

HEALTH APPEALS BOARD

In the Matter of:)
)
OCCUPATIONAL SAFETY AND HEALTH)
STANDARDS BOARD MEETING)
)

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TRANSCRIPTION OF AUDIO RECORDING

Thursday, March 19, 2026

Transcribed by:

BENJAMIN HARDAWAY

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BEFORE THE CALIFORNIA OCCUPATIONAL SAFETY AND
HEALTH APPEALS BOARD

In the Matter of:)
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OCCUPATIONAL SAFETY AND HEALTH)
STANDARDS BOARD MEETING)
_____)

TRANSCRIPTION OF AUDIO RECORDING,
file "OSHAB HEARING - PALM SPRINGS, CA,
MARCH 19, 2026" on Thursday, March 19, 2026,
transcribed by BENJAMIN HARDAWAY.

1 APPEARANCES:

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3 Chairman: Joseph M. Alioto, Jr.
4 Labor Representative: Dave Harrison
5 Occupational Health Rep: Nola Kennedy
6 Occupational Safety Rep: Derek Urwin
7 Senior Safety Engineer: Michael Nelmida
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I N D E X

E X H I B I T S

(None)

1 Thursday, March 19, 2026

2 9:00 a.m.

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5 CHAIRMAN ALIOTO JR: All right. Good
6 afternoon. We're back in session. We are going to get
7 right into the public hearing. And during the hearing,
8 we're going to consider the proposed changes to
9 occupational safety and health standards that were
10 noticed for review today. The Standards Board adopts
11 standards that, in our judgment, are enforceable,
12 reasonable, understandable and contribute directly to
13 the safety and health of California employees.

14 The board is interested in your testimony on
15 the matters before us. Your recommendations are
16 appreciated and we will -- and will be considered
17 before a final decision is made. We have one item on
18 the -- on the public hearing agenda for today's meeting
19 that is related to title eight construction safety
20 orders. This is Section 1630, elevators for hoisting
21 workers.

22 Before we open the public hearing to public
23 comment we're going to have Michael Nelmidia, who's
24 going to brief the board. Members of the board will
25 then have an opportunity to answer or ask questions,

1 and then the public hearing will begin. So Mr. Nelmida
2 take it away.

3 MR. NELMIDA: Thank you, Chair. Board
4 members, Chair, before you is the presentation for --
5 and the package for elevators for hoisting workers.
6 This package is the culmination of about seven years
7 worth of rulemaking efforts to advise and ultimately it
8 was noticed for public hearing in January and it is
9 ready for discussion today.

10 Comment period ends at 5:00 p.m. today. So
11 just a brief overview of some of the changes. There
12 are two -- there are two new definitions. One is also
13 relocated. The -- we reorganized how the depth and
14 height are calculated for structures and buildings in
15 both subterranean and above ground structures and
16 buildings.

17 We clarified the approval requirements for
18 alternate access plans. We added -- we added
19 provisions to substitute a vehicle for a construction
20 passenger elevator and ramp structures such as parking
21 structures. We also added new travel distance
22 requirements from the elevator to areas of the building
23 so that maximum -- that is a maximum distance of travel
24 from the elevator landing to any point on the building
25 that elevator would access. And we also added some

1 provisions for requiring access to the roof of the
2 structure.

3 As we -- as I stated, we added two new -- two
4 new definitions; operating and primary construction
5 entrance. These were a result of discussions at the
6 second advisory committee, and we moved ground level,
7 which was an existing definition, into a definition
8 section under 1630(a). The height of the structure is
9 discussed in 1630(b) in that we look at having or
10 allowing for more than one construction passenger
11 elevator, we changed the language in that to allow for
12 more than one construction passenger elevator.

13 The elevator has to be operational before
14 workers work above the 36 foot or third-story level.
15 It clarifies again, height, depth and the trigger
16 heights for which a construction passenger elevator is
17 to be installed on a building. And again, that 36 foot
18 for structures in height is when they have to be
19 installed, as opposed to when -- what the size of the
20 building is triggering the installation of a
21 construction passenger elevator.

22 We clarified some exceptions and we added two
23 new exceptions. The clarification was for scaffolds
24 and falsework, we excluded from the exception slip
25 forms and climbing forms. So now they are part of the

1 determination for the height of the building.

2 Alternate access plans have to be in accordance with
3 1630(d) that's a new provision.

4 And the passenger elevator requirements under
5 1604, which allows for the permanent use -- the use of
6 permanent elevators as a means of access in lieu of
7 construction passenger elevator. We added that
8 provision into 1630(b). It's not -- oh, okay. It was
9 not advancing the slides when I was pressing them.
10 Okay. Sorry.

11 So 1630(d) is the plans for all -- is the
12 requirements for when you have unusual site conditions
13 and you can have your alternate access plan approved by
14 Cal/OSHA in order to use a substitute for a
15 construction passenger elevator. We added, under
16 subsection D, a provision that allows for, again,
17 ramped structures to utilize vehicles to access the
18 structure. Meaning that you can use vehicles that can
19 drive people from the lower floors to the upper floors
20 as a -- so it would facilitate the early removal of a
21 construction passenger elevator from those ramp
22 structures.

23 The idea is that the removal of the elevator
24 is needed -- is needed and necessary to complete the
25 structural elements of the building itself. So it's

1 one of the last steps that are taken before the ramp
2 structure is finalized.

3 The next portion is landings. And this is an
4 existing -- this is an existing requirement, but we've
5 added some subsections to landings. We now require
6 that you cannot have more than three floors between
7 landings under 1630. So that would mean that when you
8 have a landing, you would have access to the floor
9 above and the floor below, but you cannot have more
10 than three landing -- I mean three floors in between
11 landings on the structure. It allows for better access
12 to the building.

13 And also -- again, it prohibits the -- it
14 prohibits the access to the building until there is an
15 elevator that -- landing that accesses the structure.
16 If the -- if the access is more than three stories
17 above that next lower landing.

18 The next provision is that it establishes that
19 for underground -- for underground locations, for
20 excavations, that you prioritize the top and bottom
21 landing. So the landing that you enter on the surface
22 and the lowest landing that you prioritize installing
23 those two first before you install any intermediate
24 landings. The -- also -- the provision also allows for
25 the omission of landings where you don't have a working

1 level in between.

2 And so if the -- if the landing would be
3 superfluous, it allows you to omit those or have
4 alternate landing locations if the building -- if the
5 building requires -- if the building needs it to have
6 access to. We also added the quarter mile distance.
7 So that is a travel distance from the -- from the
8 elevator landing itself to the furthest point on the
9 structure that you can safely access from that landing.

10 This would allow for large structures to be
11 required to have multiple construction passenger
12 elevators instead of relying on a single construction
13 passenger elevator to service a really large building.

14 The -- let's move on to the next one. We
15 added a couple of exceptions to the requirements for
16 landings where there are certain structural
17 limitations, the slope of the roof, the design of the
18 materials that are on the roof, we allowed for
19 exceptions for landings to be placed on there. As well
20 as the requirements for landings on cast in place
21 concrete structures, the landing area has to be cured
22 enough to service as a landing area for the
23 construction passenger elevator.

24 And -- so, as I said, today is the last day
25 for public comments. 5:00 p.m. is the end point for

1 the public comments. There's a QR code to file written
2 comments or with the -- with the standards board. And
3 federal OSHA has already deemed this proposal as -- at
4 least -- as effective as the federal standards. And so
5 this proposal is ready for your consideration and
6 discussion and potential vote at a later time.

7 CHAIRMAN ALIOTO JR: Thank you, Mr. Nelmidia.
8 Appreciate your presentation there. Comments or
9 questions from any member of the board? Sure. Yeah.
10 That's fine. So we're going to go to public comment
11 first. Go ahead. There we go. Thank you for
12 remembering.

13 MR. MILLER: Rudolph & Sletten, I'm a CEA
14 director. I'm here representing Rudolph & Sletten and
15 the Construction Employers Association, CEA. CEA
16 represents most of the largest unionized commercial and
17 multifamily residential building construction in
18 Northern California. CEA membership performs many
19 billions of dollars of public and private construction
20 volume, annually in California, and are typically
21 considered the controlling employer pursuant of the
22 Multi-employer work site regulations.

23 CEA and its members, including Rudolph &
24 Sletten, Level 10, Clark Construction Group California,
25 McClone Construction, Nibbi Brothers and Cahill

1 Contractors were actively involved in the multi-year
2 advisory committee. In addition, many of these items
3 provide -- members provided comments and feedback to
4 the association throughout the Advisory Committee
5 process.

6 We want to express our thanks for the former
7 OSHSB senior safety engineer David, and I'm
8 not going to try to pronounce his last name. I am
9 Polish and I still can't pronounce that last name. For
10 his professionalism, transparency and diligence,
11 building consensus among the very diverse stakeholders
12 in that room, we had some lively conversations.

13 While CEA does not support everything in there
14 in CCR 1630, CEA does support the advisory committee
15 process, the development, the language, and the reason
16 we support this regulation going forward. Thank you.

17 CHAIRMAN ALIOTO JR: Great. Thank you. Any
18 other members of the public would like to make a
19 comment that are here in person. There are no hands.
20 Let's go online.

21 SPEAKER 1: We have no hands raised and no
22 pre-registered comments.

23 CHAIRMAN ALIOTO JR: Very good, public comment
24 -- well, we'll not close it just yet. Let's go to
25 board comments, please.

1 MR. HARRISON: Yeah. I just have one
2 question. Looking at 1630(a)(1)(c) when the hoist is
3 required to be installed and the fact that we've taken
4 the combination of height and depth away from each
5 other. I -- does that -- in my opinion, that creates
6 an unsafe situation and kind of takes away from the
7 intent of why the hoist -- why we're even addressing
8 this by separating those two. Was there a comment or
9 was there any discussion at the advisory committee --
10 and I've seen a couple of comments, maybe from the
11 Division to that in that regard, and can you speak to
12 how we came to consensus there?

13 MR. NELMIDA: Thank you. I appreciate the
14 question. There was discussion of -- about separating
15 some of these provisions out so that it would provide
16 clarity in terms of the height of the structure and the
17 depth -- and the depth of the structure. There is
18 still a requirement that you provide at least one
19 elevator that services the height and one elevator that
20 services the depth. They can be, coincidentally, a
21 singular elevator. But it was deemed that, for clarity
22 reasons, that these provisions needed to be broken out
23 and separated.

24 MR. HARRISON: Okay. And maybe I can ask the
25 Division to chime in on that because I saw there were

1 some comments from you specifically Eric to that -- to
2 that section of the proposal.

3 MR. ERIC: Yeah. That comment was the
4 existing regulation requires, if you're going in --
5 down in depth that the elevator has to be installed
6 when it reaches 48 feet. And this new language allows
7 them to go at 48 feet and not have to install the
8 elevator. So we thought that was less safe. So that
9 was our comment. That should keep that requirement.

10 CHAIRMAN ALIOTO JR: Any other questions or
11 comments? No. No. All right. Before we close the
12 public hearing portion of this, I want to read a couple
13 of things into the record. And then I also want to
14 make sure that our Spanish interpreters are able to
15 interpret and make sure that we don't have anybody who
16 would like to make a comment publicly in Spanish.

17 So if you do have written comments, you may --
18 you're welcome to send them. If you don't -- do not
19 want to read them into the record currently, you can
20 send them to -- by email to oshsbrulemaking@dir.ca.gov.
21 As Mr. Nelmidia mentioned, that is -- the -- all
22 comments are due on this -- on this proposal by 5:00
23 p.m. today. Staff will ensure that they're included
24 in the record and forward copies of your comments to
25 all of us here on the board. Gabriela and Leticia,

1 would you just please make sure that we have
2 communicated those instructions to anyone who would
3 like to comment in Spanish?

4 SPEAKER 2: Can you (indiscernible).

5 CHAIRMAN ALIOTO JR: Yes. Please go ahead.
6 All right. Thank you very much. And let's just do
7 this one more time. Anybody have any public comments
8 English, Spanish or otherwise. And this will be your
9 final opportunity to do so publicly. All right. No
10 hands. Anybody online. All right. Then public
11 comment on this issue is hereby closed.

12 We are going to go -- before we completely
13 close out of this particular issue. We do want to
14 discuss something related to this for Mr. Nelmida. And
15 that is we understand that there are a number of
16 variance requests that have been made to the board
17 related to the construction personnel hoist CPH, CPEs
18 and whether such hoists can be safely operated when
19 they're unstaffed and controlled by an automatic
20 switch. Are you familiar with these variances?

21 MR. NELMIDA: Yes I am.

22 CHAIRMAN ALIOTO JR: Okay. So we understand
23 that you are convening the advisory committee, I think
24 this week. Right? April 1st on petition 589?

25 MR. NELMIDA: April 1st and 2nd. That's, I

1 believe, the week after next.

2 CHAIRMAN ALIOTO JR: Okay. Great. So we
3 would like to -- and I'll get some comments or
4 direction -- further direction from the board on this
5 particular issue, but we would like you to include
6 discussion about the matters brought up within those
7 petitions within the advisory committee process that
8 you're going to be beginning on April 1st and April
9 2nd. Do you want any clarification of that?

10 MS. KENNEDY: I think (indiscernible) to bring
11 it up as something that needed to be covered. I think
12 what we had discussed was having him bring it up as
13 something to be covered at a future meeting, but that
14 the people who are going to be at your meeting on April
15 1st and 2nd would be interested parties. Am I
16 remembering this correctly?

17 MR. HARRISON: That's the way I remember it.
18 And I think the two specific areas were automatic
19 controls and when an operator is required to be in the
20 hoist. And we'll ask that -- and I believe this is the
21 case that industry and labor be included in that
22 advisory committee. I know I'm sounding redundant.
23 But labor reps from North and South as well as the
24 installers of this equipment specifically Mike Fleming
25 and his group.

1 CHAIRMAN ALIOTO JR: And did you want to
2 emphasize that there -- that there be those who have a
3 specific expertise in CPHs as opposed to just broadly,
4 elevators? Was that part of the discussion?

5 MR. HARRISON: That was definitely part of the
6 discussion. Folks that work with this equipment as a
7 profession and we'll call the industry professionals,
8 not necessarily engineers that know how to engineer out
9 of a situation or into a situation, whichever it may
10 be.

11 CHAIRMAN ALIOTO JR: Great. Any other
12 comments on this? Yes. Please.

13 MR. URWIN: I believe also we discussed making
14 sure the topic of fire and seismic emergency event
15 operations, in particular, override and/or manual
16 controls is discussed with people who have expertise in
17 emergency operations. Yeah. Right. Excellent.

18 MR. NELMIDA: I'm sorry. One more time.

19 MR. URWIN: So there's the topic of fire and
20 seismic event emergency operations and ensuring that
21 there exist people in the advisory committee with
22 expertise in emergency operations -- the use of
23 elevators in emergency operations.

24 MS. KENNEDY: Construction (indiscernible).

25 MR. URWIN: Yes. Thank you.

1 CHAIRMAN ALIOTO JR: Construction personnel
2 hoists was the reference there, yeah?

3 MR. NELMIDA: Understood. That would be for
4 this -- to raise for discussion later or as a separate
5 topic along with the operation and operating controls
6 and the who needs to be stationed in the elevator cab?
7 Is that accurate? That those would be a -- discussed
8 at a later time than the April 1st and 2nd meeting?

9 CHAIRMAN ALIOTO JR: Is that what -- your
10 understanding?

11 MS. KENNEDY: Well, we assumed that you didn't
12 have the people coming to the April 1st and 2nd meeting
13 that we would like to see attend such an advisory
14 committee.

15 MR. NELMIDA: Right. Understood.

16 MS. KENNEDY: Okay. So we --

17 MR. NELMIDA: So, later?

18 MS. KENNEDY: Later.

19 MR. NELMIDA: A later meeting.

20 MS. KENNEDY: But to bring it up with them
21 that -- for anyone interested in that group, because we
22 expect that there are going to be people interested who
23 are going to be there on the 1st and 2nd.

24 MR. NELMIDA: Understood.

25 MS. KENNEDY: That's up -- just to let them

1 know that it's coming around the bend.

2 CHAIRMAN ALIOTO JR: Yeah. So just to hash
3 out some of the issues that have been raised within
4 those various petitions.

5 MR. NELMIDA: Understood.

6 CHAIRMAN ALIOTO JR: Okay.

7 MR. NELMIDA: Thank you.

8 CHAIRMAN ALIOTO JR: Great. Excellent. So
9 any other comments, clarifications on any of this
10 related to this particular topic? Okay, that's it on
11 the topic. There being no further persons coming
12 forward, the public hearing on this proposal is closed.
13 And as I've -- we've mentioned a number of times,
14 written comments will be received until 5:00 p.m.
15 today. All right. We're going to move on to the
16 business meeting. Mr. Nelmida, thank you very much for
17 your presentation and we appreciate appreciate your
18 work on this on this proposal. The purpose of the
19 business meeting --

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Dated: March 28, 2026

Benjamin Hardaway

A handwritten signature in black ink, appearing to be 'B. Hardaway', written over a horizontal line.