

(d) minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

### III. Current Actions

The Department of Labor's Employment and Training Administration will be seeking Office of Management and Budget (OMB) approval to administer the questionnaires to up to 2,000 employer customers, 10,400 other users of self-services, and 2,600 individuals in a job-seeker comparison group. The data will be used to provide a snapshot of customers' usage and satisfaction with One-Stop self-service systems.

*Type of Review:* New.

*Agency:* Employment and Training Administration.

*Title:* Customer Surveys of Self-Directed Labor Exchange Services.

*Affected Public:* Customers of self-services and other job seekers.

*Total Respondents:* 2,000 employer customers of self-services, 10,400 other users of self-services, 2,600 other job seekers.

*Frequency:* Once.

*Total Responses:* 15,000.

*Average Time Per Response:* 10 minutes per Employer Survey, 20 minutes per Customer Survey, 10 minutes per Employment-Comparison Survey.

*Estimated Total Burden Hours:* 3,387.

*Total Burden Cost for Capital and Startup:* \$0.

*Total Burden Cost for Operation and Maintenance:* \$0.

Comments submitted in response to this comment request will be summarized and/or included in the request for OMB approval of the information collection request; they will also become a matter of public record.

Signed at Washington, DC, this 13th day of August, 2003.

**Maria K. Flynn,**

*Acting Administrator.*

[FR Doc. 03-22742 Filed 9-5-03; 8:45 am]

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## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

#### [V-02-1]

#### Oak Park Chimney Corp. and American Boiler & Chimney Co.; Grant of a Permanent Variance

**AGENCY:** Occupational Safety and Health Administration (OSHA), Department of Labor.

**ACTION:** Notice of a grant of a permanent variance.

**SUMMARY:** This notice announces the grant of a permanent variance to Oak Park Chimney Corp. and American Boiler & Chimney Co. ("the employers"). The permanent variance addresses the provision that regulates the tackle used for boatswains' chairs (§ 1926.452 (o)(3)), as well as the provisions specified for personnel hoists by paragraphs (c)(1) through (c)(4), (c)(8), (c)(13), (c)(14)(i), and (c)(16) of § 1926.552. Instead of complying with these provisions, the employers must comply with a number of alternative conditions listed in this grant; these alternative conditions regulate rope-guided hoist systems used during inside or outside chimney construction to raise or lower employees in personnel cages, personnel platforms, and boatswains' chairs between the bottom landing of a chimney and an elevated work location. Accordingly, OSHA finds that these alternative conditions protect employees at least as well as the requirements specified by § 1926.452(o)(3) and § 1926.552(c)(1) through (c)(4), (c)(8), (c)(13), (c)(14)(i), and (c)(16).

**DATES:** The effective date of the permanent variance is September 8, 2003.

**FOR FURTHER INFORMATION CONTACT:** For information about this notice contact Ms. Maryann S. Garrahan, Director, Office of Technical Programs and Coordination Activities, Room N-3655, OSHA, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693-2110; fax (202) 693-1644. You may obtain additional copies of this notice from the Office of Publications, Room N-3101, OSHA, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, DC 20210; telephone (202) 693-1888. For electronic copies of this notice, contact the Agency on its Webpage at <http://www.osha.gov> and select "Federal Register," "Date of Publication," and then "2003."

Additional information also is available from the following OSHA Regional Offices:

- U.S. Department of Labor, OSHA, JFK Federal Building, Room E340, Boston, MA 02203, Telephone: (617) 565-9860, Fax: (617) 565-9827.
- U.S. Department of Labor, OSHA 201 Varick St., Room 670, New York, NY 10014, Telephone: (212) 337-2378, Fax: (212) 337-2371.
- U.S. Department of Labor, OSHA, The Curtis Center, Suite 740 West 170 South Independence Mall West, Philadelphia, PA 19106-3309, Telephone: (215) 861-4900, Fax: (215) 861-4904.
- U.S. Department of Labor, OSHA, Atlanta Federal Center 61 Forsyth St., SW., Room 6T50, Atlanta, GA 30303, Telephone: (404) 562-2300, Fax: (404) 562-2295.
- U.S. Department of Labor, OSHA 230 South Dearborn St., Room 3244, Chicago, IL 60604, Telephone: (312) 353-2220, Fax: (312) 353-7774.
- U.S. Department of Labor, OSHA, City Center Square 1100 Main St., Suite 800, Kansas City, MO 64105, Telephone: (816) 426-5861, Fax: (816) 426-2750.
- U.S. Department of Labor, OSHA 525 Griffin St., Room 602, Dallas, TX 75202, Telephone: (214) 767-4731/-4736 (ext. 224), Fax: (214) 767-4693/-4188.
- U.S. Department of Labor, OSHA, *Overnight:* 1999 Broadway, Suite 1690, Denver, CO 80202-5716, *Mail:* P.O. Box 46550, Denver, CO 80201-6550, Telephone: (303) 844-1600, Fax: (303) 844-1616.
- U.S. Department of Labor, OSHA 71 Stevenson St., Room 420, San Francisco, CA 94105, Telephone: (415) 975-4310, Fax: (415) 744-4319.
- U.S. Department of Labor, OSHA 1111 Third Ave., Suite 715, Seattle, WA 98101-3212, Telephone: (206) 553-5930, Fax: (206) 553-6499.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

In the 1970s and 1980s, nine chimney-construction companies demonstrated to OSHA that several hoist-tower requirements (*i.e.*, paragraphs (c)(1), (c)(2), (c)(3), (c)(4), (c)(8), (c)(13), (c)(14)(i), and (c)(16) of § 1926.552), as well as the tackle requirements for boatswains' chairs (*i.e.*, paragraph (o)(3) of § 1926.452), result in access problems that pose a serious danger to their employees. These companies requested permanent variances from these requirements, and proposed an alternative apparatus and procedures to protect employees while

being transported to and from their elevated worksites during chimney construction and repair. The Agency subsequently granted these companies permanent variances based on the proposed alternative (38 FR 8545, 50 FR 40627, and 52 FR 22552).

On June 2, 1999 and January 7, 2000, Oak Park Chimney Corp. and American Boiler & Chimney Co., respectively, applied for a permanent variance from the same hoist-tower and boatswains' chair requirements as the previous companies, and proposed as an alternative to these requirements the same apparatus and procedures approved by OSHA in the earlier variances. The Agency published their variance application in the **Federal Register** on May 23, 2002 (*see* 67 FR 36263), and subsequently extended the period for submitting comments and hearing requests on July 10, 2002 (*see* 67 FR 45767). OSHA received no hearing requests in response to these **Federal Register** notices; however, several states submitted comments on the proposed alternative (see section IV below for a discussion of these comments).

Oak Park Chimney Corporation and American Boiler & Chimney Co. ("the employers") construct, remodel, repair, maintain, inspect, and demolish tall chimneys made of reinforced concrete, brick, and steel. This work, which occurs throughout the United States, requires the employers to transport employees and construction material to and from elevated work platforms and scaffolds located, respectively, inside and outside tapered chimneys. While tapering contributes to the stability of a chimney, it necessitates frequent relocation of, and adjustments to, the work platforms and scaffolds so that they will fit the decreasing circumference of the chimney as construction progresses upwards.

To transport employees to various heights inside and outside a chimney, the employers proposed in their variance application to use a hoist system that lifts and lowers personnel-transport devices that include personnel cages, personnel platforms, or boatswains' chairs. In this regard, the employers proposed to use personnel cages, personnel platforms, or boatswains' chairs solely to transport employees with the tools and materials necessary to do their work, and not to transport only materials or tools on these devices in the absence of employees. In addition, the employers proposed to attach a hopper or concrete bucket to the hoist system to raise or lower material inside or outside a chimney.

The employers also proposed to use a hoist engine, located and controlled outside the chimney, to power the hoist system. The proposed system consisted of a wire rope that: Spools off the winding drum (also known as the hoist drum or rope drum) into the interior of the chimney; passes to a footblock that redirects the rope from the horizontal to the vertical planes; goes from the footblock through the overhead sheaves above the elevated platform; and finally drops to the bottom landing of the chimney where it connects to a personnel- or material-transport device. The cathead, which is a superstructure at the top of a derrick, supports the overhead sheaves. The overhead sheaves (and the vertical span of the hoist system) move upward with the derrick as chimney construction progresses. Two guide cables, suspended from the cathead, eliminate swaying and rotation of the load. If the hoist rope breaks, safety clamps activate and grip the guide cables to prevent the load from falling. The employers proposed to use a headache ball, located on the hoist rope directly above the load, to counterbalance the rope's weight between the cathead sheaves and the footblock.

Additional conditions that the employers proposed to follow to improve employee safety included:

- Attaching the wire rope to the personnel cage using a keyed-screwpin shackle or positive-locking link;
- Adding limit switches to the hoist system to prevent overtravel by the personnel- or material-transport devices;
- Providing the safety factors and other precautions required for personnel hoists specified by the pertinent provisions of § 1926.552(c), including canopies and shields to protect employees located in a personnel cage from material that may fall during hoisting and other overhead activities;
- Providing falling-object protection for scaffold platforms as specified by § 1926.451(h)(1);
- Conducting tests and inspections of the hoist system as required by §§ 1926.20(b)(2) and 1926.552(c)(15);
- Establishing an accident-prevention program that conforms to § 1926.20(b)(3);
- Ensuring that employees who use a personnel platform or boatswains' chair wear a full body harness and lanyard; and
- Securing the lifelines (used with a personnel platform or boatswains' chair) to the rigging at the top of the chimney and to a weight at the bottom of the chimney, to provide maximum stability to the lifelines.

## II. Proposed Variance from § 1926.452(o)(3)

The employers noted in their variance request that it is necessary, on occasion, to use a boatswains' chair to transport employees to and from a bracket scaffold on the outside of an existing chimney during flue installation or repair work, or to transport them to and from an elevated scaffold located inside a chimney that has a small or tapering diameter. Paragraph (o)(3) of § 1926.452, which regulates the tackle used to rig a boatswains' chair, states that this tackle must "consist of correct size ball bearings or bushed blocks containing safety hooks and properly 'eye-spliced' minimum five-eighth ( $\frac{5}{8}$ ) inch diameter first-grade manila rope [or equivalent rope]."

The primary purpose of this paragraph is to allow an employee to safely control the ascent, descent, and stopping locations of the boatswains' chair. However, the employers stated in their variance request that, because of space limitations, the required tackle is difficult or impossible to operate on some chimneys that are over 200 feet tall. Therefore, as an alternative to complying with the tackle requirements specified by § 1926.452(o)(3), the employers proposed to use the hoisting system described above in section I of this notice to raise or lower employees in a personnel cage to work locations both inside and outside a chimney. In addition, the employers proposed to use a personnel cage for this purpose to the extent that adequate space is available, and to use a personnel platform if using a personnel cage was infeasible because of limited space. When available space makes using a personnel platform infeasible, the employers proposed to use a boatswains' chair to lift employees to work locations. The proposed variance limited use of the boatswains' chair to elevations above the last work location that the personnel platform can reach; under these conditions, the employers proposed to attach the boatswains' chair directly to the hoisting cable only when the structural arrangement precludes the safe use of the block and tackle required by § 1926.452(o)(3).

## III. Proposed Variance From § 1926.552(c)

Paragraph (c) of § 1926.552 specifies the requirements for enclosed hoisting systems used to transport employees from one elevation to another. This paragraph ensures that employers transport employees safely to and from elevated work platforms by mechanical means during the construction,

alteration, repair, maintenance, or demolition of structures such as chimneys. However, this standard does not provide specific safety requirements for hoisting employees to and from elevated work platforms and scaffolds in tapered chimneys; the tapered design requires frequent relocation of, and adjustment to, the work platforms and scaffolds. The space in a small-diameter or tapered chimney is not large enough or configured so that it can accommodate an enclosed hoist tower. Moreover, using an enclosed hoist tower for outside operations exposes employees to additional fall hazards because they need to install extra bridging and bracing to support a walkway between the hoist tower and the tapered chimney.

Paragraph (c)(1) of § 1926.552 requires employers to enclose hoist towers located outside a chimney on the side or sides used for entrance to, and exit from, the chimney; these enclosures must extend the full height of the hoist tower. The employers asserted in their proposed variance that it is impractical and hazardous to locate a hoist tower outside tapered chimneys because it becomes increasingly difficult, as a chimney rises, to erect, guy, and brace a hoist tower; under these conditions, access from the hoist tower to the chimney or to the movable scaffolds used in constructing the chimney exposes employees to a serious fall hazard. Additionally, they noted that the requirement to extend the enclosures 10 feet above the outside scaffolds often exposes the employees involved in building these extensions to dangerous wind conditions.

Paragraph (c)(2) of § 1926.552 requires that employers enclose all four sides of a hoist tower even when the tower is located inside a chimney; the enclosure must extend the full height of the tower. In the proposed variance, the employers contended that it is hazardous for employees to erect and brace a hoist tower inside a chimney, especially small-diameter or tapered chimneys or chimneys with sublevels, because these structures have limited space and cannot accommodate hoist towers; space limitations result from chimney design (e.g., tapering), as well as reinforced steel projecting into the chimney from formwork that is near the work location.

As an alternative to complying with the hoist-tower requirements of § 1926.552(c)(1) and (c)(2), the employers proposed to use the rope-guided hoist system discussed in section I of this notice to transport employees to and from work locations inside and outside chimneys. They

claimed that this hoist system should make it unnecessary for them to comply with other provisions of § 1926.552(c) that specify requirements for hoist towers, including:

- (c)(3)—Anchoring the hoist tower to a structure;
- (c)(4)—Hoistway doors or gates;
- (c)(8)—Electrically interlocking entrance doors or gates that prevent hoist movement when the doors or gates are open;
- (c)(13)—Emergency stop switch located in the car;
- (c)(14)(i)—Using a minimum of two wire ropes for drum-type hoisting; and
- (c)(16)—Construction specifications for personnel hoists, including materials, assembly, structural integrity, and safety devices.

The employers asserted that the proposed hoisting system protected employees at least as effectively as the hoist-tower requirements of § 1926.552(c). The following section of this preamble provides the comments received on the employers' proposed variance.

#### IV. Comments on the Proposed Variance

The private sector submitted no comments regarding the proposed variance. However, OSHA did receive comments from 14 of the 26 states and territories that have an autonomous occupational safety and health agency approved under Section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667). The Agency received the 14 comments after it sent each of these 26 states and territories a copy of the application and requested that they provide information on whether their standards (the ones that would be affected by the proposed variance) were identical to the corresponding Federal standards, and, if so, did they agree to accept the alternative conditions proposed by the employers.

Of the 14 states and territories that submitted comments, the following nine states reported that they have standards that are identical to the Federal standards, and that they agree to accept the alternative conditions: Alaska, Arizona, Kentucky, Maryland, New Mexico, North Carolina, Oregon, and Tennessee (Exs. 2-1 to 2-8). South Carolina (Ex. 2-9) indicated that it, too, has identical standards, and that it would accept the alternative conditions, but noted that a provision of its state code (Chapter 7, Article 1, Subarticle 2, SC Code of Laws 1976, as amended) requires that "[i]n order that such a variance be honored by the Commissioner, it is and will be

incumbent upon the employer to file the final rule or order of the [U.S.] Secretary of Labor with the Commissioner of Labor at his office in Columbia, South Carolina."

Four State-plan states and one territory reported having identical standards, but did not accept the alternative conditions. Connecticut (Ex. 2-10) did not concur with the alternative conditions because its state-plan program regulates only public-sector employees and, therefore, it has "its own statutory and regulatory authority pertaining to the issuance of variances in the public sector." Hawaii (Ex. 2-11) declined to accept the alternative conditions because it did not have "a chance to do a thorough job of researching" them. The Virgin Islands (Ex. 2-12) agreed with Hawaii's position. Washington State (Ex. 2-13) noted that while its standards were the same as the Federal standards, "We anticipate updating the section of our standards with these particular codes and[,] therefore[,] their current numbering and possibly content may change in the next year or two[,] which means that granted variances would need to be updated." The Washington State response continued, "[W]e have no objection to such a variance being issued. However, for the reasons stated \* \* \* above regarding the coding system, it may be easier for the affected companies to directly submit variance requests to our attention so there is a record of which state specific codes have a variance in the event there [are] changes in the future of those codes."

While Iowa (Ex. 2-14) also has standards that are identical to the Federal standards, it stated that "[b]ecause the State of Iowa has a specific statute and regulations for variances, [the employers] would have to submit a request to Iowa for any work to be done here as opposed to accepting a variance granted by Federal OSHA." In addition, Iowa made several substantive comments regarding the proposed variance. First, it commented that "[t]he lack of the safety clamps required under [proposed Condition 9] \* \* \* would seem to indicate the company needs to comply with 1926.451(g)(1)(i) & (ii) for a work platform and boatswains' chair." In response, OSHA notes that paragraphs (c) and (d) of proposed Condition 7 would require, respectively, appropriately designed and constructed safety clamps, as well as clamps that, when used, apply tension to guide ropes without damaging them. Also, under proposed Condition 9, employers would have to attach safety clamps to each personnel cage; additionally, this

proposed condition specifies requirements that regulate the stopping capability and spring-compression force, as well as the operation and maintenance, of the clamps. OSHA has retained these proposed provisions, but has consolidated them under a single condition (Condition 11) in the permanent variance.

The proposed variance also would require employers to comply with paragraphs (g)(1)(i) and (g)(1)(ii) of §1926.451 as a condition of the permanent variance. In this regard, the third paragraph under “General Conditions” in the proposed variance notes that “the applicants acknowledge that they would comply with all other applicable provisions of 29 CFR parts 1910 and 1926 if OSHA grants the variance applications.” To clarify this requirement, OSHA is including this requirement as a distinct provision (Condition 1(b)) of the permanent variance; this provision states, “Except for the requirements specified by §1926.452 (o)(3)) and §1926.552(c)(1) through (c)(4), (c)(8), (c)(13), (c)(14)(i), and (c)(16), the employers must comply fully with all other applicable provisions of 29 CFR parts 1910 and 1926.”

Commenting further, Iowa noted that “[a] fall protection system for the cage and a positioning device for the employee to keep him/her in the cage would need to be addressed.” OSHA believes that the safety-clamp requirements specified in Conditions 7 and 9 of the proposed variance (Condition 11 of the permanent variance) are sufficient to prevent a personnel cage from falling should a hoist rope separate, while the construction requirements for personnel cages (e.g., steel-frame construction, wire-enclosed sides, safe handholds) provided under Condition 8 of the proposed variance (Condition 10 of the permanent variance) will prevent employees from falling out of the cages.

Iowa also made the following comments:

- “[T]here is no reference to protecting any of the cables or fall protection equipment during welding on the top platform. The application of requirements described in §1926.451(f)(17) should be considered.”
- “The problems associated with hazards to employees on the upper deck with the lift mechanism or protection of the lift mechanism from damage [are] not addressed.”
- “1910 issues are only mentioned in passing.”

These comments suggest that the proposed variance does not address the

identified hazards. However, as we noted earlier, the “General Conditions” section of the proposed variance (and Condition 1(b) of the permanent variance) require employers to comply with any other requirements of 29 CFR parts 1910 and 1926 that pertain to hazards in these workplaces. Therefore, regarding the first of these comments, under the permanent variance, employers must still implement the precautions specified in §1926.451(f)(17) to prevent the welding current from arcing through the suspension cables when employees are performing welding operations on suspended scaffolds.

The second of these comments appears to assert that none of the proposed conditions would protect employees if a hoist machine strikes a scaffold (i.e., “hazards to employees on the upper deck with the lift mechanism”), or that none of these conditions would prevent damage to the hoist machine (i.e., “protection of the lift mechanism from damage”). Regarding the first assertion, OSHA believes that proper design, maintenance, inspection, and operation of hoist machines as specified by Conditions 1 and 2 of the proposed variance, as well as proper selection and training of hoist operators as provided by proposed Condition 3, would prevent a hoist machine from endangering employees located on a scaffold. In the unlikely event a hoist machine strikes a scaffold, employees on the scaffold would be protected against falls under §1926.451(g), and would have additional protection under §1926.28 and subpart E (“Personal Protective and Life Saving Equipment”) of 29 CFR part 1926.

Iowa’s comment does not indicate what would cause damage to the hoist machine. OSHA assumes that such damage could only occur if a heavy object was to fall on or strike the machine. In this case, the Agency finds that the structural requirements listed in paragraphs (h) and (i) (“Frame” and “Stability,” respectively) of proposed Condition 2 (“Hoist Machine”) would adequately protect the machine from damage. Proposed paragraph 2(h) would require that the frame of the machine be “a self-supporting, rigid, welded steel structure, with holding brackets for anchor lines and legs for anchor bolts being integral components of the frame”; proposed paragraph 2(i) would prevent collapse of the hoist machine when struck by a heavy object by ensuring that the machine is secured “in position to prevent movement, shifting, or

dislodgement.” The Agency has retained both of these provisions in the permanent variance as paragraphs (h) (“Frame”) and (i) (“Stability”) of Condition 4 (“Hoist Machine”).

As to Iowa’s concerns about the coverage of 29 CFR part 1910, OSHA notes that the variance only covers construction provisions specified under 29 CFR part 1926. Condition 1(b) of the permanent variance states that any provisions of 29 CFR part 1910 that apply to the employers’ work activities will remain in effect.

## V. Multi-State Variance

The variance application stated that the employers perform chimney work in a number of geographic locations in the United States, some of which could include one or more locations in State-plan states and territories. As noted in the previous section of this preamble, OSHA sent a copy of the variance application to all State-plan states and territories for comment. Nine states responded that they had identical provisions and also agreed to accept the alternative conditions. These states are: Alaska, Arizona, Kentucky, Maryland, New Mexico, North Carolina, Oregon, South Carolina, and Tennessee. (South Carolina commented that its state code requires the employers to submit to its State Commissioner of Labor any permanent variance issued by OSHA.) The remaining four states and one territory that submitted comments did not accept the alternative conditions for a variety of reasons. Additionally, the Agency cannot determine the status of the 12 State-plan states and single territory that did not submit comments. Therefore, based on the comments submitted to the record, the permanent Federal variance also will be effective in the following nine states: Alaska, Arizona, Kentucky, Maryland, New Mexico, North Carolina, Oregon, South Carolina (provided the employers first submit a copy of the permanent variance to the State Commissioner of Labor), and Tennessee.

## VII. Corrections to the Variance

The Agency has made a number of minor editorial corrections to the proposed variance to improve comprehension of, and compliance with, the specified conditions (e.g., revising the term “applicants” to “employers”). OSHA also made several technical (non-substantive) revisions to the proposed variance. These revisions are described in the following table.

| Proposed condition  | Revision made to the permanent variance  | Rationale for the revision   |
|---|--|--|
| A. General Conditions. * * * The applicants propose to use the hoist system inside and outside a chimney to raise or lower employees in a personnel cage to work locations..  | Moved to Condition 1(a). .....   | To make the provision more noticeable than it was in the proposal.   |
| A. General Conditions. * * * Except for the provisions identified above in this section * * * , the applicants acknowledge that they would comply fully with all other applicable provisions of 29 CFR parts 1910 and 1926.* * * .  | Moved to Condition 1(b). .....   | To make the provision more noticeable than it was in the proposal.   |
| A. General Conditions.* * * If available space makes using a personnel cage * * * infeasible, the applicants would use a personnel platform.* * * .   | Moved to Condition 2(a). .....   | To make the provision more noticeable than it was in the proposal.   |
| A. General Conditions.* * * If available space makes using a personnel cage * * * infeasible, the applicants would use * * * a boatswains' chair. The applicants would limit use of the boatswains' chair to elevations above the last work location that the personnel cage and personnel platform can reach.. | Moved to Condition 2(b). This condition clarifies that a boatswains' chair can be used only at the last location that a personnel platform (vice either a personnel platform or a personnel cage) can reach..  | To make the provision more noticeable than it was in the proposal. Limiting use of the boatswains' chair makes this condition consistent with the discussion provided in the proposed variance (see 67 FR 36263).  |
| Condition 2(b). Raising or lowering a transport. The applicants would ensure that * * * the hoist machine does not use belt drives..  | Revised the provision to read, "No belts are used between the power source and the winding drum," and moved it to Condition 4(b)(ii)(D)..  | The language of paragraph 4.2(2) of ANSI A10.22-1990 (R1998) and previous OSHA variances suggest that the prohibition against using belt drives applies to that part of the drive system between the power source and the winding drum, making application to the entire hoist machine too broad. Moving the provision made it an integral part of the provisions that address the drive system. |
| Condition 2(b). Raising or lowering a transport. * * * Whenever they raise or lower a personnel or material hoist * * * the applicants would: * * * (ii) Interconnect, on a continuous basis, the drive system through a torque converter or mechanical (or equivalent) coupling..                              | Added the parenthetical statement "(e.g., electronic controllers, fluid clutches, hydraulic drivers)" to the provision to provide examples of equivalent couplings (see Condition 4(b)(ii)(B))..   | To provide an example of an equivalent coupling.   |
| Condition 2(e). Line-speed indicator. The applicants would equip the hoist machine with a line-speed indicator.* * * .  | Inserted the term "operating" before "line-speed indicator" (see Condition 4(e)(i))..  | To clarify that the line-speed indicator must be functioning.  |
| Condition 2(g). Slack-rope switch. The applicants would equip the hoist machine with a slack-rope switch to prevent rotation of the hoist drum under slack-rope conditions..  | Revised the term "hoist drum" to "winding drum" (see Condition 4(g))..   | To use a single term throughout the variance to describe the drum around which the hoist rope is spooled.  |
| Condition 2(k). Drum and flange diameter. The applicants would provide a winding drum * * * with a flange diameter that is at least one and one-half (1½) times the rope-drum diameter..  | Revised the term "rope-drum" to "winding-drum" (see Condition 4(k)(ii))..  | To use a single term throughout the variance to describe the drum around which the hoist rope is spooled.  |
| Condition 2(1). Spooling of the rope. The applicants would never spool the rope closer than two (2) inches (5.1 cm) from the outer edge of the hoist-drum flange..  | Revised the term "hoist-drum" to "winding-drum" (see Condition 4(1))..   | To use a single term throughout the variance to describe the drum around which the hoist rope is spooled.  |
| Condition 3(a). Operator. The applicants would ensure that only trained and experienced employees, who are knowledgeable of hoist-system operations, control the hoist machine..  | Retained the proposed requirement as Condition 5(a)(i), but moved from Condition 11(b)(ii) in the proposal to Condition 5(a)(ii) the requirement to train employees who use a personnel cage for transportation on how to operate the hoist system.. | To consolidate the training requirements for hoist systems into a single provision.  |
| Condition 4(b). Safety factor. The applicants would maintain a safety factor of at least eight (8) throughout the entire length of hoist rope..   | Added the phrase "times the safe workload" between the terms "(8)" and "throughout" (see Condition 6(b))..   | To clarify that the safety factor must be based on the safe workload.  |
| Condition 4(d). Installation, removal, and replacement.   | Replaced the term "installation" with the term "inspection" in Condition 6(d)..  | To clarify that this condition specifies inspection, but not installation, requirements for hoist ropes.   |
| Condition 5(c). * * * To ensure this diameter-to-diameter ratio, the applicants would inspect the hoist rope regularly, and immediately discard the rope if they find evidence of any of the conditions specified by § 1926.552(a)(3)..   | Moved the diameter-to-diameter inspection requirement to Condition 6(d)(ii), and removed the reference to § 1926.552(a)(3)..   | To consolidate the requirements for hoist ropes under a single condition. The reference to § 1926.552(a)(3) is redundant with the reference in Condition 6(d)(iii).  |

| Proposed condition  | Revision made to the permanent variance  | Rationale for the revision   |
|---|--|--|
| Condition 6(a). Qualified competent person. The applicants would use a qualified competent person to design and maintain the cathead (i.e., overhead support)..   | Moved to Condition 3(b). .....   | To consolidate the requirements for a qualified competent person under a single condition.   |
| Condition 6(d). Sheave safeguards. ....   | Revised the title from "Sheave safeguards" to "Rope guides" (see Condition 8(c))..   | To clarify that this condition specifies requirements for rope guides.   |
| Condition 6(e). * * * To ensure this diameter-to-diameter ratio, the applicants would inspect the hoist rope regularly, and immediately discard the rope if they find evidence of any of the conditions specified by § 1926.552(a)(3)..   | Moved the diameter-to-diameter inspection requirements to Condition 6(d)(ii), and removed the reference to § 1926.552(a)(3)..  | To consolidate the requirements for hoist ropes under a single condition. The reference to § 1926.552(a)(3) is redundant with the reference in Condition 6(d)(iii).  |
| Condition 7(a). Number of cables. ....  | Revised the heading to "Number and construction" (see Condition 9(a))..  | To clarify that this condition also addresses the physical characteristics of guide cables.  |
| Condition 7(d). Application of tension. The applicants would never use safety clamps that damage the ropes..  | Moved the requirement to Condition 10(a)(iii).   | To consolidate the safety-clamp requirements into a single provision.  |
| Condition 8(a). Construction. The applicants would use a personnel cage that: * * * (v) Has safe handholds (e.g., rope grips—but not rails or hard protrusions—that accommodate each occupant)..  | Inserted a footnote at the end of the parenthetical statement that explains the prohibition against rails or hard protrusions (see Condition 10(a))..  | To clarify the safety hazards associated with rails or hard protrusions in personnel cages.  |
| Condition 10. Overhead Protection. To protect employees located at the base of the chimney (i.e., both inside and outside the chimney) from material and debris that may fall from above, the applicants would install a canopy or shield that is made of steel plate at least three-sixteenth (3/16) of an inch (4.763 mm) thick, or material of equivalent strength and impact resistance, and that slopes to the outside..   | Removed the phrase "located at the base of the chimney" from the requirement, and added the phrases "over the top of the personnel cage" (see Conditions 12(a) and 12(b), respectively)..                              | To clarify the location of the canopy or shield consistent with the requirements of § 1926.800(t)(4)(v) (from which the conditions was adapted) and paragraph 10.6 of ANSI A10.22-1990 (R1998).                |
| Condition 11(a). Location. The applicants would provide an emergency-escape device, with operating instructions attached to it, in the personnel cage or at the bottom landing. If the device is: (i) In the personnel cage, the applicants would ensure that it is long enough to reach the bottom landing from the highest possible escape point. (ii) At the bottom landing, the applicants would provide a means in the personnel cage for the occupants to raise the device to the highest possible escape point.. | Moved the requirement regarding the attachment of operating instructions to Condition 13(b)..  | To make the provision more noticeable than it was in the proposal.   |
| Condition 11(b). Training. The applicants would instruct each employee who uses a personnel cage: (i) On how to operate the emergency-escape device prior to the employee using the personnel cage for transportation. (ii) Periodically, and as necessary, in the operation of the hoist system and the emergency-escape system..  | Moved to Condition 5(a)(ii) the portion of proposed Condition 11(b)(ii) that refers to training employees who use a personnel cage for transportation in the operation of the hoist system..                           | To consolidate the training requirements for hoist systems into a single provision.  |
| Condition 12(a). Personnel platform. The applicants would: (i) Be permitted to attach the hoisting cable to a personnel platform under the conditions specified above by section III.A ("General conditions") of this application..   | Retained the proposed requirement under Condition 14(a), but revised the reference to "section III.A" to "Condition 2(a)".   | The requirements proposed under section III.A are now specified under Condition 2(a).  |
| Condition 13(a). [The applicants would c]onduct inspections of the hoist system as required by § 1926.20(b)(2). These inspections would include a daily visual inspection of the systems..  | Condition 15(a). The employers must: (i) Conduct inspections of the hoist system as required by § 1926.20(b)(2); (ii) Ensure that a competent person conducts daily visual inspections of the hoist system; and * * *. | To clarify that paragraph (a) consists of two separate requirements, and to emphasize the requirement in § 1926.20(b)(2) that a competent person must conduct the daily visual inspection of the hoist system. |

## VII. Decision

Oak Park Chimney Corp. and American Boiler & Chimney Co. seek a permanent variance from the provision that regulates the tackle used for boatswains' chairs (§1926.452(o)(3)), as well as the provisions specified for

personnel hoists by paragraphs (c)(1) through (c)(4), (c)(8), (c)(13), (c)(14)(i), and (c)(16) of 1926.552. Paragraph (o)(3) of §1926.452 states that the tackle used for boatswains' chairs must "consist of correct size ball bearings or bushed blocks containing safety hooks and properly "eye-spliced" minimum five-

eighth (5/8) inch diameter first-grade manila rope [or equivalent rope]." The primary purpose of this provision is to allow an employee to safely control the ascent, descent, and stopping locations of the boatswains' chair. The proposed alternative to these requirements allows the employer to use a boatswains' chair

to lift employees to work locations inside and outside a chimney when both a personnel cage and a personnel platform are infeasible. The employers proposed to attach the boatswains' chair to the hoisting system described as an alternative for paragraph (c) of §1926.552.

Paragraph (c) of §1926.552 specifies the requirements for enclosed hoisting systems used to transport personnel from one elevation to another. This paragraph ensures that employers transport employees safely to and from elevated work platforms by mechanical means during construction work involving structures such as chimneys. In this regard, paragraph (c)(1) of §1926.552 requires employers to enclose hoist towers located outside a chimney on the side or sides used for entrance to, and exit from, the structure; these enclosures must extend the full height of the hoist tower. Under the requirements of paragraph (c)(2) of §1926.552, employers must enclose all four sides of a hoist tower located inside a chimney; these enclosures must extend the full height of the tower.

As an alternative to complying with the hoist-tower requirements of §1926.552(c)(1) and (c)(2), the employers proposed to use a rope-guided hoist system to transport employees to and from elevated work locations inside and outside chimneys. The proposed hoist system includes a hoist machine, cage, safety cables, and safety measures such as limit switches to prevent overrun of the cage at the top and bottom landings, and safety clamps that grip the safety cables if the main hoist line fails. To transport employees to and from elevated work locations, the employers proposed to attach a personnel cage to the hoist system. However, when they can demonstrate that adequate space is not available for the cage, they can use a personnel platform above the last worksite that the cage can reach. Further, when the employers can show that space limitations make it infeasible to use a work platform for transporting employees, they have proposed to use a boatswains' chair above the last worksite serviced by the personnel platform. Using the proposed hoist system as an alternative to the hoist-tower requirements of §1926.552(c)(1) and (c)(2) eliminates the need to comply with the other provisions of §1926.552(c) that specify requirements for hoist towers. Accordingly, the employers have requested a permanent variance from these and related provisions (*i.e.*, paragraphs (c)(3), (c)(4), (c)(8), (c)(13), (c)(14)(i), and (c)(16)).

After reviewing the variance application, as well as the comments made to the record regarding the application, OSHA has made only minor editorial amendments and technical corrections to the proposed variance. Therefore, under Section 6(d) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655), and based on the record discussed above, the Agency finds that when the employers comply with the conditions of the following order, their employees will be exposed to working conditions that are at least as safe and healthful as they would be if the employers complied with paragraph (o)(3) of §1926.452, and paragraphs (c)(1) through (c)(4), (c)(8), (c)(13), (c)(14)(i), and (c)(16) of §1926.552.

### VIII. Order

OSHA issues this order authorizing Oak Park Chimney Corp. and American Boiler & Chimney Co. ("the employers") to comply with the following conditions instead of complying with paragraph (o)(3) of §1926.452 and paragraphs (c)(1) through (c)(4), (c)(8), (c)(13), (c)(14)(i), and (c)(16) of §1926.552:

#### 1. Scope of the Permanent Variance

(a) This permanent variance applies only when the employers use a rope-guided hoist system during inside or outside chimney construction to raise or lower their employees between the bottom landing of a chimney and an elevated work location on the inside or outside surface of the chimney.

(b) Except for the requirements specified by §1926.452(o)(3) and §1926.552(c)(1) through (c)(4), (c)(8), (c)(13), (c)(14)(i), and (c)(16), the employers must comply fully with all other applicable provisions of 29 CFR parts 1910 and 1926.

#### 2. Replacing a Personnel Cage With a Personnel Platform or a Boatswains' Chair

(a) *Personnel platform.* When the employers demonstrate that available space makes a personnel cage for transporting employees infeasible, they may replace the personnel cage with a personnel platform when they limit use of the personnel platform to elevations above the last work location that the personnel cage can reach.

(b) *Boatswains' chair.* When the employers demonstrate that available space makes a personnel platform for transporting employees infeasible, they may replace the personnel platform with a boatswains' chair when they limit use of the boatswains' chair to elevations above the last work location that the personnel platform can reach.

#### 3. Qualified Competent Person

(a) The employers must:

(i) Provide a qualified competent person, as specified in paragraphs (f) and (m) of §1926.32, who is responsible for ensuring that the design, maintenance, and inspection of the hoist system comply with the conditions of this grant and with the appropriate requirements of 29 CFR part 1926 ("Safety and Health Regulations for Construction"); and

(ii) Ensure that the qualified competent person is present at ground level to assist in an emergency whenever the hoist system is raising or lowering employees.

(b) The employers must use a qualified competent person to design and maintain the cathead described under Condition 8 ("Cathead and Sheave") below.

#### 4. Hoist Machine

(a) *Type of hoist.* The employers must designate the hoist machine as a portable personnel hoist.

(b) *Raising or lowering a transport.*

The employers must ensure that:

(i) The hoist machine includes a base-mounted drum hoist designed to control line speed; and

(ii) Whenever they raise or lower a personnel or material hoist (*e.g.*, a personnel cage, personnel platform, boatswains' chair, hopper, concrete bucket) using the hoist system:

(A) The drive components are engaged continuously when an empty or occupied transport is being lowered (*i.e.*, no "freewheeling");

(B) The drive system is interconnected, on a continuous basis, through a torque converter, mechanical coupling, or an equivalent coupling (*e.g.*, electronic controller, fluid clutches, hydraulic drives).

(C) The braking mechanism is applied automatically when the transmission is in the neutral position and a forward-reverse coupling or shifting transmission is being used; and

(D) No belts are used between the power source and the winding drum.

(c) *Power source.* The employers must power the hoist machine by an air, electric, hydraulic, or internal-combustion drive mechanism.

(d) *Constant pressure control switch.* The employers must:

(i) Equip the hoist machine with a hand-or foot-operated constant-pressure control switch (*i.e.*, a "deadman control switch") that stops the hoist immediately upon release; and

(ii) Protect the control switch to prevent it from activating if the hoist machine is struck by a falling or moving object.

(e) *Line-speed indicator.* The employers must:

(i) Equip the hoist machine with an operating line-speed indicator maintained in good working order; and

(ii) Ensure that the line-speed indicator is in clear view of the hoist operator during hoisting operations.

(f) *Braking systems.* The employers must equip the hoist machine with two (2) independent braking systems (*i.e.*, one automatic and one manual) located on the winding side of the clutch or couplings, with each braking system being capable of stopping and holding 150 percent of the maximum rated load.

(g) *Slack-rope switch.* The employers must equip the hoist machine with a slack-rope switch to prevent rotation of the winding drum under slack-rope conditions.

(h) *Frame.* The employers must ensure that the frame of the hoist machine is a self-supporting, rigid, welded-steel structure, and that holding brackets for anchor lines and legs for anchor bolts are integral components of the frame.

(i) *Stability.* The employers must secure hoist machines in position to prevent movement, shifting, or dislodgement.

(j) *Location.* The employers must:

(i) Locate the hoist machine far enough from the footblock to obtain the correct fleet angle for proper spooling of the cable on the drum; and

(ii) Ensure that the fleet angle remains between one-half degree ( $1/2^\circ$ ) and one and one-half degrees ( $1\frac{1}{2}^\circ$ ) for smooth drums, and between one-half degree ( $1/2^\circ$ ) and two degrees ( $2^\circ$ ) for grooved drums, with the lead sheave centered on the drum.<sup>1</sup>

(k) *Drum and flange diameter.* The employers must:

(i) Provide a winding drum for the hoist that is at least 30 times the diameter of the rope used for hoisting; and

(ii) Ensure that the winding drum has a flange diameter that is at least one and one-half ( $1\frac{1}{2}$ ) times the winding-drum diameter.

(l) *Spooling of the rope.* The employers must *never* spool the rope closer than two (2) inches (5.1 cm) from the outer edge of the winding-drum flange.

(m) *Electrical system.* The employers must ensure that all electrical equipment is weatherproof.

(n) *Limit switches.* The employers must equip the hoist system with limit switches and related equipment that automatically prevent overtravel of a personnel cage, personnel platform, boatswains' chair, or material-transport device at the top of the supporting structure and at the bottom of the hoistway or lowest landing level.

#### 5. Methods of Operation

(a) *Employee qualifications and training.* The employers must:

(i) Ensure that only trained and experienced employees, who are knowledgeable of hoist-system operations, control the hoist machine; and

(ii) Provide instruction, periodically and as necessary, on how to operate the hoist system, to each employee who uses a personnel cage for transportation.

(b) *Speed limitations.* The employers must *not* operate the hoist at a speed in excess of:

(i) Two hundred and fifty (250) feet (76.9 m) per minute when a personnel cage is being used to transport employees;

(ii) One hundred (100) feet (30.5 m) per minute when a personnel platform or boatswains' chair is being used to transport employees; or

(iii) A line speed that is consistent with the design limitations of the system when only material is being hoisted.

(c) *Communication.* The employers must:

(i) Use a voice-mediated intercommunication system to maintain communication between the hoist operator and the employees located in or on a moving personnel cage, personnel platform, or boatswains' chair;

(ii) Stop hoisting if, for any reason, the communication system fails to operate effectively; and

(iii) Resume hoisting only when the site superintendent determines that it is safe to do so.

#### 6. Hoist Rope

(a) *Grade.* The employers must use a wire rope for the hoist system (*i.e.*, "hoist rope") that consists of extra-improved plow steel, an equivalent grade of non-rotating rope, or a regular lay rope with a suitable swivel mechanism.

(b) *Safety factor.* The employers must maintain a safety factor of at least eight (8) times the safe workload throughout the entire length of hoist rope.

(c) *Size.* The employers must use a hoist rope that is at least one-half ( $1/2$ ) inch (1.3 cm) in diameter.

(d) *Inspection, removal, and replacement.* The employers must:

(i) Thoroughly inspect the hoist rope before the start of each job and on completing a new setup;

(ii) Maintain the proper diameter-to-diameter ratios between the hoist rope and the footblock and the sheave by inspecting the wire rope regularly (*see* Conditions 7(c) and 8(d) below); and

(iii) Remove and replace the wire rope with new wire rope when any of the conditions specified by §1926.552(a)(3) occurs.

(e) *Attachments.* The employers must attach the rope to a personnel cage, personnel platform, or boatswains' chair with a keyed-screwpin shackle or positive-locking link.

(f) *Wire-rope fastenings.* When the employers use clip fastenings (*e.g.*, U-bolt wire-rope clips) with wire ropes, they must:

(i) Use Table H-20 of §1926.251 to determine the number and spacing of clips;

(ii) Use at least three (3) drop-forged clips at each fastening;

(iii) Install the clips with the "U" of the clips on the dead end of the rope; and

(iv) Space the clips so that the distance between them is six (6) times the diameter of the rope.

#### 7. Footblock

(a) *Type of block.* The employers must use a footblock:

(i) Consisting of construction-type blocks of solid single-piece bail with a safety factor that is at least four (4) times the safe workload, or an equivalent block with roller bearings;

(ii) Designed for the applied loading, size, and type of wire rope used for hoisting;

(iii) Designed with a guard that contains the wire rope within the sheave groove;

(iv) Bolted rigidly to the base; and

(v) Designed and installed so that it turns the moving wire rope to and from the horizontal or vertical as required by the direction of rope travel.

(b) *Directional change.* The employers must ensure that the angle of change in the hoist rope from the horizontal to the vertical direction at the footblock is approximately  $90^\circ$ .

(c) *Diameter.* The employers must ensure that the line diameter of the footblock is at least 24 times the diameter of the hoist rope.

#### 8. Cathead and Sheave

(a) *Support.* The employers must use a cathead (*i.e.*, "overhead support") that consists of a wide-flange beam or two (2) steel-channel sections securely bolted back-to-back to prevent spreading.

<sup>1</sup> This variance adopts the definition of, fleet angle from *Cranes and Derricks*, H.I. Shapiro, *et al.* (eds.); New York: McGraw-Hill. Accordingly, the fleet angle is "[t]he angle the rope leading onto a [winding] drum makes with the line perpendicular to the drum rotating axis when the lead rope is making a wrap against the flange."



(b) *Installation.* The employers must ensure that:

(i) All sheaves revolve on shafts that rotate on bearings; and

(ii) The bearings are mounted securely to maintain the proper bearing position at all times.

(c) *Rope guides.* The employers must provide each sheave with appropriate rope guides to prevent the hoist rope from leaving the sheave grooves when the rope vibrates or swings abnormally.

(d) *Diameter.* The employers must use a sheave with a diameter that is at least 24 times the diameter of the hoist rope.

#### 9. Guide Ropes

(a) *Number and construction.* The employers must affix two (2) guide ropes by swivels to the cathead. The guide ropes must:

(i) Consist of steel safety cables not less than one-half (1/2) inch (1.3 cm) in diameter; and

(ii) Be free of damage or defect at all times.

(b) *Guide rope fastening and alignment tension.* The employers must fasten one end of each guide rope securely to the overhead support, with appropriate tension applied at the foundation.

(c) *Height.* The employers must rig the guide ropes along the entire height of the hoist-machine structure.

#### 10. Personnel Cage

(a) *Construction.* A personnel cage must be of steel-frame construction and capable of supporting a load that is four (4) times its maximum rated load capacity. The employers also must ensure that the personnel cage has:

(i) A top and sides that are permanently enclosed (except for the entrance and exit);

(ii) A floor securely fastened in place;

(iii) Walls that consist of 14-gauge, one-half (1/2) inch (1.3 cm) expanded metal mesh, or an equivalent material;

(iv) Walls that cover the full height of the personnel cage between the floor and the overhead covering;

(v) A sloped roof constructed of one-eighth (1/8) inch (0.3 cm) aluminum, or an equivalent material; and

(vi) Safe handholds (e.g., rope grips—but not rails or hard protrusions<sup>2</sup>) that accommodate each occupant.

(b) *Overhead weight.* A personnel cage must have an overhead weight (e.g., a headache ball of appropriate weight) to compensate for the weight of the hoist rope between the cathead and footblock. In addition, the employers must:

(i) Ensure that the overhead weight is capable of preventing line run; and

(ii) Use a means to restrain the movement of the overhead weight so that the weight does *not* interfere with safe personnel hoisting.

(c) *Gate.* The personnel cage must have a gate that:

(i) Guards the full height of the entrance opening; and

(ii) Has a functioning mechanical lock that prevents accidental opening.

(d) *Operating procedures.* The employers must post the procedures for operating the personnel cage conspicuously at the hoist operator's station.

(e) *Capacity.* The employers must:

(i) Hoist no more than four (4) occupants in the cage at any one time; and

(ii) Ensure that the rated load capacity of the cage is at least 250 pounds (113.4 kg) for each occupant so hoisted.

(f) *Employee notification.* The employers must post a sign in each personnel cage notifying employees of the following conditions:

(i) The standard rated load, as determined by the initial static drop test specified by Condition 10(g) ("Static drop tests") below; and

(ii) The reduced rated load for the specific job.

(g) *Static drop tests.* The employers must:

(i) Conduct static drop tests of each personnel cage, and these tests must comply with the definition of "static drop test" specified by section 3 ("Definitions") and the static drop-test procedures provided in section 13 ("Inspections and Tests") of American National Standards Institute (ANSI) standard A10.22-1990 (R1998) ("American National Standard for Rope-Guided and Nonguided Worker's Hoists—Safety Requirements");

(ii) Perform the initial static drop test at 125 percent of the maximum rated load of the personnel cage, and subsequent drop tests at no less than 100 percent of its maximum rated load; and

(iii) Use a personnel cage for raising or lowering employees only when no damage occurred to the components of the cage as a result of the static drop tests.

#### 11. Safety Clamps

(a) *Fit to the guide ropes.* The employers must:

(i) Fit appropriately designed and constructed safety clamps to the guide ropes; and

(ii) Ensure that the safety clamps do not damage the guide ropes when in use.

(b) *Attach to the personnel cage.* The employers must attach safety clamps to each personnel cage for gripping the guide ropes.

(c) *Operation.* The safety clamps attached to the personnel cage must:

(i) Operate on the "broken rope principle" defined in section 3 ("Definitions") of ANSI standard A10.22-1990 (R1998);

(ii) Be capable of stopping and holding a personnel cage that is carrying 100 percent of its maximum rated load and traveling at its maximum allowable speed if the hoist rope breaks at the footblock; and

(iii) Use a pre-determined and pre-set clamping force (i.e., the "spring compression force") for each hoist system.

(d) *Maintenance.* The employers must keep the safety-clamp assemblies clean and functional at all times.

#### 12. Overhead Protection

(a) The employers must install a canopy or shield over the top of the personnel cage that is made of steel plate at least three-sixteenth (3/16) of an inch (4.763 mm) thick, or material of equivalent strength and impact resistance, to protect employees (i.e., both inside and outside the chimney) from material and debris that may fall from above.

(b) The employers must ensure that the canopy or shield slopes to the outside of the personnel cage.<sup>3</sup>

#### 13. Emergency-Escape Device

(a) *Location.* The employers must provide an emergency-escape device in at least one of the following locations:

(i) In the personnel cage, provided that the device is long enough to reach the bottom landing from the highest possible escape point; or

(ii) At the bottom landing, provided that a means is available in the personnel cage for the occupants to raise the device to the highest possible escape point.

(b) *Operating instructions.* The employers must ensure that written instructions for operating the emergency-escape device are attached to the device.

(c) *Training.* The employers must instruct each employee who uses a personnel cage for transportation on how to operate the emergency-escape device:

(i) Before the employee uses a personnel cage for transportation; and

(ii) Periodically, and as necessary, thereafter.

<sup>2</sup> To reduce impact hazards should employees lose their balance because of cage movement.

<sup>3</sup> Paragraphs (a) and (b) were adapted from OSHA's Underground Construction Standard (§ 1926.800(t)(4)(iv)).

#### 14. Personnel Platforms and Boatswains' Chairs

(a) *Personnel platforms.* When the employers elect to replace the personnel cage with a personnel platform in accordance with Condition 2(a) of this variance, they must:

(i) Ensure that an enclosure surrounds the platform, and that this enclosure is at least 42 inches (106.7 cm) above the platform's floor;

(ii) Provide overhead protection when an overhead hazard is, or could be, present; and

(iii) Comply with the applicable scaffolding strength requirements specified by § 1926.451(a)(1).

(b) *Boatswains' chairs.* When the employers elect to replace the personnel platform with a boatswains' chair in accordance with Condition 2(b) ("Boatswains' chair") of this variance, they may attach the boatswains' chair directly to the hoisting cable only when they demonstrate that the spatial arrangement makes it infeasible to safely use the block and tackle required by § 1926.452(o)(3).

(c) *Fall-protection equipment.* Before employees use work platforms or boatswains' chairs, the employers must equip the employees with, and ensure that they use, body harnesses and lifelines as specified by § 1926.104 and the applicable requirements of § 1926.502(d).

#### 15. Inspections, Tests, and Accident Prevention

(a) The employers must:

(i) Conduct inspections of the hoist system as required by § 1926.20(b)(2);

(ii) Ensure that a competent person conducts daily visual inspections of the hoist system; and

(iii) Inspect and test the hoist system as specified by § 1926.552(c)(15).

(b) The employers must comply with the accident-prevention requirements of § 1926.20(b)(3).

#### 16. Welding

(a) The employers must use only qualified welders to weld components of the hoisting system.

(b) The employers must ensure that the qualified welders:

(i) Are familiar with the weld grades, types, and materials specified in the design of the system; and

(ii) Perform the welding tasks in accordance with 29 CFR part 1926, subpart J ("Welding and Cutting").

#### VII. Authority and Signature

John L. Henshaw, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Ave., NW., Washington,

DC directed the preparation of this notice. This notice is issued under the authority specified by Section 6(d) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655), Secretary of Labor's Order No. 5-2002 (67 FR 65008), and 29 CFR part 1905.

Signed at Washington, DC on August 26, 2003.

**John L. Henshaw,**

*Assistant Secretary of Labor.*

[FR Doc. 03-22741 Filed 9-5-03; 8:45 am]

**BILLING CODE 4510-26-P**

#### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

##### Notice of Information Collection Under OMB Review

[Notice 03-099]

**AGENCY:** National Aeronautics and Space Administration (NASA).

**ACTION:** Notice of information collection under OMB review.

**SUMMARY:** The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (Pub. L. 104-13, 44 U.S.C. 3506(c)(2)(A)).

**DATES:** All comments should be submitted within 30 calendar days from the date of this publication.

**ADDRESSES:** All comments should be addressed to Desk Officer for NASA; Office of Information and Regulatory Affairs; Office of Management and Budget; Room 10236; New Executive Office Building; Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Ms. Nancy Kaplan, NASA Reports Officer, (202) 358-1372.

*Title:* Title IX Recipient Request.

*OMB Number:* 2700- .

*Type of review:* New collection.

*Need and Uses:* The information collected will be analyzed and used by NASA to determine NASA grant recipients' compliance with Title IX of the Education Amendments of 1972.

*Affected Public:* Not-for-profit institutions; Business or other for-profit.

*Number of Respondents:* 917.

*Responses Per Respondent:* 1.

*Annual Responses:* 917.

*Hours Per Request:* Approx. ½ hour.

*Annual Burden Hours:* 459.

*Frequency of Report:* Annually; Other (one time).

**Patricia L. Dunnington,**

*Chief Information Officer, Office of the Administrator.*

[FR Doc. 03-22691 Filed 9-5-03; 8:45 am]

**BILLING CODE 7510-01-P**

#### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (03-100)]

##### Notice of Information Collection Under OMB Review

**AGENCY:** National Aeronautics and Space Administration (NASA).

**ACTION:** Notice of information collection under OMB review.

**SUMMARY:** The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (Public Law 104-13, 44 U.S.C. 3506(c)(2)(A)).

**DATES:** All comments should be submitted on or before October 8, 2003.

**ADDRESSES:** All comments should be addressed to Desk Officer for NASA; Office of Information and Regulatory Affairs; Office of Management and Budget; Room 10236; New Executive Office Building; Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Ms. Nancy Kaplan, NASA Reports Officer, (202) 358-1372.

*Title:* NASA Safety Reporting System.

*OMB Number:* 2700-0063.

*Type of review:* Revision.

*Need and Uses:* This collection provides a means by which NASA employees and contractors can voluntarily and confidentially report any safety concerns or hazards pertaining to NASA programs, projects, or operations.

*Affected Public:* Federal Government; Business or other for-profit

*Number of Respondents:* 75.

*Responses Per Respondent:* 1.

*Annual Responses:* 75.

*Hours Per Request:* 15 min.

*Annual Burden Hours:* 19.

*Frequency of Report:* As needed.

**Patricia Dunnington,**

*Chief Information Officer, Office of the Administrator.*

[FR Doc. 03-22692 Filed 9-5-03; 8:45 am]

**BILLING CODE 7510-01-P**