

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

2520 Venture Oaks Way, Suite 350

Sacramento, CA 95833

(916) 274-5721

Website address www.dir.ca.gov/oshsb**Variance Rules of Procedure
Title 8, Articles 1-4****Advisory Committee Meeting Minutes**June 11, 2025
1:00 pm- 5:00 pm

Zoom Meeting

Chair

Autumn Gonzalez, Chief Counsel

Analyst

Tishara Davis, Regulatory Analyst

Standard's Board Staff

Millie Barajas, Executive Officer

Ruth Ibarra, Regulations Manager

Kelly Chau, Attorney

Michelle Iorio, Attorney

Maryrose Chan, Senior Engineer

Participants

Name	Organization
Robert Armstrong	Pacific Gas and Electric
Frank Belio	International Union of Elevator Constructors, Local 18
Damian Broccoli	Servos
Portia Brown	Servos
Dena Caldwell	Kone Elevator
Jose Ceja	Cal/OSHA Elevator Unit
Bill Chisholm	IUEC Local 8
Stacey Christian	Cal/OSHA Research and Standards
Pete Cuellar	US Schindler Elevator Corporation
James Day	TK Elevator
Jason Denning	Cal/OSHA
Chris Doherty	International Union of Elevator Constructors, Local 18
Jonna Eggli	Cal/OSHA Elevator Unit
Wolter Geesnik	Otis Elevator Company

Name	Organization
Aaron Geoffroy	California Department of Tax and Fee Administration
Philip Grone	National Elevator Industry, Inc.
Hong Guidice	California Department of Corrections and Rehabilitation
Meghan Holt	Servos
Matthew Jaskiewicz	Mitsubishi Electric US, Inc
Tom Jenkins	Unidentified
Dan Leacox	Leacox & Associates
Justin Lehr	California Department of Transportation
Eric McClaskey	International Union of Elevator Constructors, Local 8
Jason Moore	CS Caulkins Co Inc
David Morris	Cal/OSHA Elevator Unit
Amber Novey	Laborers' International Union of North America
Keummi Park	Cal/OSHA Research and Standards
Matt Russo	Unidentified
Fuie Saetern	Kone Elevators
Shin Song	California Department of Industrial Relations
Marc Sorisi	US Schindler Elevator Corporation
Mark Wickens	Cal/OSHA Elevator Unit

Summary of Rulemaking Topic

Title 8, Ch. 3.5. Subchapter 1 authorizes the Standards Board to grant or deny applications for variances from adopted standards submitted by employers. To improve efficiency, the Standards Board will make an optional online Variance Information Management System (VIMS) available to employers to submit variance applications. Title 8, Division, Ch3.5. Subchapter 1 will be revised to include VIMS.

Announcements

During the advisory committee meeting, the Standards Board conducted a preview of the optional online Variance Information Management System (VIMS) through the DIR Services Portal. Please review the VIMS portal preview before proceeding to the Discussion. The virtual advisory committee meeting is available on the Department's website at [Variance Rules of Procedure](#).

Economic & Fiscal Impact

VIMS is an optional technology platform that will support the operations of the Variance Program administered by the Standards Board. Furthermore, the Board is anticipating that no economic or fiscal impact will result from the proposed rulemaking.

Discussion

Variance Information Management System (VIMS) Portal Preview

1. Navigating the VIMS Portal System

a. Proposed Amendments to VIMS Portal System

Dan Leacox, Leacox & Associates: Consider incorporating a “docket number column” into the VIMS portal under the “case categories” tab.

b. Comments

Autumn Gonzalez, Chief Counsel: To file a variance application through VIMS. The applicant would log in to the DIR Services Portal and select the “Services” tab. The digital applications available are permanent variance requests, variance modification requests, and variance declaration requests. After the digital form is submitted, an evaluation tab, an activity tab, and an attachment tab are generated.

Damian Broccoli, Servos: The attachment tab will display all attachments that have been submitted. When the Board issues docket letters, evaluations, and other documents, they will appear on the “Attachments” tab for the specified application. The “Activity” tab can function as live chat if both parties are reviewing or editing the same application.

Autumn Gonzalez, Chief Counsel: The “My Cases” tab allows the applicant to view all their submitted variance applications. The variance number, description, status, priority, submitted date, and updated date are reflected. The tab also organizes your variance applications into the following case categories: drafts, tasks, service requests, and information requests.

Matthew Jaskiewicz, Mitsubishi Electric US, Inc.: Please explain the VIMS process if an owner fills out an application, a representative is listed.

Autumn Gonzalez, Chief Counsel: The representative will receive an email notification that the application requires review. If the representative does not review the application within a certain number of days, Board Staff will contact the representative. After the representative provides clearance, the application will be docketed.

Dan Leacox, Leacox and Associates: Consider adding the ability to upload executed variance applications to the VIMS Portal.

Autumn Gonzalez, Chief Counsel: VIMS is optional. The Board will continue to process paper applications via email at OSHSBVariance@dir.ca.gov and by mail at 2520 Venture Oaks Way, Suite 350 Sacramento, CA 95833.

Damian Broccoli, Servos: An original application can be uploaded to VIMS as an attachment. When transcribing a paper application to VIMS, common errors will be flagged and require correction.

Mark Wickens: The Cal/ OSHA Elevator Unit frequently corresponds with applicants regarding variance evaluations. Does VIMS allow for correspondence to be uploaded?

Autumn Gonzalez, Standards Board Chief Counsel: The Board does not consider variance evaluations correspondence(s) to be a matter of record and therefore would not be a part of the official file. You may utilize the chat option in VIMS to interact with the applicant as an alternative to emailing.

Justin Lehr, California Department of Transportation: Please explain the average processing time for variance applications.

Autumn Gonzalez, Standards Board Chief Counsel: Average processing time is thirty to ninety days. The Board expects VIMS to increase efficiency.

Dan Leacox, Leacox and Associates: Per statute, the modification application requires the signature of the original owner.

Autumn Gonzalez, Standards Board Chief Counsel: VIMS digital applications are based on the paper applications, which are in accordance with statute.

Dena Caldwell, Kone Elevator: Please explain how to notate different landings for elevators in VIMS.

Autumn Gonzalez, Standards Board Chief Counsel: VIMS will be modified to account for different landings per conveyance. A check box can be added in VIMS to notate the different landings per conveyance. The applicant can then upload supporting documentation.

Dan Leacox, Leacox and Associates: The “nature of occupancy” is not listed on the VIMS application.

Autumn Gonzalez, Standards Board Chief Counsel: The Board determined that the “nature of occupancy” is not needed. The requirement has also been removed from the current application.

Dan Leacox, Leacox and Associates: The “elevator identification field” in VIMS should be the conveyance and landings information field.

Autumn Gonzalez, Standards Board Chief Counsel: The “elevator identification field” in VIMS is not required.

David Morris, Cal/OSHA Elevator Unit: Safety orders require elevators to have a unique assigned identification. The identification enables the Division to accurately correlate variances with conveyances for large facilities, such as airports.

Wolter Geesnik, Otis Elevator Company: Consider requesting the applicant to indicate the “type of elevator”. The “type of elevator” prevents applications for elevators not under the jurisdiction of the Standards Board from being submitted.

Outcome: Board Staff and Servos explained and answered VIMS inquiries regarding processing variance applications through the digital platform. VIMS is under development, modifications and testing are in progress.

Action Item: The Board will consider the proposed amendment.

Variance Information Management System (VIMS) Portal Preview

2. VIMS Portal Access

a. Proposed Amendments to VIMS Portal Access

None

b. Comments

Autumn Gonzalez, Chief Counsel: A company and or representative may apply through the portal. If the company applies, the representative will be copied on the correspondence that VIMS distributes after an application is submitted.

Damian Broccoli, Servos: A representative with login credentials listed on a submitted application by the company will be permitted to review and amend the application submitted by the owner.

Eric McClaskey, International Union of Elevator Constructors, Local 8: Please describe the type of access that union representatives will have to the VIMS Portal.

Autumn Gonzalez, Chief Counsel: Union representatives are considered interveners within VIMS.

Damian Broccoli, Servos: Intervenors will receive email notifications from VIMS, which include the application and supporting documentation. Intervenors do not have immediate access to records. An additional party login credential can be created to provide the intervener with immediate access to records.

Dan Leacox, Leacox & Associates: Some information on the applications may be confidential. In accordance with the California Public Records Act (1968), access to the portal should be limited.

Autumn Gonzalez, Chief Counsel: The VIMS Portal will not be available to the general public. Public records requests received by the Standards Board are completed per all applicable laws.

Kelly Chau, Standards Board Attorney: Please ensure that confidential information on submitted applications is indicated.

Outcome: Board Staff and Servos answered VIMS access inquiries

Action Item: None

§403. Definitions.

3. Review section 403(d)

- a. (d) “Electronic Signature” means an electronic symbol (e.g., a graphic representation of a person in JPEG file), or process (e.g., a procedure that conveys assent), attached to or logically associated with a record, and executed or adopted by a person with the intent to sign the record;

- b. Proposed Amendments

None

- c. Comments

Autumn Gonzalez, Chief Counsel: Due to the Variance Information Management System being offered as an optional application method for the Variance Program, a definition for “Electronic Signature” was added to section 403.

Outcome: The justification for the added definition “electronic signature” was explained. The text was affirmed.

Action Item: None

§411. Applications for Permanent Variances.

4. Review section 411(b)

- a. (b) The application may be filed by mail, email, or via the Standards Board’s online variance information management system (VIMS). While not required, online filing is preferred once VIMS becomes operative. All documents submitted to the Standards Board via email or mail will be uploaded into VIMS, except for those documents lodged with the Standards Board for in camera inspection.

- b. Proposed Amendments

None

- c. Comments

Autumn Gonzalez, Chief Counsel: Section 411(b) was added to reflect the optional electronic application method for the Variance Program, Variance Information Management System.

Outcome: Section 411(b) was revised to include the optional digital platform, VIMS. The text was affirmed.

Action Item: None

5. Review section 411(c)(1)(2)(3)

- a. (c) Variance applications related to the elevator safety orders must also include:
(1) number of conveyances;
(2) number of landings; and
(3) the type of development.

- b. Proposed Amendments
None

- c. Comments
Autumn Gonzalez, Chief Counsel: The “type of development” is not listed on the paper application. However, the application will be amended.

Walter Geesnik, Otis Elevator Company: Does “number of landings” mean how many elevators and how many floors within the building?

Autumn Gonzalez, Chief Counsel: Yes, that is correct based on the information required by Cal/OSHA.

Dave Morris, Cal/OSHA: Statutes may require certain specifications based on the number of landings. Therefore, the number of landings can affect Cal/OSHA’s evaluation.

Dan Leacox, Leacox & Associates: The “number of landings” is different from the “number of floors”.

Autumn Gonzalez, Chief Counsel: To accurately provide the “number of landings”, the applicant can add an attachment with VIMS.

Outcome: The paper variance application will be amended to include the “type of development”. The meaning of “number of landings” was explained.

Action Item: Board Staff will amend the paper variance application to include the “type of development.”

§411.2. Compliance with Notification and Posting Requirements Regarding Variance Proceedings and Temporary Variance Appeals.

6. Review section 411.2. (d)

- a. (d) Proof of notification or posting shall be submitted to the Board no later than the second working day following the posting or notification.

- b. Proposed Amendments

Dan Leacox, Leacox & Associates: Consider adding the following language, “For variances regarding conveyances, proof of notification to conveyance owner employees shall not be required unless ordered by the Board.”

- c. Comments

Dan Leacox, Leacox & Associates: The Standards Board has jurisdiction over employers, not manufacturers or installers. The obligations of a conveyance variance outlive the installation and maintenance contracts. The conveyance owner, not the installer, is the proper applicant and person with notice obligations. The Certified Competent Conveyance Mechanics (CCCMs) affected by elevator variances are not employees of the conveyance owner. The Standards Board has granted intervenor status to CCCMs and provides notice accordingly. However, the conveyance owner is left with a vague and troublesome obligation to prove notice to its “affected employees”. **(Agreement from International Union of Elevator Constructors, Local 8)**

Eric McClaskey, International Union of Elevator Constructors (IEUC), Local 8:

The elevator Certified Competent Conveyance Mechanics are the affected employees.

Dan Leacox, Leacox & Associates: Consider adding language that depicts to “who proof of notice” is not required.

Dave Morris, Cal/OSHA Elevator Unit: The IUEC represents the majority of individuals who work on elevators, but not all. If language is added regarding representation, consider broadening the terminology to “Union”.

Outcome: Section 411.2.(d) was reviewed in relation to the Board’s jurisdiction to receive proof of notices. The proposed text will be amended.

Action Item: The Board will consider the proposed amendment.

§417. Assignment to Hearing Panels.

7. Review section 417(a)

- a. (a) The chairperson may assign variance proceedings before the board to a hearing panel consisting of one or more Standards Board members for hearing and preparation of a proposed decision in such form that it may be adopted as the decision in the case. Assignments by the chairperson of members on such hearing panels shall be rotated among the members with the composition of the members so assigned being varied and changed to assure that there shall never be a fixed and continued composition of members.

- b. Proposed Amendments

None

- c. Comments

Autumn Gonzalez, Standards Board Chief Counsel: Section 417 (a) was amended to reflect the current procedures when Board Members are assigned for panel variances. A rotation system is not utilized to assign Board Members. Board Members are assigned based on availability.

Outcome: The Board explained the internal procedure regarding selecting Board Members for panel variances.

Action Item: None

§417.1. Objection to Hearing Panel or Hearing Officer or Board Member.

8. Review section 417.1(b)(2)

- a. (2) The name of the hearing officer and the hearing panel members shall be included in the notice of hearing served on all parties. If any change is made to the hearing panel and/or hearing officer assignments subsequent to service of the notice of hearing, the parties, whenever possible, shall be notified of such changes. If the parties are notified of such changes less than ten working days before the scheduled hearing, a party wishing to request a disqualification must make the request as soon as it learns of the new assignment(s). Under such circumstances, the request initially may be made orally, including by telephone, and shall be made to the board before the hearing is convened whenever possible. The request shall then be submitted in writing, in accordance with subsection (b)(1), as soon as possible, and no later than ten working days after the oral request is made. If the request to change the hearing panel and/or hearing officer assignments cannot be made prior to the beginning of the hearing because the parties were not notified of such assignments, or not notified in a timely manner, the request shall be made prior to the taking of evidence at the hearing. If an oral request is made on the record at the hearing and is fully explained at that time, a written request need not be submitted.

b. Proposed Amendments

Dan Leacox, Leacox and Associates: Consider adding, “If the parties are notified of such changes less than ten working days before the scheduled hearing, parties may request a disqualification in writing anytime up to the hearing or on the record at the hearing with a full explanation of reasons.”

c. Comments

Autumn Gonzalez, Standards Board Chief Counsel: Section 417.1(b)(2), which explains the process for an employer to object to a Hearing Panel, Hearing Officer, or Board Member, has been simplified.

Dan Leacox, Leacox and Associates: The proposed deletion removes a necessary reference to the circumstances under which an oral request at a hearing may be made. This can be remedied by restoring the initial bit of language deleted in the draft rule. That is the suggestion made below. If the intent was to make oral request a hearing an option under any circumstances, then the proposed language for (b)(2) conflicts with the (b)(1) requirement to submit a written request at least ten working days before the hearing.

Outcome: The revisions to section 417.1(b)(2) were discussed.

Action Item: The Board will consider the proposed amendment.

§428. Modifications to a Permanent Variance.

9. Review Section 428

- a. (a) A variance is valid only for the Employer to whom it is issued and only for the locations specified in the variance. If an Employer transfers ownership of the business to a different entity, the variance does not transfer to the new Employer.

(b) An Employer must seek to modify a variance if:

(1) the Employer wants to change the terms or conditions of an existing variance;

(2) the Employer wants to acquire the variance from the Employer to whom it was issued; or

(3) the Employer wants to add to or change the locations listed in the existing variance.

(c) Employers seeking to modify a permanent variance must comply with Rules 411-411.2 and must include the docket number of the variance to be modified in the application. An Employer may satisfy 411(b)(3) and (4) by stating that it will comply with the conditions contained in the existing permanent variance that is subject to modification.

b. Proposed Amendments

Dan Leacox, Leacox and Associates: Consider amending section 428(3) to state, “If the street address for the location of the existing variance has changed or needs correction, but the physical location remains the same, the employer may change or correct the address by affidavit stating the new address and the fact of no change in physical location.”

Dan Leacox, Leacox and Associates: Consider adding, “section 428. (b)(4) the Employer wants to add to or change the number of conveyances specified in the existing variance.” In addition to adding subsection (4) consider adding the following language, “If the number of conveyances subject to a variance needs change or correction and the conveyances being added or subtracted are the same in all ways relevant to the variance as those already or still subject to the variance, the employer may change or correct the number of conveyances by affidavit stating the conveyances being added or subtracted are the same model conveyance with the same profile of variance issues as those conveyances already subject to the variance.”

c. Comments

Dan Leacox, Leacox and Associates: Amending Section 428. (b)(3) to simplify a change of address for granted variances is necessary. Sections (b) and (b)(3) together say, “An Employer must seek to modify a variance if (3) the Employer wants to add to or change the locations listed in the existing variance”. A location may be addressed or designated in multiple ways and change over time without any actual change in location. It is consistent with the intent of this section to permit a change of address by simple administrative means when, in fact, the physical location has not changed.

Dave Morris, Cal/OSHA Elevator Unit: A change of address is acceptable if the physical location remains the same. An administrative process to update a change of address is reasonable.

Walter Geesnik, Otis Elevator Company: Consider adding the “number of conveyances” to section 428. (Agreement from Leacox and Associates)

Dan Leacox, Leacox and Associates: The variances submitted for my clients are all subject to the same conditions. When applying for modification to a permanent variance, a statement is submitted stating that “the conveyance being added is of the same kind in all ways that matter relating to the approved elevator”. (Agreement from Otis Elevator Company)

Dave Morris, Cal/OSHA Elevator Unit: Not all variances pertain to a similar type of conveyance. If a conveyance is added or removed from a granted variance, the change of conditions must be considered.

Dan Leacox, Leacox and Associates: As with address changes, there is a common circumstance in which the number of conveyances could be changed by ministerial means rather than variance modification procedures. When all the conveyances subject to the variance and all the conveyances being added to the variance are the same model conveyances with the same profile of variance issues, staff evaluations and board determinations have already been completed.

Dave Morris, Cal/OSHA Elevator Unit: The Division does not object to adding language regarding variances that have similar conveyances. The language would have to be specific because not all variances pertain to a similar type of conveyance.

Outcome: The ability to update the mailing address for granted variances was discussed, and the modifying variances that have similar conveyances. The Board will consider the proposed amendments.

Action Item: The Board will consider the proposed amendments.

Closing Remarks

Autumn Gonzalez, Standards Board Chief Counsel: The optional online Variance Information Management System (VIMS), accessible through the DIR Services Portal, will enhance efficiency for the Variance Program. VIMS is still under development. Therefore, testing will continue.

After VIMS is finalized and available, a user guide and frequently asked questionnaire will be published on the Department's website. Thank you all for your participation.