diameter Governor and 8 mm Diameter Suspension Ropes for KONE Elevators.* Adherence to this condition will provide an additional assurance of safety equivalence, regarding smaller minimum diameter suspension rope outer wire performance over the course of its service life.

18. Both Board staff, and Division, by way of written submissions to the record (Exhibits PD-3 and PD-4 respectively), and stated positions at hearing, are of the well informed opinion that grant of permanent variance, as limited and conditioned per the below

Decision and Order will provide employment, places of employment, and subject conveyances, as safe and healthful as would prevail given non-variant conformity with the Elevator Safety Order requirements from which variance has been requested.

D. Conclusive Findings

E. A preponderance of the evidence supports the finding that each Applicants' proposal, subject to all conditions and limitations set forth in the below Decision and Order, will provide equivalent safety and health to that which would prevail upon full compliance with the requirements of the Elevator Safety Orders from which variance is being sought.

F. Decision and Order

Each Application being the subject of this proceeding, per above Section A.1 table, is conditionally GRANTED, to the extent Applicant shall be issued permanent variance from section 3141 incorporated ASME A17.1-2004, section 2.20.4, in as much as it precludes use of suspension rope of between 8 mm and 9.5 mm, or outer wire of between 0.51 mm and 0.56 mm in diameter, at such locations and numbers of Group IV KONE Monospace 300 elevators identified in each respective Application, subject to the following conditions:

1. The diameter of the hoisting steel ropes shall be not less than 8 mm (0.315 in) diameter and the roping ratio shall be two to one (2:1).

2. The outer wires of the suspension ropes shall be not less than 0.51 mm (0.02 in.) in diameter.

3. The number of suspension ropes shall be not fewer than those specified per hereby incorporated Decision and Order Appendix 1 Table.

4. The ropes shall be inspected annually for wire damage (rouge, valley break etc.) in accordance with "KONE Inc. Inspector's Guide to 6 mm diameter and 8 mm diameter steel ropes for KONE Elevators" (per Application Exhibit B, or as thereafter amended by KONE subject to Division approval).

5. A rope inspection log shall be maintained and available in the elevator controller room / space at all times.

6. The elevator rated speed shall not exceed those speeds specified per the Decision and Order Appendix 1 Table.

7. The maximum suspended load shall not exceed those weights (plus 5%) specified per the Decision and Order Appendix 1 Table.

8. The opening to the hoistway shall be effectively barricaded when car top inspection, maintenance, servicing, or testing of the elevator equipment in the hoistway is required.

If the service personnel must leave the area for any reason, the hoistway and control room doors shall be closed.

9. The installation shall meet the suspension wire rope factor of safety requirements of ASME A17.1-2013 section 2.20.3.

10. Any Certified Qualified Conveyance Company performing inspections, maintenance, servicing or testing the elevators shall be provided a copy of this variance decision.

11. The Division shall be notified when the elevator is ready for inspection. The elevator shall be inspected by the Division and a "Permit to Operate" issued before the elevator is placed in service.

12. The Applicant shall comply with suspension means replacement reporting condition per hereby incorporated Decision and Order Appendix 2.

13. The Applicant shall notify its employees or their authorized representative(s), or both, of this order in the same way and to the same extent that employees and authorized representatives are to be notified of docketed permanent variance applications pursuant to sections 411.2 and 411.3.

14. This Decision and Order shall remain in effect unless modified or revoked upon application by the Applicant, affected employee(s), the Division of Occupational Safety and Health, or by the Board on its own motion, in accordance with the Boards rules of procedure.

Pursuant to section 426(b), the above, duly completed Proposed Decision, is hereby submitted to the Board for consideration of adoption.

Dated: May 26, 2023

Autumn Gonzalez, Hearing Officer

**Appendix 1**

Monospace 300 Suspension Ropes Appendix 1 Table

| Variance Number | Elevator ID | Minimum Quantity of Ropes (per Condition 3) | Maximum Speed in Feet per Minute (per Condition 6) | Maximum Suspended Load (per Condition 7) |
|---|---|---|---|---|
| 23-V-134 | 1 | 7 | 150 | 12,247 |

## Appendix 2

### Suspension Means Replacement Reporting Condition

Beginning on the date the Board adopts this Proposed Decision and continuing for a period of two years, the Applicant shall report to the Division within 30 days any and all replacement activity performed on the elevator(s) pursuant to the requirements of ASME A17.1-2004, section 8.6.3 involving the suspension means or suspension means fastenings. Further:

1. A separate report for each elevator shall be submitted, in a manner acceptable to the Division, to the following address (or to such other address as the Division might specify in the future): DOSH Elevator Unit, 2 MacArthur Place, Suite 700, Santa Ana, CA 92707, Attn: Engineering Section.

2. Each such report shall contain, but not necessarily be limited to, the following information:

    a. The State-issued conveyance number, complete address, and OSHSB file number that identifies the permanent variance.

    b. The business name, complete address, telephone number, and contact person of the elevator responsible party (presumably the Applicant or the subsequent holder of this variance).

    c. The business name, complete address, telephone number, and Certified Qualified Conveyance Company (CQCC) certification number of the firm performing the replacement work.

    d. The name (as listed on certification), Certified Competent Conveyance Mechanic (CCCM) certification number, certification expiration date, and signature of each CCCM performing the replacement work.

    e. The date and time the elevator was removed from normal service for suspension replacement, the date and time the replacement work commenced, the date and time the replacement work was completed, and the date and time the elevator was returned to normal service.

    f. A detailed description of, and clear color photographs depicting, (1) all the conditions that existed in the suspension components requiring their replacement and (2) any conditions that existed to cause damage or distress to the suspension components being replaced.

    g. A detailed list of all elevator components adjusted, repaired, or replaced in conjunction with the suspension component replacement.

h. All information provided on the crosshead data plate per ASME A17.1-2004, section 2.20.2.1, unless that ASME requirement is modified by the conditions of a variance that pertains to the elevator in question, in which case, the information to be reported shall be the information required by the ASME provision as modified by the variance.

i. For the suspension means being replaced, all information provided on the data tag required per ASME A17.1-2004, section 2.20.2.2, unless that ASME requirement is modified by the conditions of a variance that pertains to the elevator in question, in which case, the information to be reported shall be the information required by the ASME provision as modified by the variance.

j. For the replacement suspension means, all information provided on the data tag required by ASME A17.1-2004, section 2.20.2.2, unless that ASME requirement is modified by the conditions of a variance that pertains to the elevator in question, in which case, the information to be reported shall be the information required by the ASME provision as modified by the variance.

k. Any other information requested by the Division regarding the replacement of the suspension means or fastenings.

3. In addition to the submission of the report to the Division, the findings of any testing, failure analysis, or other engineering evaluations performed on any portion of the replaced suspension components, or other elevator components replaced in conjunction therewith, shall be submitted to the Division referencing the information contained in above Appendix 2, section 2, subsection (a), above.

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 Application for Permanent Variance Regarding:<br><br>TK Elevator Evolution (Group IV) | OSHSB File No.: Per Section A.1 table<br>Proposed Decision Dated: May 26, 2023<br><br>DECISION |

The Occupational Safety and Health Standards Board hereby adopts the attached PROPOSED DECISION by Autumn Gonzalez, Hearing Officer.

_____
DAVID THOMAS, Chairman

_____
BARBARA BURGEL, Member

_____
KATHLEEN CRAWFORD, Member

_____
DAVID HARRISON, Member

_____
NOLA KENNEDY, Member

_____
CHRIS LASZCZ-DAVIS, Member

_____
LAURA STOCK, Member

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Date of Adoption: June 15, 2023

THE FOREGOING VARIANCE DECISION WAS ADOPTED ON THE DATE INDICATED ABOVE. IF YOU ARE DISSATISFIED WITH THE DECISION, A PETITION FOR REHEARING MAY BE FILED BY ANY PARTY WITH THE STANDARDS BOARD WITHIN TWENTY (20) DAYS AFTER SERVICE OF THE DECISION. YOUR PETITION FOR REHEARING MUST FULLY COMPLY WITH THE REQUIREMENTS OF CALIFORNIA CODE OF REGULATIONS, TITLE 8, SECTIONS 427, 427.1 AND 427.2.

Note: A copy of this Decision must be posted for the Applicant's employees to read, and/or a copy thereof must be provided to the employees' Authorized Representatives.

BEFORE THE
OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
DEPARTMENT OF INDUSTRIAL RELATIONS
STATE OF CALIFORNIA

| | |
|---|---|
| In the Matter of Application for Permanent Variance Regarding:<br><br>TK Elevator<br>Evolution (Group IV) | OSHSB File Nos.: Per Section A.1 table<br><br>PROPOSED DECISION<br><br>Hearing Date: May 24, 2023 |

A. Subject Matter

1. Each Applicant ("Applicant") in the table below has applied for permanent variance from certain provisions of the Elevator Safety Orders, found at title 8 of the California Code of Regulations[1], as follows:

| Variance No. | Applicant Name | Variance Location Address | No. of Elevators |
|---|---|---|---|
| 23-V-135 | Blake Apartments, L.P. | 2527 San Pablo Ave.<br>Berkeley, CA | 1 |
| 23-V-136 | 1361 Kelton LLC | 1361 Kelton Ave.<br>Los Angeles, CA | 1 |
| 23-V-140 | Hoag Memorial Hospital Presbyterian | 16200 Sand Canyon Ave.,<br>Building 210<br>Irvine, CA | 3 |
| 23-V-141 | Hoag Memorial Hospital Presbyterian | 16200 Sand Canyon Ave.,<br>Building 220<br>Irvine, CA | 2 |
| 23-V-142 | Hoag Memorial Hospital Presbyterian | 16200 Sand Canyon Ave.,<br>Building 230<br>Irvine, CA | 4 |
| 23-V-143 | Hoag Memorial Hospital Presbyterian | 16200 Sand Canyon Ave.,<br>Building 240<br>Irvine, CA | 4 |
| 23-V-144 | Hoag Memorial Hospital Presbyterian | 16200 Sand Canyon Ave.,<br>Building 260<br>Irvine, CA | 2 |
| 23-V-145 | Hoag Memorial Hospital Presbyterian | 16200 Sand Canyon Ave.,<br>Building 290<br>Irvine, CA | 2 |

[1] Unless otherwise noted, references are to the California Code of Regulations, title 8.

2. The safety orders from which variance may issue, are in the portion of the Decision and Order below, preceding the variance conditions.

B. Procedural

1. This hearing was held on May 24, 2023, in Sacramento, California via videoconference, by delegation of the Occupational Safety and Health Standards Board ("Board"), with Hearing Officer Michelle Iorio, both presiding and hearing the matter on its merit, as a basis of proposed decision to be advanced to the Board for its consideration, in accordance with section 426.

2. At the hearing, Justin Zoetewey with Tk Elevator appeared on behalf of the Applicant, David Morris and Jose Ceja appeared on behalf of the Division of Occupational Safety and Health ("Division"), and Michael Nelmida appeared on behalf of Board staff acting in a technical advisory role apart from the Board.

3. Documentary and oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence:

| **Exhibit Number** | **Description of Exhibit** |
|---|---|
| PD-1 | Application(s) for Permanent Variance per section A.1 table |
| PD-2 | OSHSB Notice of Hearing |
| PD-3 | Board Staff Review of Variance Application |
| PD-4 | Division Review of Variance Application |
| PD-5 | Review Draft-1 Proposed Decision |

4. Official notice is taken of the Board's files, records, recordings and decisions concerning the Elevator Safety Order requirements from which variance shall issue. On May 24, 2023, the hearing and record closed, and the matter was taken under submission by the Hearing Officer.

C. Relevant Safety Orders

*Variance Request No. 1 (ASME A17.1-2004, section 2.14.1.7.1)*

*2.14.1.7.1 A standard railing conforming to 2.10.2 shall be provided on the outside perimeter of the car top on all sides where the perpendicular distance between the edges of the car top and the adjacent hoistway enclosure exceeds 300 mm (12 in.) horizontal clearance.*

*Variance Request No. 2A (ASME A17.1-2004, section 2.20.1)*

*2.20.1 Suspension Means*

*Elevator cars shall be suspended by steel wire ropes attached to the car frame or passing around sheaves attached to the car frame specified in 2.15.1. Ropes that have previously been installed and used on another installation shall not be reused.*

*Only iron (low-carbon steel) or steel wire ropes, having the commercial classification "Elevator Wire Rope," or wire rope specifically constructed for elevator use, shall be used for the suspension of elevator cars and for the suspension of counterweights. The wire material for ropes shall be manufactured by the open-hearth or electric furnace process or their equivalent.*

*Variance Request No. 2B (ASME A17.1-2004, section 2.20.2[.1])*

*2.20.2.1 On Crosshead Data Plate.*

*The crosshead data plate required by 2.16.3 shall bear the following wire-rope data:*

*(a) the number of ropes*

*(b) the diameter in millimeters (mm) or inches (in.)*

*(c) the manufacturer's rated breaking strength per rope in kilo Newton (kN) or pounds (lb)*

*Variance Request No. 2C (ASME A17.1-2004, section 2.20.2.2)*

*2.20.2.2 On Rope Data Tag.*

*A metal data tag shall be securely attached to one of the wire-rope fastenings. This data tag shall bear the following wire-rope data:*

*(a) the diameter in millimeters (mm) or inches (in.)*

*[…]*

*(f) whether the ropes were nonpreformed or preformed*

*[…]*

*Variance Request No. 2D. (ASME A17.1-2004, section 2.20.3)*

*2.20.3 Factor of Safety*

*The factor of safety of the suspension wire ropes shall be not less than shown in Table 2.20.3. Figure 8.2.7 gives the minimum factor of safety for intermediate rope speeds. The factor of safety shall be based on the actual rope speed corresponding to the rated speed of the car.*

*The factor of safety shall be calculated by the following formula:*

$$f = \frac{S \times N}{W}$$

*where*

*N = number of runs of rope under load. For 2:1 roping, N shall be two times the number of ropes used, etc.*

*S = manufacturer's rated breaking strength of one rope*

*W = maximum static load imposed on all car ropes with the car and its rated load at any position in the hoistway*

*Variance Request No. 2E (ASME A17.1-2004, section 2.20.4)*

*2.20.4 Minimum Number and Diameter of Suspension Ropes*

*The minimum number of hoisting ropes used shall be three for traction elevators and two for drum-type elevators.*

*Where a car counterweight is used, the number of counterweight ropes used shall be not less than two.*

*The term" diameter," where used in reference to ropes, shall refer to the nominal diameter as given by the rope manufacturer.*

*The minimum diameter of hoisting and counterweight ropes shall be 9.5 mm (0.375 in.). Outer wires of the ropes shall be not less than 0.56 mm (0.024 in.) in diameter.*

*Variance Request No. 2F (ASME A17.1-2004, section 2.20.9[.1])*

*2.20.9 Suspension-Rope Fastening*

*2.20.9.1 Type of Rope Fastenings. The car and counterweight ends of suspension wire ropes, or the stationary hitch-ends where multiple roping is used, shall be fastened in such a manner that all portions of the rope, except the portion inside the rope sockets, shall be readily visible.*

*Fastening shall be*

*(a) by individual tapered rope sockets (see 2.20.9.4) or other types of rope fastenings that have undergone adequate tensile engineering tests, provided that*

*(1) such fastenings conform to 2.20.9.2 and 2.20.9.3;*

*(2) the rope socketing is such as to develop at least 80% of the ultimate breaking strength of the strongest rope to be used in such fastenings; or*

*(b) by individual wedge rope sockets (see 2.20.9.5); and*

*(c) U-bolt-type rope clamps or similar devices shall not be used for suspension rope fastenings.*

*Variance Request No. 3 (ASME A17.1-2004, section 2.26.9.4)*

*2.26.9.4 Redundant devices used to satisfy 2.26.9.3 in the determination of the occurrence of a single ground, or the failure of any single magnetically operated switch, contactor or relay, or of any single solid state device, or any single device that limits the leveling or truck zone, or a software system failure, shall be checked prior to each start of the elevator from a landing, when on automatic operation. When a single ground or failure, as specified in 2.26.9.3, occurs, the car shall not be permitted to restart. Implementation of redundancy by a software system is permitted, provided that the removal of power from the driving-machine motor and brake shall not be solely dependent on software-controlled means.*

*Variance Request No. 4 (ASME A17.1-2004, section 2.26.9.6.1)*

*2.26.9.6.1 Two separate means shall be provided to independently inhibit the flow of alternating-current through the solid state devices that connect the direct-current power source to the alternating-current driving motor. At least one of the means shall be an electromechanical relay.*

*Variance Request No. 5 (ASME A17.1-2004, section 2.26.1.4[.1](a))*

*2.26.1.4.1 General Requirements*

*(a) Operating devices for inspection operation shall be provided on the top of the car and shall also be permitted in the car and in the machine room.*

*Variance Request No. 6 (ASME A17.1-2004, section 8.4.10.1.1(a)(2)(b))*

*8.4.10.1.1 Earthquake Equipment (See Also Fig. 8.4.10.1.1)*

*(a) All traction elevators operating at a rated speed of 0.75 m/s (150 ft/min) or more and having counterweights located in the same hoistway shall be provided with the following:*

*(1) seismic zone 3 or greater: a minimum of one seismic switch per building*

*(2) seismic zone 2 or greater:*

*(a) a displacement switch for each elevator*

*(b) an identified momentary reset button or switch for each elevator, located in the control panel in the elevator machine room [see 8.4.10.1.3(i)]*

D. Findings

1. Applicant proposes to utilize inset car top railings and guards in compliance with ASME 17.1-2013, section 2.14.1.7.1 and the *Vivante Westside, LLC* File No. 18-V-364 (Nov. 20, 2020) decision (*Vivante*). Applicant further claims that the

request is consistent with the *Vivante*, the *Mack Urban, LLC*, File No. 15-V-349 (Nov. 17, 2016), and the *Patton Equities, LLC* File No. 20-V-128 (Nov. 12, 2020) decisions (*Patton Equities*).

2. Applicant proposes to utilize noncircular elastomeric-coated steel belts ("ECSBs") rather than steel ropes in a machine room-less ("MRL") elevator installation, with updated data plates, data tags, and wedge sockets designed for use with ECSBs, as well as the appropriate factor of safety criteria conforming to ASME 17.1-2013, with a continuous residual strength detection device ("RSDD") compliant with the *San Francisco Public Works (File No. 21-V-061, et al.)* decisions.

3. The installation shall utilize the TK Elevator Model 104DP001 RSDD, accepted by the Division on May 4, 2021.

4. Applicant proposes to comply with ASME A17.1-2013 sections 2.26.9.3, "Protection Against Failures", rather than the requirements of 2.26.9.3 and 2.26.9.4 in the ASME 2004 code.

5. Applicant proposes to use TKE's control systems, using the TKE TAC32T Controller with SIL3 rated elements, to provide equivalent safety to ASME A17.1-2004, section 2.26.9.4 as a means to inhibit flow of Alternating Current to the Driving Motor in compliance with ASME A17.1-2013, section 2.26.9.6.

6. Applicant proposes to locate the Inspection Transfer Switch within the machinery/control room/space in the MRL installation, in compliance with ASME 17.1-2013, section 2.26.1.4.

7. Applicant proposes to locate the Seismic-Operation Reset Switch in the machinery/control room/space in the MRL installation.

E. Decision and Order

Applicant is hereby conditionally GRANTED Permanent Variance as specified below, and to the limited extent, as of the date the Board adopts this Proposed Decision, with respect to the section A specified number of TKE EVO 200 elevator(s), at the specified location, each shall conditionally hold permanent variance from the following subparts of ASME A17.1-2004, currently incorporated by reference into section 3141 of the Elevator Safety Orders:

- Car-Top Railing: 2.14.1.7.1 (Limited to the extent necessary to permit the use of an inset car-top railing)

- Suspension Means: 2.20.1, 2.20.2.1, 2.20.2.2(a), 2.20.2.2(f), 2.20.3, 2.20.4, and 2.20.9.1 (Limited to the extent necessary to permit the use of the elastomeric-coated steel belts in lieu of circular steel suspension ropes)

- Inspection transfer switch: 2.26.1.4.4(a) (Limited to the extent necessary to permit the inspection transfer switch to reside at a location other than the machine room)

- Software Reliant Means to Remove Power: 2.26.9.4 (Limited to the extent necessary to permit the exclusive use of SIL-rated software systems as a means to remove power from the driving machine motor and brake)

- SIL-Rated Circuitry to Inhibit Current Flow: 2.26.9.6.1 (Limited to the extent necessary to permit the use of SIL-rated circuitry in place of an electromechanical relay to inhibit current flow to the drive motor)

- Seismic reset switch: 8.4.10.1.1(a)(2)(b) (Limited to the extent necessary to permit the seismic reset switch to reside at a location other than the machine room)

Inset Car Top Railing (Variance Request No. 1):

1.0 Any and all inset car top railings shall comply with the following:

1.1 Serviceable equipment shall be positioned so that mechanics and inspectors do not have to stand on or climb over the railings to perform adjustments, maintenance, repairs or inspections. The Applicant shall not permit trained elevator mechanics or elevator service personnel to stand or climb over the car top railing.

1.2 The distance that the railing can be inset shall be limited to not more than six inches (6”).

1.3 All exposed areas of the car top outside the car top railing where the distance from the railing to the edge of the car top exceeds two inches (2”), shall be beveled with metal, at an angle of not less than 75 degrees with the horizontal, from the mid or top rail to the outside of the car top, such that no person or object can stand, sit, kneel, rest, or be placed in the exposed areas.

1.4 The top surface of the beveled area and/or car top outside the railing, shall be clearly marked. The markings shall consist of alternating 4” diagonal red and white stripes.

1.5 The Applicant shall provide durable signs with lettering not less than 1/2 inch on a contrasting background on each inset railing; each sign shall state:

**CAUTION**
**STAY INSIDE RAILING**
**NO LEANING BEYOND RAILING**
**NO STEPPING ON, OR BEYOND, RAILING**

1.6 The Group IV requirements for car top clearances shall be maintained (car top clearances outside the railing will be measured from the car top and not from the required bevel).

Suspension Means (Variance Request No. 2):

2.0 The elevator suspension system shall comply with the following:

2.1 The elastomeric coated steel belts (ECSBs) and their associated fastenings shall conform to the applicable requirements of ASME A17.1-2013, sections:

2.20.4.3 – Minimum Number of Suspension Members
2.20.3 – Factor of Safety
2.20.9 – Suspension Member Fastening

2.2 Additionally, ECSBs shall meet or exceed all requirements of ASME A17.6 2010, Standard for Elevator Suspension, Compensation, and Governor Systems, Part 3 Noncircular Elastomeric Coated Steel Suspension Members for Elevators.

2.3 The Applicant shall not utilize the elevator unless the manufacturer has written procedures for the installation, maintenance, inspection and testing of the ECSBs and fastenings and related monitoring and detection systems and criteria for ECSB replacement, and the Applicant shall make those procedures and criteria available to the Certified Competent Conveyance Mechanic (CCCM) at the location of the elevator, and to the Division of Occupational Safety and Health (Division) upon request.

2.4 ECSB mandatory replacement criteria shall include:

2.4.1. Any exposed wire, strand or cord;

2.4.2. Any wire, strand or cord breaks through the elastomeric coating;

2.4.3. Any evidence of rouging (steel tension element corrosion) on any part of the elastomeric coated steel suspension member;

2.4.4. Any deformation in the elastomeric suspension member such as, but not limited to, kinks or bends.

2.5 Traction drive sheaves must have a minimum diameter of 112 mm. The maximum speed of ECSBs running on 112 mm drive sheaves shall be no greater than 6.1 m/s.

2.6 If any one (1) ECSB needs replacement, the complete set of suspension members on the elevator shall be replaced. Exception: If a new suspension member is damaged during installation, and prior to any contemporaneously installed ECSB having been placed into service, it is permissible to replace the individual damaged suspension member. ECSBs that have been installed on another installation shall not be re used.

2.7 A traction loss detection means shall be provided that conforms to the requirements of ASME A17.1-2013, section 2.20.8.1. The means shall be tested for correct function annually in accordance with ASME A17.1-2013, section 8.6.4.19.12.

2.8 A broken suspension member detection means shall be provided that conforms to

the requirements of ASME A17.1-2013, section 2.20.8.2. The means shall be tested for correct function annually in accordance with ASME A17.1-2013, section 8.6.4.19.13(a).

2.9 An elevator controller integrated bend cycle monitoring system shall monitor actual ECSB bend cycles, by means of continuously counting, and storing in nonvolatile memory, the number of trips that the ECSB makes traveling, and thereby being bent, over the elevator sheaves. The bend cycle limit monitoring means shall automatically stop the car normally at the next available landing before the bend cycle correlated residual strength of any single ECSB member drops below (60%) sixty percent of full rated strength. The monitoring means shall prevent the car from restarting. Notwithstanding any less frequent periodic testing requirement per Addendum 2 (Division Circular Letter), the bend cycle monitoring system shall be tested semiannually in accordance with the procedures required per above Conditions 2.3 and 2.4.

2.10 The elevator crosshead data plate shall comply with the requirements of ASME A17.1-2013, section 2.20.2.1.

2.11 A suspension means data tag shall be provided that complies with the requirements of ASME A17.1-2013, section 2.20.2.2.

2.12 Comprehensive visual inspections of the entire length of each and all installed suspension members, in conformity with above Conditions 2.3 and 2.4 specified criteria, shall be conducted and documented every six (6) months by a CCCM.

2.13 The Applicant shall be subject to the requirements per hereto attached, and inhere incorporated, Addendum 1, “Suspension Means Replacement Reporting Condition.”

2.14 Records of all tests and inspections shall be maintenance records subject to ASME A17.1-2004, sections 8.6.1.2, and 8.6.1.4, respectively.

2.15 The subject elevators(s) shall be equipped with a TK Elevator Model 104DP001 Residual Strength Detection Device accepted by the Division on May 4, 2021 or Division accepted equivalent device.

<u>Control and Operating Circuits</u>
<u>Combined Software Redundant Devices with Software Removal of Power from Driving Motor and Brake (Variance Request No. 3)</u>
<u>Removal of Power from Driving Motor Without Electro-mechanical Switches (Variance Request No. 4)</u>

3.0 The SIL rated circuitry used to provide device/circuit redundancy and to inhibit electrical current flow in accordance with ASME A17.1-2004, sections 2.26.9.4 and 2.26.9.6.1 shall comply with the following:

3.1 The SIL rated systems and related circuits shall consist of:

3.1.1. ELGO LIMAX33 RED, (aka LIMAX3R-03-050-0500-CNXTG-RJU), Safe Magnetic Absolute Shaft Information System, labeled or marked with the SIL rating (not less than SIL 3), the name or mark of the certifying organization, and the SIL certification number (968/A 163), followed by the applicable revision number (as in 968/A 163.07/19).

3.1.2 Printed circuit board assembly SSOA (6300 AHE001), labeled or marked with the SIL rating (not less than SIL 3), the name or mark of the certifying organization, and the SIL certification number (968/FSP 1347), followed by the applicable revision number (as in 968/FSP 1347.00/16).

3.1.3 Two circuit board components (Serializer S3I and S3O), each labeled or marked with the SIL rating (not less than SIL 3), the name or mark of the certifying organization and the SIL certification number (968/A 162), followed by the applicable revision number (as in 968/A 162.04/18)

3.2 The software system and related circuits shall be certified for compliance with the applicable requirements of ASME A17.1-2013, section 2.26.4.3.2.

3.3 The access door or cover of the enclosures containing the SIL rated components shall be clearly labeled or tagged on their exterior with the statement:

**Assembly contains SIL rated devices.**
**Refer to maintenance Control Program and wiring diagrams**
**prior to performing work.**

3.4 Unique maintenance procedures or methods required for the inspection, testing, or replacement of the SIL rated circuits shall be developed and a copy maintained in the elevator machine/control room/space. The procedures or methods shall include clear color photographs of each SIL rated component, with notations identifying parts and locations.

3.5 Wiring diagrams that include part identification, SIL, and certification information shall be maintained in the elevator machine/control room/space.

3.6 A successful test of the SIL rated circuits shall be conducted initially and not less than annually in accordance with the testing procedure. The test shall demonstrate that SIL rated devices, safety functions, and related circuits operate as intended.

3.7 Any alterations to the SIL rated circuits shall be made in compliance with the Elevator Safety Orders. If the Elevator Safety Orders do not contain specific provisions for the alteration of SIL rated devices, the alterations shall be made in conformance with ASME A17.1-2013, section 8.7.1.9.

3.8 Any replacement of the SIL rated circuits shall be made in compliance with the Elevator Safety Orders. If the Elevator Safety Orders do not contain specific

provisions for the replacement of SIL rated devices, the replacement shall be made in conformance with ASME A17.1-2013, section 8.6.3.14.

3.9 Any repairs to the SIL rated circuits shall be made in compliance with the Elevator Safety Orders. If the Elevator Safety Orders do not contain specific provisions for the repair of SIL rated devices, the repairs shall be made in conformance with ASME A17.1-2013, section 8.6.2.6.

3.10 Any space containing SIL rated circuits shall be maintained within the temperature and humidity range specified by TKE. The temperature and humidity range shall be posted on each enclosure containing SIL rated software or circuits.

3.11 Field software changes to the SIL rated system are not permitted. Any changes to the SIL rated system's circuitry will require recertification and all necessary updates to the documentation and diagrams required by Conditions 3.4 and 3.5 above.

Inspection Transfer Switch and Seismic Reset Switch (Variance Request Nos. 5 and 6):

4.0 Inspection Transfer switch and Seismic Reset switch placement and enclosure shall comply with the following:

4.1 If the inspection transfer switch required by ASME A17.1-2004, section 2.26.1.4.4, does not reside in a machine room, that switch shall not reside in the elevator hoistway. The switch shall reside in the control/machinery room/space containing the elevator's control equipment in an enclosure secured by a lock openable by a Group 1 security key. The enclosure is to remain locked at all times when not in use.

4.2 If the seismic reset switch does not reside in the machine room, that switch shall not reside in the elevator hoistway. The switch shall reside in the control/machinery room/space containing the elevator's control equipment in an enclosure secured by a lock openable by a Group 1 security key. The enclosure is to remain locked at all times when not in use.

5.0 The elevator shall be serviced, maintained, adjusted, tested, and inspected only by CCCM having been trained, and competent, to perform those tasks on the TKE EVO 200 elevator system in accordance with written procedures and criteria, including as required per above Conditions 2.3, and 2.4.

6.0 The Division shall be notified when the elevator is ready for inspection. The elevator shall be inspected by the Division, and all applicable requirements met, including conditions of this permanent variance, prior to a Permit to Operate the elevator being issued. The elevator shall not be placed in full service prior to the Permit to Operate being issued by Division.

7.0 The Applicant shall notify its employees or their authorized representative(s), or both, of this order in the same way and to the same extent that employees and authorized representatives are to be notified of docketed permanent variance applications pursuant to sections 411.2 and 411.3.

8.0 This Decision and Order shall remain in effect unless modified or revoked upon application by the Applicant, affected employee(s), the Division, or by the Board on its own motion, in the manner prescribed for its issuance.

Pursuant to section 426(b), the Proposed Decision is submitted to the Board for consideration of adoption.

DATED: May 26, 2023

Michelle Iorio

Michelle Iorio, Hearing Officer

**ADDENDUM 1**

SUSPENSION MEANS REPLACEMENT REPORTING REQUIREMENTS

Beginning on the date the Board adopts this Proposed Decision and continuing for a period of two years, the Applicant shall report to the Division within 30 days any and all replacement activity performed on the elevator(s) pursuant to the requirements of ASME A17.1-2004, section 8.6.3 involving the suspension means or suspension means fastenings.

Further:

(1) A separate report for each elevator shall be submitted, in a manner acceptable to the Division, to the following address (or to such other address as the Division might specify in the future): DOSH Elevator Unit, Attn: Engineering Section, 2 MacArthur Place Suite 700, Santa Ana, CA 92707.

(2) Each such report shall contain, but not necessarily be limited to, the following information:

(a) The State-issued conveyance number, complete address, and OSHSB file number that identifies the permanent variance.

(b) The business name, complete address, telephone number, and contact person of the elevator responsible party (presumably the Applicant or the subsequent holder of this variance).

(c) The business name, complete address, telephone number, and Certified Qualified Conveyance Company (CQCC) certification number of the firm performing the replacement work.

(d) The name (as listed on certification), Certified Competent Conveyance Mechanic (CCCM) certification number, and certification expiration date of each CCCM performing the replacement work.

(e) The date and time the elevator was removed from normal service for suspension replacement, the date and time the replacement work commenced, the date and time the replacement work was completed, and the date and time the elevator was returned to normal service.

(f) A detailed description of, and clear color photographs depicting, (1) all the conditions that existed in the suspension components requiring their replacement and (2) any conditions that existed to cause damage or distress to the suspension components being replaced.

(g) A detailed list of all elevator components adjusted, repaired, or replaced in conjunction with the suspension component replacement.

(h) All information provided on the crosshead data plate per ASME A17.1-2004, section 2.20.2.1, unless that ASME requirement is modified by the conditions of a variance

that pertains to the elevator in question, in which case, the information to be reported shall be the information required by the ASME provision as modified by the variance.

(i) For the suspension means being replaced, all information provided on the data tag required per ASME A17.1-2004, section 2.20.2.2, unless that ASME requirement is modified by the conditions of a variance that pertains to the elevator in question, in which case, the information to be reported shall be the information required by the ASME provision as modified by the variance.

(j) For the replacement suspension means, all information provided on the data tag required by ASME A17.1-2004, section 2.20.2.2, unless that ASME requirement is modified by the conditions of a variance that pertains to the elevator in question, in which case, the information to be reported shall be the information required by the ASME provision as modified by the variance.

(k) Any other information requested by the Division regarding the replacement of the suspension means or fastenings.

In addition to the submission of the report to the Division, the findings of any testing, failure analysis, or other engineering evaluations performed on any portion of the replaced suspension components, or other elevator components replaced in conjunction therewith, shall be submitted to the Division referencing the information contained in item 2(a) above.

## ADDENDUM 2

CIRCULAR LETTER E-10-04, October 6, 2010

TO: Installers, Manufacturers of Conveyances and Related Equipment and, Other Interested Parties

SUBJECT: Coated Steel Belt Monitoring

The Elevator Safety Orders require routine inspection of the suspension means of an elevator to assure its safe operation.

The California Labor Code section 7318 allows the Division to promulgate special safety orders in the absence of regulation.

As it is not possible to see the steel cable suspension means of a Coated Steel Belt, a monitoring device which has been accepted by the Division is required on all Coated Steel Belts which will automatically stop the car if the residual strength of any belt drops below 60%. The Device shall prevent the elevator from restarting after a normal stop at a landing.

The monitoring device must be properly installed and functional. A functioning device may be removed only after a determination has been made that the residual strength of each belt exceeds 60%. These findings and the date of removal are to be conspicuously documented in the elevator machine room. The removed device must be replaced or returned to proper service within 30 days.

If upon routine inspection, the monitoring device is found to be in a non-functional state, the date and findings are to be conspicuously documented in the elevator machine room.

If upon inspection by the Division, the monitoring device is found to be non-functional or removed, and the required documentation is not in place, the elevator will be removed from service.

If the device is removed to facilitate belt replacement, it must be properly installed and functional before the elevator is returned to service.

A successful test of the device's functionality shall be conducted once a year.

This circular does not preempt the Division from adopting regulations in the future, which may address the monitoring of Coated Steel Belts or any other suspension means.

This circular does not create an obligation on the part of the Division to permit new conveyances utilizing Coated Steel Belts.

Debra Tudor
Principal Engineer
DOSH-Elevator Unit HQ

## ADDENDUM 3

(A) A Residual Strength Detection Device (RSDD) shall continuously monitor all Elastomeric Coated Steel Belt suspension members (ECSB), automatically stopping the car if the residual strength of any belt drops below 60%. The RSDD shall prevent the elevator from restarting after a normal stop at a landing. The RSDD shall device shall apply a form of electrical current and/or signal through the entire length of the steel tension elements of the ECSB and measure the current and/or signal on its return. The values measured shall be continuously compared to values that have been correlated to the remaining residual strength of the ECSB through testing. The required RSDD shall not rely upon giant magnetoresistance technology, or other magnetic measurement means, for residual strength detection or monitoring.

The RSDD must be properly installed and functional. A functioning device may be removed only after a determination has been made that the residual strength of each belt exceeds 60%. These findings and the date of removal are to be conspicuously documented in the elevator machine room or controller location. The removed RSDD must be replaced or returned to proper service within 30 days. If upon routine inspection, the RSDD device is found to be in a non-functional state, the date and findings are to be conspicuously documented in the elevator machine room or controller location.

If upon inspection by the Division, the RSDD is found to be non-functional or removed, and the required documentation is not in place, the elevator will be removed from service. If the device is removed to facilitate belt replacement, it must be properly installed and functional before the elevator is returned to service.

(B) On or before November 21 2021, and thereafter, the above specified and documented RSDD shall be installed and operational on the subject elevator.

(C) A successful functionality test of each RSDD shall be conducted once a year, and a copy of completed testing documentation conspicuously located in the machine room or within proximity of the controller.

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 Application for Permanent Variance Regarding:<br><br>Otis Gen2S/Gen3Edge Elevator (Group IV) | OSHSB File No.: Per Section A table below<br>Proposed Decision Dated: May 26, 2023<br><br>DECISION |

The Occupational Safety and Health Standards Board hereby adopts the attached PROPOSED DECISION by Autumn Gonzalez, Hearing Officer.

_____
DAVID THOMAS, Chairman

_____
BARBARA BURGEL, Member

_____
KATHLEEN CRAWFORD, Member

_____
DAVID HARRISON, Member

_____
NOLA KENNEDY, Member

_____
CHRIS LASZCZ-DAVIS, Member

_____
LAURA STOCK, Member

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Date of Adoption: June 15, 2023

THE FOREGOING VARIANCE DECISION WAS ADOPTED ON THE DATE INDICATED ABOVE. IF YOU ARE DISSATISFIED WITH THE DECISION, A PETITION FOR REHEARING MAY BE FILED BY ANY PARTY WITH THE STANDARDS BOARD WITHIN TWENTY (20) DAYS AFTER SERVICE OF THE DECISION. YOUR PETITION FOR REHEARING MUST FULLY COMPLY WITH THE REQUIREMENTS OF CALIFORNIA CODE OF REGULATIONS, TITLE 8, SECTIONS 427, 427.1 AND 427.2.

Note: A copy of this Decision must be posted for the Applicant's employees to read, and/or a copy thereof must be provided to the employees' Authorized Representatives.

BEFORE THE
OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
DEPARTMENT OF INDUSTRIAL RELATIONS
STATE OF CALIFORNIA

| | |
|---|---|
| In the Matter of Application for Permanent Variance Regarding:<br><br>Otis Gen2S/Gen3Edge Elevator (Group IV) | OSHSB File Nos.: See section A table below<br><br>PROPOSED DECISION<br><br>Hearing Date: May 24, 2023 |

A. Subject Matter

1. Each applicant ("Applicant") in the table below has applied for permanent variances from provisions of the Elevator Safety Orders, found at title 8 of the California Code of Regulations[1], as stated:

| Variance No. | Applicant Name | Variance Location Address | No. of Elevators |
|---|---|---|---|
| 23-V-138 | Intergulf Development (495 Hartford) LLC | 1441 W. 5th St.<br>Los Angeles, CA | 2 |

2. The safety orders from which variance may issue, are in the portion of the Decision and Order below, preceding the variance conditions.

B. Procedural

1. This proceeding is conducted in accordance with Labor Code section 143, and section 401, et. seq. of the Board's Procedural regulations.

2. This hearing was held on May 24, 2023, in Sacramento, California, and via videoconference, by the Occupational Safety and Health Standards Board ("Board"), with Hearing Officer Autumn Gonzalez, both presiding and hearing the matter on its merit, as a basis of proposed decision to be advanced to the Board for its consideration, in accordance with section 426.

3. At the hearing, Dan Leacox of Leacox & Associates and Wolter Geesink with Otis Elevator appeared on behalf of each Applicant; David Morris and Jose Ceja appeared on behalf of the Division of Occupational Safety and Health ("Division"), and Michael Nelmida appeared on behalf of Board staff, in a technical advisory role apart from the Board.

[1] All references are to title 8, California Code of Regulations, unless otherwise stated.

4. Oral evidence was received at the hearing, and by stipulation of all parties, documents were admitted into evidence:

| Exhibit Number | Description of Exhibit |
|---|---|
| PD-1 | Permanent variance applications per Section A.1 table |
| PD-2 | OSHSB Notice of Hearing |
| PD-3 | Board Staff Reviews of Variance Application |
| PD-4 | Division Reviews of Variance Application |
| PD-5 | Review Draft-1 Proposed Decision |

Official notice is taken of the Board's rulemaking records, and variance files and decisions, concerning the Elevator Safety Order standards at issue. At close of hearing on May 24, 2023, the record was closed, and the matter taken under submission by the Hearing Officer.

C. Findings and Basis

Based on the record of this hearing, the Board makes the following findings of fact:

1. Each Applicant intends to utilize Otis Gen3 Edge/Gen2S elevators at the locations and in the numbers stated in the above section A table.

2. The installation contracts for these elevators were or will be signed on or after May 1, 2008, making the elevators subject to the Group IV Elevator Safety Orders.

3. The Board incorporates by reference Items (i.e. sections) D.3 through D.9 of the Proposed Decision adopted by the Board on July 18, 2013 regarding Permanent Variance No. 12-V-093 and Item D.4 of the Proposed Decision adopted by the Board on September 25, 2014 in Permanent Variance No. 14-V-206.

4. Both Board staff and Division, by way of written submissions to the record (Exhibits PD-3 and PD-4 respectively), and positions stated at hearing, are of the well informed opinion that grant of requested permanent variance, as limited and conditioned per the below Decision and Order will provide employment, places of employment, and subject conveyances, as safe and healthful as would prevail given non-variant conformity with the Elevator Safety Order requirements from which variance has been requested.

D. Conclusive Findings

A preponderance of the evidence supports the finding that each Applicant's proposal, subject to all conditions and limitations set forth in the below Decision and Order, will provide equivalent safety and health to that which would prevail upon full compliance with the requirements of the Elevator Safety Orders from which variance is being sought.

E. Decision and Order

Each permanent variance application the subject of this proceeding is conditionally GRANTED as specified below, and to the extent, as of the date the Board adopts this Proposed Decision, each Applicant listed in the above section A table shall have permanent variances from section 3141 and from the following sections of ASME A17.1-2004 that section 3141 makes applicable to the elevators the subject of those applications:

- Car top railing: sections 2.14.1.7.1 (only to the extent necessary to permit an inset car top railing, if, in fact, the car top railing is inset);

- Speed governor over-speed switch: 2.18.4.2.5(a) (only insofar as is necessary to permit the use of the speed reducing system proposed by the Applicants, where the speed reducing switch resides in the controller algorithms, rather than on the governor, with the necessary speed input supplied by the main encoder signal from the motor);

- Governor rope diameter: 2.18.5.1 (only to the extent necessary to allow the use of reduced diameter governor rope);

- Pitch diameter: 2.18.7.4 (to the extent necessary to use the pitch diameter specified in Condition No. 13.c);

- Suspension means: 2.20.1, 2.20.2.1, 2.20.2.2(a), 2.20.2.2(f), 2.20.3, 2.20.4, 2.20.9.3.4 and 2.20.9.5.4—the variances from these "suspension means" provisions are only to the extent necessary to permit the use of Otis Gen2 flat coated steel suspension belts in lieu of conventional steel suspension ropes;

- Inspection transfer switch: 2.26.1.4.4(a) (only to the extent necessary to allow the inspection transfer switch to reside at a location other than a machine room, if, in fact, it does not reside in the machine room); and

- Seismic reset switch: 8.4.10.1.1(a)(2)(b) (only to the extent necessary to allow the seismic reset switch to reside at a location other than a machine room, if, in fact, it does not reside in the machine room).

These variances apply to the locations and numbers of elevators stated in the section A table (so long as the elevators are Gen3 Edge/Gen2S Group IV devices that are designed, equipped, and installed in accordance with, and are otherwise consistent with, the representations made in the Otis Master File [referred to in previous proposed decisions as the "Gen2 Master File") maintained by the Board, as that file was constituted at the time of this hearing) and are subject to the following conditions:

1. The suspension system shall comply with the following:

    a. The coated steel belt and connections shall have factors of safety equal to those permitted for use by section 3141 [ASME A17.1-2004, section 2.20.3] on wire rope suspended elevators.

    b. Steel coated belts that have been installed and used on another installation shall not be reused.

    c. The coated steel belt shall be fitted with a monitoring device which has been accepted by the Division and which will automatically stop the car if the residual strength of any single belt drops below 60 percent. If the residual strength of any single belt drops below 60 percent, the device shall prevent the elevator from restarting after a normal stop at a landing.

    d. Upon initial inspection, the readings from the monitoring device shall be documented and submitted to the Division.

    e. A successful test of the monitoring device's functionality shall be conducted at least once a year (the record of the annual test of the monitoring device shall be a maintenance record subject to ASME A17.1-2004, section 8.6.1.4).

    f. The coated steel belts used shall be accepted by the Division.

2. With respect to each elevator subject to this variance, the applicant shall comply with Division Circular Letter E-10-04, the substance of which is attached hereto as Addendum 1 and incorporated herein by this reference.

3. The Applicant shall not utilize the elevator unless the manufacturer has written procedures for the installation, maintenance, inspection, and testing of the belts and monitoring device and criteria for belt replacement, and the applicant shall make those procedures and criteria available to the Division upon request.

4. The flat coated steel belts shall be provided with a metal data tag that is securely attached to one of those belts. This data tag shall bear the following flat steel coated belt data:

    a. The width and thickness in millimeters or inches;

    b. The manufacturer's rated breaking strength in (kN) or (lbf);

    c. The name of the person or organization that installed the flat coated steel belts;

    d. The month and year the flat coated steel belts were installed;

e. The month and year the flat coated steel belts were first shortened;

f. The name or trademark of the manufacturer of the flat coated steel belts; and

g. Lubrication information.

5. There shall be a crosshead data plate of the sort required by section 2.20.2.1, and that plate shall bear the following flat steel coated belt data:

   a. The number of belts;

   b. The belt width and thickness in millimeters or inches; and

   c. The manufacturer's rated breaking strength per belt in (kN) or (lbf).

6. The opening to the hoistway shall be effectively barricaded when car top inspection, maintenance, servicing, or testing of elevator equipment in the hoistway is required. If service personnel must leave the area for any reason, the hoistway and control room doors shall be closed.

7. If there is an inset car top railing:

   a. Serviceable equipment shall be positioned so that mechanics and inspectors do not have to climb on railings to perform adjustment, maintenance, repairs or inspections. The applicant shall not permit anyone to stand on or climb over the car top railing.

   b. The distance that the car top railing may be inset shall be limited to no more than 6 inches.

   c. All exposed areas outside the car top railing shall preclude standing or placing objects or persons which may fall and shall be beveled from the mid- or top rail to the outside of the car top.

   d. The top of the beveled area and/or car top outside the railing, shall be clearly marked. The markings shall consist of alternating 4 inch diagonal red and white stripes.

   e. The applicant shall provide durable signs with lettering not less than ½ inch on a contrasting background on each inset railing; each sign shall state:

**CAUTION**
**DO NOT STAND ON OR CLIMB OVER RAILING**

   f. The Group IV requirements for car top clearances shall be maintained (car top clearances outside the railing shall be measured from the car top and not from the required bevel).

8. If the seismic reset switch does not reside in a machine room, that switch shall not reside in the elevator hoistway. The switch shall reside in the inspection and test control panel located in one upper floor hoistway door jamb or in the control space (outside the hoistway) used by the motion controller.

9. If the inspection transfer switch required by ASME A17.1, rule 2.26.1.4.4(a) does not reside in a machine room, that switch shall not reside in the elevator hoistway. The switch shall reside in the inspection and test control panel located in one upper floor hoistway door jamb or in the control space (outside the hoistway) used by the motion controller.

10. When the inspection and testing panel is located in the hoistway door jamb, the inspection and test control panel shall be openable only by use of a Security Group I restricted key.

11. The governor speed-reducing switch function shall comply with the following:

    a. It shall be used only with direct drive machines; i.e., no gear reduction is permitted between the drive motor and the suspension means.

    b. The velocity encoder shall be coupled to the driving machine motor shaft. The “C” channel of the encoder shall be utilized for velocity measurements required by the speed reducing system. The signal from “C” channel of the encoder shall be verified with the “A” and “B” channels for failure. If a failure is detected then an emergency stop shall be initiated.

    c. Control system parameters utilized in the speed-reducing system shall be held in non-volatile memory.

    d. It shall be used in conjunction with approved car-mounted speed governors only.

    e. It shall be used in conjunction with an effective traction monitoring system that detects a loss of traction between the driving sheave and the suspension means. If a loss of traction is detected, then an emergency stop shall be initiated.

    f. A successful test of the speed-reducing switch system’s functionality shall be conducted at least once a year (the record of the annual test of the speed-reducing switch system shall be a maintenance record subject to ASME A17.1-2004, section 8.6.1.4).

    g. A successful test of the traction monitoring system’s functionality shall be conducted at least once a year (the record of the annual test of the traction monitoring system shall be a maintenance record subject to ASME A17.1-2004, section 8.6.1.4).

    h. The Applicant shall not utilize the elevator unless the manufacturer has written procedures for the maintenance, inspection, and testing of the speed-reducing switch and traction

monitoring systems. The Applicant shall make the procedures available to the Division upon request.

12. The speed governor rope and sheaves shall comply with the following:

    a. The governor shall be used in conjunction with a 6 mm (0.25 in.) diameter steel governor rope with 6-strand, regular lay construction.

    b. The governor rope shall have a factor of safety of 8 or greater as related to the strength necessary to activate the safety.

    c. The governor sheaves shall have a pitch diameter of not less than 180 mm (7.1 in.).

13. The elevator shall be serviced, maintained, adjusted, tested, and inspected only by Certified Competent Conveyance Mechanics who have been trained to, and are competent to, perform those tasks on the Gen3 Edge/Gen2S elevator system in accordance with the written procedures and criteria required by Condition No. 3 and in accordance with the terms of this permanent variance.

14. Any Certified Qualified Conveyance Company performing inspections, maintenance, servicing, or testing of the elevators shall be provided a copy of this variance decision.

15. The Division shall be notified when the elevator is ready for inspection. The elevator shall be inspected by the Division, and a Permit to Operate shall be issued before the elevator is placed in service.

16. The Applicant shall be subject to the Suspension Means – Replacement Reporting Condition stated in Addendum 2, as hereby incorporated by this reference.

17. The Applicant shall notify its employees or their authorized representative(s), or both, of this order in the same way and to the same extent that employees and authorized representatives are to be notified of docketed permanent variance applications pursuant to sections 411.2 and 411.3.

18. This Decision and Order shall remain in effect unless modified or revoked upon application by the Applicant, affected employee(s), the Division of Occupational Safety and Health, or by the Board on its own motion, in accordance with the Board's procedural rules.

Pursuant to section 426(b), the above Proposed Decision is submitted to the Standards Board for consideration of adoption.

Dated: May 26, 2023

Autumn Gonzalez, Hearing Officer

**ADDENDUM 1**

October 6, 2010

**CIRCULAR LETTER E-10-04**

TO: Installers, Manufacturers of Conveyances and Related Equipment and, Other Interested Parties

SUBJECT: Coated Steel Belt Monitoring

The Elevator Safety Orders require routine inspection of the suspension means of an elevator to assure its safe operation.

The California Labor Code section 7318 allows the Division to promulgate special safety orders in the absence of regulation.

As it is not possible to see the steel cable suspension means of a Coated Steel Belt, a monitoring device which has been accepted by the Division is required on all Coated Steel Belts which will automatically stop the car if the residual strength of any belt drops below 60%. The Device shall prevent the elevator from restarting after a normal stop at a landing.

The monitoring device must be properly installed and functional. A functioning device may be removed only after a determination has been made that the residual strength of each belt exceeds 60%. These findings and the date of removal are to be conspicuously documented in the elevator machine room. The removed device must be replaced or returned to proper service within 30 days.

If upon routine inspection, the monitoring device is found to be in a non-functional state, the date and findings are to be conspicuously documented in the elevator machine room.

If upon inspection by the Division, the monitoring device is found to be non-functional or removed, and the required documentation is not in place, the elevator will be removed from service.

If the device is removed to facilitate belt replacement, it must be properly installed and functional before the elevator is returned to service.

A successful test of the device's functionality shall be conducted once a year.

This circular does not preempt the Division from adopting regulations in the future, which may address the monitoring of Coated Steel Belts or any other suspension means.

This circular does not create an obligation on the part of the Division to permit new conveyances utilizing Coated Steel Belts.

Debra Tudor
Principal Engineer
DOSH-Elevator Unit HQS

## ADDENDUM 2

### Suspension Means – Replacement Reporting Condition

Beginning on the date the Board adopts this Proposed Decision and continuing for a period of two years, the Applicant shall report to the Division within 30 days any and all replacement activity performed on the elevator(s) pursuant to the requirements of ASME A17.1-2004, section 8.6.3 involving the suspension means or suspension means fastenings.

Further:

1. A separate report for each elevator shall be submitted, in a manner acceptable to the Division, to the following address (or to such other address as the Division might specify in the future): DOSH Elevator Unit, 2 MacArthur Place, Suite 700, Santa Ana, CA 92707, Attn: Engineering Section.

2. Each such report shall contain, but not necessarily be limited to, the following information:

    a. The State-issued conveyance number, complete address, and OSHSB file number that identifies the permanent variance.

    b. The business name, complete address, telephone number, and contact person of the elevator responsible party (presumably the Applicant or the subsequent holder of this variance).

    c. The business name, complete address, telephone number, and Certified Qualified Conveyance Company (CQCC) certification number of the firm performing the replacement work.

    d. The name (as listed on certification), Certified Competent Conveyance Mechanic (CCCM) certification number, certification expiration date, and signature of each CCCM performing the replacement work.

    e. The date and time the elevator was removed from normal service for suspension replacement, the date and time the replacement work commenced, the date and time the replacement work was completed, and the date and time the elevator was returned to normal service.

    f. A detailed description of, and clear color photographs depicting, (1) all the conditions that existed in the suspension components requiring their replacement and (2) any conditions that existed to cause damage or distress to the suspension components being replaced.

g. A detailed list of all elevator components adjusted, repaired, or replaced in conjunction with the suspension component replacement.

h. All information provided on the crosshead data plate per ASME A17.1-2004, section 2.20.2.1, unless that ASME requirement is modified by the conditions of a variance that pertains to the elevator in question, in which case, the information to be reported shall be the information required by the ASME provision as modified by the variance.

i. For the suspension means being replaced, all information provided on the data tag required per ASME A17.1-2004, section 2.20.2.2, unless that ASME requirement is modified by the conditions of a variance that pertains to the elevator in question, in which case, the information to be reported shall be the information required by the ASME provision as modified by the variance.

j. For the replacement suspension means, all information provided on the data tag required by ASME A17.1-2004, section 2.20.2.2, unless that ASME requirement is modified by the conditions of a variance that pertains to the elevator in question, in which case, the information to be reported shall be the information required by the ASME provision as modified by the variance.

k. Any other information requested by the Division regarding the replacement of the suspension means or fastenings.

3. In addition to the submission of the report to the Division, the findings of any testing, failure analysis, or other engineering evaluations performed on any portion of the replaced suspension components, or other elevator components replaced in conjunction therewith, shall be submitted to the Division referencing the information contained in item 2a above.

# Occupational Safety and Health Standards Board

## Business Meeting

## Legislative Update

**Legislative Update**
**Prepared June 2, 2023 for the June 15, 2023**
**Meeting of the Occupational Safety and Health Standards Board**

AB-1 Oil refineries: maintenance.(2023-2024) – NO UPDATE

**AB-1**

**AB-1 Oil refineries: maintenance.(2023-2024)**

(Ting)

| Date | Action |
|---|---|
| 01/26/23 | Referred to Com. on P.E. & R. |
| 12/06/22 | From printer. May be heard in committee January 5. |
| 12/05/22 | Read first time. To print. |

Summary:

AB 1, as introduced, Ting. Oil refineries: maintenance.

The California Refinery and Chemical Plant Worker Safety Act of 1990 requires, among other things, every petroleum refinery employer to submit to the Division of Occupational Safety and Health a full schedule of planned turnarounds, meaning a planned, periodic shutdown of a refinery process unit or plant to perform maintenance, overhaul, and repair operations and to inspect, test, and replace process materials and equipment, as provided.

This bill would express the intent of the Legislature to enact subsequent legislation to ensure that only one oil refinery in the state is undergoing scheduled maintenance at a time.

Board staff is monitoring for potential impacts on Board operations.

**Legislative Update**
**Prepared June 2, 2023 for the June 15, 2023**
**Meeting of the Occupational Safety and Health Standards Board**

AB-521 Occupational safety and health standards: restrooms.(2023-2024) – UPDATED

**AB-521**

**AB-521 Occupational safety and health standards: restrooms.(2023-2024)**

(Bauer-Kahan)

| Date | Action |
|---|---|
| | Set for Hearing on June 14 at 9:30 a.m. |
| 05/31/23 | Referred to Com. on L., P.E. & R. |
| 05/23/23 | In Senate. Read first time. To Com. on RLS. for assignment. |
| 05/22/23 | Read third time. Passed. Ordered to the Senate. (Ayes 77. Noes 0.) |
| 05/15/23 | Read third time and amended. Ordered to third reading. |
| 05/11/23 | Read second time. Ordered to third reading. |
| 05/10/23 | From committee: Do pass. (Ayes 15. Noes 0.) (May 10). |
| 04/27/23 | From committee: Do pass and re-refer to Com. on APPR. (Ayes 7. Noes 0.) (April 26). Re-referred to Com. on APPR. |
| 04/18/23 | Re-referred to Com. on L. and E. |
| 04/17/23 | From committee chair, with author's amendments: Amend, and re-refer to Com. on L. and E. Read second time and amended |
| 02/17/23 | Referred to Com. on L. & E. |
| 02/08/23 | From printer. May be heard in committee March 10. |
| 02/07/23 | Read first time. To print. |

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| | Summary:<br><br>AB 521, as amended, Bauer-Kahan. Occupational safety and health standards: construction jobsites: restrooms.<br><br>Existing law grants the Division of Occupational Safety and Health, which is within the Department of Industrial Relations, jurisdiction over all employment and places of employment, with the power necessary to enforce and administer all occupational health and safety laws and standards. The Occupational Safety and Health Standards Board, an independent entity within the department, has the exclusive authority to adopt occupational safety and health standards within the state. Existing law, the California Occupational Safety and Health Act of 1973 (OSHA), requires employers to comply with certain safety and health standards, as specified, and charges the division with enforcement of the act.<br><br>Existing law requires the division, before December 1, 2025, to submit to the standards board a rulemaking proposal to consider revising the heat illness standard and wildfire smoke standard. Existing law also requires the standards board to review the proposed changes and consider adopting revised standards on or before December 31, 2025.<br><br>This bill would also require the division, before December 1, 2025, to submit to the standards board a rulemaking proposal to consider revising a regulation on construction jobsite restrooms to require at least one women's designated restroom for jobsites with 2 or more required water closets. The bill would require the standards board to review the proposed changes and consider adopting revised standards for the standards described above on or before December 31, 2025. The bill would include related legislative findings.<br><br>Board staff is monitoring for potential impacts on Board operations. |

AB-1007 Occupational safety and health standards: plume.(2023-2024) - UPDATED

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| **AB-1007** | **AB-1007 Occupational safety and health standards: plume.**(2023-2024)<br><br>(Ortega) |

| Date | Action |
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| 05/31/23 | Read third time. Passed. Ordered to the Senate. |

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| 05/18/23 | Read second time. Ordered to third reading. |
| 05/18/23 | From committee: Do pass. (Ayes 11. Noes 4.) (May 18). |
| 04/19/23 | In committee: Set, first hearing. Referred to suspense file. |
| 03/22/23 | From committee: Do pass and re-refer to Com. on APPR. (Ayes 5. Noes 2.) (March 22). Re-referred to Com. on APPR. |
| 02/23/23 | Referred to Com. on L. & E. |
| 02/16/23 | From printer. May be heard in committee March 18. |
| 02/15/23 | Read first time. To print. |

Summary:

AB 1007, as introduced, Ortega. Occupational safety and health standards: plume.

Under existing law, the Occupational Safety and Health Standards Board within the Department of Industrial Relations promulgates and enforces occupational safety and health standards for the state, including standards dealing with toxic materials and harmful physical agents. Under existing law, the Division of Occupational Safety and Health is required to enforce all occupational safety and health standards, as specified. A violation of these standards and regulations under specific circumstances is a crime.

This bill would, by June 1, 2024, require the division to submit to the board a proposed regulation requiring a health facility to evacuate or remove plume through the use of a plume scavenging system in all settings that employ techniques that involve the creation of plume. The bill would require the division, when developing regulations, to consider, among other things, recommendations on the evacuation of plume from the federal Occupational Safety and Health Administration and National Institute for Occupational Safety and Health. The bill would require the board to adopt a proposed regulation by January 1, 2025.

This bill would provide that compliance with general room ventilation standards or the use of surgical masks does not satisfy the requirements for protection from surgical plumes under these provisions. The bill would provide that the use of respirators does not satisfy the

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| | requirements for protection from surgical plumes under these provisions, except as specified. The bill would require the manufacturer of a plume scavenging system to provide evidence that the system meets specified minimum requirements when installed, operated, and maintained in accordance with the manufacturer's instructions.<br><br>This bill would specify that these provisions do not limit the authority of the division to develop, or limit the authority of the board to adopt, a regulation with a broader scope or broader application than required by these provisions.<br><br>By expanding the definition of an existing crime, this bill would impose a state-mandated local program.<br><br>The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.<br><br>This bill would provide that no reimbursement is required by this act for a specified reason.<br><br>Board staff is monitoring for potential impacts on Board operations. |

AB-1424 Occupational safety and health: cannabis delivery employee. (2023-2024) - NO UPDATE

**AB-1424**

**AB-1424** Occupational safety and health: cannabis delivery employee.**(2023-2024)**

(Jones-Sawyer)

| Date | Action |
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| 04/05/23 | In committee: Set, first hearing. Hearing canceled at the request of author. |
| 04/04/23 | Re-referred to Com. on L. & E. |
| 04/03/23 | From committee chair, with author's amendments: Amend, and re-refer to Com. on L. & E. Read second time and amended. |

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| 03/09/23 | Referred to Com. on L. & E. |
| 02/18/23 | From printer. May be heard in committee March 20. |
| 02/17/23 | Read first time. To print. |

Summary:

AB 1424, as amended, Jones-Sawyer. Occupational safety and health: cannabis delivery employee.

The Control, Regulate and Tax Adult Use of Marijuana Act of 2016 (AUMA), an initiative measure, authorizes a person who obtains a state license under AUMA to engage in commercial adult-use cannabis activity pursuant to that license and applicable local ordinances. The Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), among other things, consolidates the licensure and regulation of commercial medicinal and adult-use cannabis activities. MAUCRSA establishes the Department of Cannabis Control within the Business, Consumer Services, and Housing Agency to administer the act.

This bill would require a cannabis delivery employer, as defined, to develop, implement, and maintain specified driver safety protocols allowing a cannabis delivery employee, as defined, to not complete a delivery if the delivery would create a real and apparent hazard to the employee or fellow employees, providing for notification and documentation procedures relating to incomplete deliveries, and providing information relating to worker retaliation protections. The bill would impose various requirements on a cannabis delivery employer relating to access to the driver safety protocols, including requiring the employer to make the protocols available to the Department of Cannabis Control upon request. The bill would require a cannabis delivery employer to notify the department upon being notified or becoming aware of an attempted robbery, injury, or death in the course of a delivery. The bill would also require a cannabis delivery employer to ensure that containers used in the delivery of cannabis goods do not indicate that the delivery employee is carrying cannabis goods, as specified.

Existing law prohibits an employee from being laid off or discharged for refusing to perform work in violation of prescribed safety standards, where the violation would create a real and apparent hazard to the employee or fellow employees. Existing law creates a cause of action for wages for the time an employee laid off or discharged for a refusal is without work as a result. Existing law authorizes an employee who believes they have been discharged or otherwise discriminated against in violation of that provision to file a complaint with the Labor Commissioner, as specified.

This bill would create a rebuttable presumption that the cannabis delivery employer violates the above-described prohibition if the employer lays off, discharges, or subjects an employee to an adverse employment action within 90 days of the employee reporting or documenting an incomplete delivery or refusing to complete a delivery that would create a real and apparent hazard, as described above.

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| | Board staff is monitoring for potential impacts on Board operations. |

AB-1766 Division of Occupational Safety and Health: regulations. (2023-2024) - UPDATED

**AB-1766**

**AB 1766 Division of Occupational Safety and Health: regulations. (2023-2024)**

(Kalra, Flora, Chen, Haney, Ortega, and Reyes)

| Date | Action |
|---|---|
| 05/25/23 | Read third time. Passed. Ordered to the Senate. |
| 05/18/23 | Read second time. Ordered to Consent Calendar. |
| 05/17/23 | From committee: Do pass. To Consent Calendar. (Ayes 15. Noes 0.) (May 17). |
| 04/27/23 | From committee: Do pass and re-refer to Com. on APPR. with recommendation: To Consent Calendar. (Ayes 7. Noes 0.) (April 26). Re-referred to Com. on APPR. |
| 04/17/23 | Re-referred to Com. on L. & E. |
| 04/13/23 | From committee chair, with author's amendments: Amend, and re-refer to Com. on L. & E. Read second time and amended. |
| 04/13//23 | Referred to Com. on L. & E. |
| 03/21/23 | From printer. May be heard in committee April 20. |

Summary:

AB 1766, as amended, Committee on Labor and Employment. Division of Occupational Safety and Health: regulations.

(1) Existing law grants the Division of Occupational Safety and Health, which is within the Department of Industrial Relations, jurisdiction over all employment and places of employment, with the power necessary to enforce and administer all occupational health and safety laws and standards, including standards for the operation of passenger tramways. Under existing law, the Occupational Safety and Health Standards Board, an independent entity within the department, has the exclusive authority to adopt occupational safety and health standards within the state.

This bill would require the division to formulate and propose rules and regulations for adoption by the Occupational Safety and Health Standards Board for the safe design, manufacture, installation, repair, maintenance, use, operation, and inspection of all passenger tramways as necessary to protect the public. The bill would require the division to adopt all other rules and regulations necessary for the administration and enforcement of these provisions on passenger tramways.

(2) Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, that generally requires employers to secure the payment of workers' compensation for injuries incurred by their employees that arise out of, or in the course of, employment. Existing law defines "employee" for those purposes.

This bill would correct an obsolete cross-reference within the provision that defines "employee."

(3) Existing federal law, the Workforce Innovation and Opportunity Act of 2014, repeals and supersedes the federal Workforce Investment Act of 1998 and provides for the establishment of a state workforce development board to develop strategies to support the use of career pathways for the purpose of providing individuals with workforce investment activities, education, and support services necessary for them to enter the workforce or retain employment. Existing law contains various programs for job training and employment investment.

Conforming to the federal act, existing state law, the California Workforce Innovation and Opportunity Act, renames the California Workforce Investment Board the California Workforce Development Board and renames local workforce investment boards as local workforce development boards. Existing law establishes the Employment Training Panel within the Employment Development Department and prescribes the functions and duties of the panel with respect to certain employment training programs. Existing law relating to the panel references the superseded federal act and refers to the state and local boards by their former names. Existing law declares the intent of the Legislature that programs developed

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| | pursuant to these provisions not replace, parallel, supplant, compete with, or duplicate in any way already existing approved apprenticeship programs.<br><br>This bill would delete the above-described intent provision. The bill would update statutory references in provisions relating to the panel to refer to the federal Workforce Innovation and Opportunity Act of 2014, the California Workforce Development Board, and local workforce development boards.<br><br>Board staff is monitoring for potential impacts on Board operations. |

SB-553 Occupational safety: workplace violence. (2023-2024) - UPDATED

**SB-553**

**SB-553 Occupational safety: workplace violence. (2023-2024)**

(Cortese)

| Date | Action |
|---|---|
| 05/31/23 | Read third time. Passed. (Ayes 28. Noes 8.) Ordered to the Assembly. |
| 05/23/23 | Read third time and amended. |
| 05/18/23 | From committee: Do pass. (Ayes 5. Noes 2.) (May 18). |
| 05/08/23 | May 8 hearing: Placed on APPR suspense file. |
| 05/01/23 | Set for Hearing on May 8. |
| 04/26/23 | From committee: Do pass and re-refer to Com. on APPR. (Ayes 10. Noes 1.) (April 25). Re-referred to Com. on APPR. |
| 04/19/23 | Re-referred. to Com. on JUD. |
| 04/14/23 | Set for Hearing April 25 in JUD. Pending receipt. |

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| 04/13/23 | From committee: Do pass as amended and re-refer to Com. on RLS. (Ayes 5. Noes 0.) (April 12) |
| 03/28/23 | From committee with author's amendments. Read second time and amended. Re-referred to Com. on L., P.E. & R. |
| 03/21/23 | Set for hearing April 12. |
| 03/20/23 | From committee with author's amendments. Read second time and amended. Re-referred to Com. on L., P.E. & R. |

Summary:

SB 553, as amended, Cortese. Occupational safety: workplace violence: restraining orders and workplace violence prevention plan.

Existing law authorizes any employer, whose employee has suffered unlawful violence or a credible threat of violence from any individual that can reasonably be construed to be carried out or to have been carried out at the workplace, to seek a temporary restraining order and an order after hearing on behalf of the employee and other employees at the workplace, as described.

This bill would also authorize a collective bargaining representative of an employee, as described above, to seek a temporary restraining order and an order after hearing on behalf of the employee and other employees at the workplace, as described. The bill would make various conforming changes.

Existing law, the California Occupational Safety and Health Act of 1973, imposes safety responsibilities on employers and employees, including the requirement that an employer establish, implement, and maintain an effective injury prevention program, and makes specified violations of these provisions a crime. The act is enforced by the Division of Occupational Safety and Health within the Department of Industrial Relations, including the enforcement of standards adopted by the Occupational Safety and Health Standards Board.

This bill would require every employer, as defined, to also establish, implement, and maintain, at all times in all of the employer's facilities, a workplace violence prevention plan as part of the injury prevention program, as described. The bill would require the employer to record information in a violent incident log about every incident, postincident response, and workplace violence injury investigation required to be performed as part of the workplace violence prevention plan, as described. The bill would require the employer to establish and implement a system to review, at least annually and in conjunction with employees and their collective bargaining representatives, if any, the effectiveness of the workplace violence prevention plan, as described. The bill would require the employer to provide effective training to employees that addresses the workplace violence risks that

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| | employees may reasonably anticipate to encounter in their jobs, as described. The bill would require records of workplace violence hazard identification, evaluation, and correction to be created and maintained in accordance with specified law, except as provided. The bill would provide that an employer shall not prohibit an employee from, and shall not take punitive or retaliatory action against an employee for, seeking assistance and intervention from local emergency services or law enforcement when a violent incident occurs.<br><br>Because this bill would expand the scope of a crime, the bill would impose a state-mandated local program.<br><br>The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.<br><br>This bill would provide that no reimbursement is required by this act for a specified reason.<br><br>Board staff is monitoring for potential impacts on Board operations. |

SB-686 Domestic workers: occupational safety.(2023-2024) - UPDATED

**SB-686**

**SB-686 Domestic workers: occupational safety.(2023-2024)**

(Durazo)

| Date | Action |
|---|---|
| 05/26/23 | In Assembly. Read first time. Held at Desk. |
| 05/26/23 | Read third time. Passed. (Ayes 23. Noes 8.) Ordered to the Assembly. |
| 05/18/23 | Read second time. Ordered to third reading. |
| 05/18/23 | From committee: Do pass. (Ayes 5. Noes 2.) (May 18). |
| 05/08/23 | May 8 hearing: Placed on APPR suspense file. |

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| 05/01/23 | Set for hearing on May 8. |
| 04/26/23 | From committee: Do pass and re-refer to Com. on APPR. (Ayes 4. Noes 1.) (April 26). Re-referred to Com. on APPR. |
| 04/13/23 | Set hearing for April 26. |
| 03/01/23 | Referred to Com. on L., P.E. & R. |
| 02/17/23 | From printer. May be acted upon on or after March 19. |
| 02/16/23 | Introduced. Read first time. To Com. on RLS. for assignment. To print. |

Summary:

SB 686, as introduced, Durazo. Domestic workers: occupational safety.

Existing law establishes within the Department of Industrial Relations the Division of Labor Standards Enforcement and the Division of Occupational Safety and Health, with duties and powers, as prescribed.

Existing law, the California Occupational Safety and Health Act of 1973, requires employers to comply with certain standards ensuring healthy and safe working conditions, as specified. The act charges the Division of Occupational Safety and Health with enforcement of the act, subject to oversight by the Chief of the Division of Occupational Safety and Health. The act excludes household domestic service from the definition of "employment." The act requires the chief, or a representative of the chief, to convene an advisory committee for the purposes of creating voluntary guidance and making recommendations to the department and the Legislature on policies the state may adopt to protect the health and safety of privately funded household domestic service employees, except publicly funded household domestic service and family daycare homes, as specified. The act requires the advisory committee to develop voluntary industry-specific occupational health and safety guidance relating to workplace hazards and the prevention or minimization of work-related injuries and illnesses. The act requires the advisory committee to make recommendations, as specified, on additional policies to protect the health and safety of household domestic service employees. Under specified circumstances, a violation of the act is a crime.

Existing law, until July 1, 2024, requires the Division of Labor Standards Enforcement, upon appropriation of funding for this purpose, to establish and maintain an outreach and education program for the purpose of promoting awareness of, and compliance with, labor protections that affect the domestic work industry and fair and dignified labor standards in this industry and other low-wage industries. Existing law requires the Division of Labor Standards Enforcement to issue a competitive request to community-based organizations

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| | (CBOs) to provide education and outreach services in this connection and prescribes requirements for these organizations. Existing law makes CBOs responsible for developing and consulting with the Division of Labor Standards Enforcement regarding the core education and outreach materials, as specified. Existing law requires the Division of Labor Standards Enforcement and CBOs to meet at least biannually to coordinate efforts around outreach, education, and enforcement, including sharing information, in accordance with applicable privacy and confidentiality laws, that will shape and inform the overall enforcement strategy of the division regarding low-wage industries, including the domestic work industry. Existing law prohibits the Division of Labor Standards Enforcement from expending more than 5% of the budget allocation on the administration of the program.<br><br>This bill would make CBOs responsible for developing and consulting with the Division of Occupational Safety and Health regarding the core education and outreach materials regarding health and safety standards, retaliation, and the division's workplace safety complaint and retaliation process, including specific issues that affect the domestic work industry differently. The bill would make CBOs responsible for all costs related to the development, printing, advertising, or distribution of the education and outreach materials. The bill, on and after July 1, 2024, would require the chief, representatives of the consultation services and enforcement branches of the Division of Occupational Safety and Health, and CBOs to meet periodically, as specified, to coordinate efforts around outreach, education, and enforcement. The bill would prohibit the Division of Labor Standards Enforcement and the Division of Occupational Safety and Health from expending more than 5% of the budget allocation on the administration of the program. The bill would remove the repeal date, thereby making these provisions operative indefinitely.<br><br>This bill, for purposes of the California Occupational Safety and Health Act of 1973, would narrow the exclusion of household domestic service from the definition of "employment" to exclude only publicly funded household domestic service and family daycare homes, as specified. The bill would require the Division of Occupational Safety and Health, by July 1, 2024, to adopt industry guidance to assist household domestic service employers on their legal obligations under existing occupational safety and health laws and regulations that apply to the work activity of household domestic service employees. The bill would require the guidance to be consistent with the voluntary industry guidelines established by the advisory committee. The bill would require a household domestic services employer, by January 1, 2025, to comply with, and adhere to, all applicable occupational safety and health regulations. The bill would require the Division of Occupational Safety and Health, if the division determines that additional industry-specific regulations are necessary, to propose those regulations to the standards board for its review, and would require the standards board to adopt regulations by January 1, 2026.<br><br>The bill would require the Division of Occupational Safety and Health, upon appropriation of funds by the Legislature to the division for the specified purpose, to establish and administer the Household Domestic Services Employment Safety and Technical Assistance Program for |

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| | the purpose of providing one-time grants and technical assistance to household domestic service employers, as prescribed. The bill would prohibit the Division of Occupational Safety and Health from expending more than 5% of the budget allocation on the administration of the program. The bill would require the program to commence by July 1, 2024, and continue until July 1, 2029, with an opportunity to expand or renew contingent on the additional allocation of state funds or identification of other revenue sources.<br><br>By expanding the application of criminal penalties under the act to household domestic service employers, this bill would impose a state-mandated local program.<br><br>The bill would make related legislative findings and declarations.<br><br>The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.<br><br>This bill would provide that no reimbursement is required by this act for a specified reason.<br><br>Board staff is monitoring for potential impacts on Board operations. |

SB-735 Motion picture productions: safety: firearms: ammunition.(2023-2024) – UPDATED

**SB-735**

**SB-735 Motion picture productions: safety: firearms: ammunition.(2023-2024)**

(Cortese)

| Date | Action |
|---|---|
| 06/01/23 | Referred to Com. on L. and E. |
| 05/24/23 | Read third time. Passed. (Ayes 33. Noes 4.) Ordered to the Assembly. |
| 05/18/23 | Read second time and amended. Ordered to second reading. |
| 05/18/23 | From committee: Do pass. (Ayes 5. Noes 2.) (May 18). |
| 05/12/23 | Set for hearing May 18. |
| 05/08/23 | May 8 hearing: Placed on APPR suspense file. |

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| 05/01/23 | Set for hearing on May 8. |
| 04/25/23 | Re-referred to Com. on APPR. |
| 04/24/23 | Read second time and amended. Re-referred to Com. on JUD. |
| 04/20/23 | From committee: Do pass as amended and re-refer to Com. on JUD. (Ayes 5. Noes 0.) (April 19). |
| 04/13/23 | From committee with author's amendments. Read second time and amended. Re-referred to Com. on L., P.E. & R. |
| 04/11/23 | Set for hearing April 19. |
| 03/01/23 | Referred to Coms. on L., P.E. & R. and JUD. |
| 02/21/23 | From printer. May be acted upon on or after March 20. |
| 02/17/23 | Introduced. Read first time. To Com. on RLS. for assignment. To print. |

Summary:

SB 735, as amended, Cortese. Motion picture productions: safety: firearms: ammunition.

Existing law grants the Division of Occupational Safety and Health, which is within the Department of Industrial Relations, jurisdiction over all employment and places of employment, with the power necessary to enforce and administer all occupational health and safety laws and standards. The Occupational Safety and Health Standards Board, an independent entity within the department, has the exclusive authority to adopt occupational safety and health standards within the state. Existing law, the California Occupational Safety and Health Act of 1973, requires employers to comply with certain standards ensuring healthy and safe working conditions, as specified, and charges the division with enforcement of the act. Other existing law relating to occupational safety imposes special provisions on certain industries and charges the division with enforcement of these provisions.

The bill, commencing July 1, 2025, and until June 30, 2030, inclusive, would require an employer that receives a specified motion picture tax credit to hire or assign a qualified safety advisor to perform a risk assessment and, if required under the bill, a specific risk assessment, as specified. The bill would require a dedicated safety advisor to be present on every motion picture production. The bill would require assessments to be accessible to specified affected persons and safety advisor access to locations and relevant facilities and items to ensure

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| | safety. The bill would require production to conduct a daily safety meeting, including, but not limited to, a safety meeting required when firearms are involved in a scene. The bill would require a safety advisor to participate in safety meetings, as specified. The bill would require an employer to identify a person for performers, crew, labor organization representatives, and the division to contact for issues regarding compliance. The bill would require an employer to select an independent evaluator, as prescribed, to prepare a postproduction final safety evaluation report based on the actual risk and compliance experience. The bill would require the independent evaluator, within 60 days after postproduction, to provide its final safety evaluation report to the Industry-Wide Labor-Management Safety Committee. The bill would require the California Film Commission, in collaboration with the committee, on or before January 1, 2029, to provide a nonbinding set of recommendations to the Legislature as to whether the pilot program should be implemented on a permanent basis, and whether to extend its application to all motion picture productions in this state, whether participating in state motion picture tax credits or not. These pilot program provisions would be repealed as of January 1, 2031.<br><br>This bill would allow the use of a firearm and blank on motion picture productions only for specified purposes and under specified safety conditions. The bill would require a qualified property master, armorer, or assistant property master handling a firearm in the course of the motion picture production to have a specified state permit, to have completed certain training in firearms, and to have a specified federal document for the possession and custody of the firearm. The bill would specifically impose prescribed reporting requirements on employers engaged in motion picture production. The bill would specifically authorize the division to investigate, inspect, and cite employers, as prescribed.<br><br>This bill would prohibit ammunition on a motion picture production, except in prescribed circumstances, subject to certain safety rules and laws. The bill would require an employer to ensure that any employee responsible for handling, or in proximity to, firearms on set completes a specific firearm training or equivalent training, as prescribed. The bill would require an employer to comply with the bill and any applicable safety standard. The bill would establish exemptions from its provisions for specified registered security guards and peace officers when they are on the perimeter of a set where motion picture production is happening.<br><br>This bill would require the division to enforce its provisions. The bill would define terms for its purposes. The bill's provisions would become operative on January 1, 2025.<br><br>Board staff is monitoring for potential impacts on Board operations. |

# Occupational Safety and Health Standards Board

## Business Meeting

## Executive Officer's Report