



National Elevator Industry, Inc.

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Industry Comments on Proposed Regulations of the Division of Industrial Relations, Occupational Safety and Health Administration for the Amendment of Chapter 455C, NAC

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These comments are submitted on behalf of the National Elevator Industry, Inc. ("NEII®"), the trade association representing firms that install, maintain and/or manufacture elevators, escalators, moving walkways, and other building transportation products. NEII membership includes the top elevator companies in the United States, if not the world, and reports more than 80 percent of the work hours for the industry. Safety for the riding public and industry personnel is one of NEII's top priorities.

NEII offers the following comments on the Regulations of the Division of Industrial Relations, Occupational Safety and Health Administration ("Division") for the amendment of the Nevada Administrative Code, Chapter 455C (the "Proposed Regulations"). We again thank the Division for the diligence with which it has undertaken to develop the Proposed Regulations. Much work has been done to address the variety of issues brought forth by the many stakeholders regarding elevator-related safety regulation in Nevada.

NEII supports these efforts to create clear and consistent rules and guidelines, which will increase safety standards for elevator industry workers and end users, as well as allow greater efficiency for owners and elevator service companies.

We offer the following comments and suggested revisions for review:

Firefighter Operation

The firefighter emergency operation is a simple monthly exercising of the circuits to ensure they are operating correctly. This is opposed to older elevator relay logic equipment that required the more complicated "making" and "breaking" of the contact surfaces to ensure that the equipment is working. This operation may be safely performed by building personnel. Requiring a C-7 licensee to perform this monthly operation does not enhance public safety and creates an unnecessary expense for building owners (estimated at approximately \$4.8 million annually for all 10,000 or so elevators in Nevada to be exercised 12 times a year at an average cost of \$40 per elevator each time). And this must be distinguished from operation of the firefighter service during an actual fire emergency, which is to be done only by trained emergency personnel – and not building personnel or elevator mechanics.

That this operation may be performed by authorized building personnel is supported by the industry guidelines created by the ASME Committee. In particular, ASME Inquiry 11-1214, which is to be officially published in September 2012, inquires if firefighters' emergency operation monthly exercise is required to be performed by elevator personnel. The response: "No." This is the same answer provided to this question by ASME Inquiry 87-6, published in 1987, where the response includes that this "is not a test," that the Code "does not specify who is to perform this function," that any references to "trained emergency personnel" are "not relevant" to this requirement, and that "the only intent of this Rule is to exercise the firefighters' service circuits on a monthly basis."

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In addition, ASME Code Section 8.6.11.1 provides that firefighters emergency operation shall be performed monthly by "authorized personnel." Although requirement 8.6.11 falls in the 8.6 "maintenance" section of the code, it is important to note that Section 8.6 states in the first section, "See 'General' in Preface for assignment of responsibilities" and the Preface provides that the code does not address "assignment of the responsibility for compliance to any particular party." Therefore ASME does not direct that only mechanics may perform the 8.6.11 duties. And ASME Code Section 1.3 defines "authorized personnel" as "persons who have been instructed in the operation of the equipment and designated by the owner to use the equipment." The ASME A17.1 Handbook (2007), states that 8.6.11.1, maintenance of firefighters' services "is not an inspection or a test as covered in 8.10 and 8.11" and that the requirement "does not specify who is to perform the operation – maintenance company, owner, operator – only that it is performed. . .". (Note that the ASME Code serves as the basis for Nevada's and other states' elevator codes.)

Therefore, NEII supports any changes to the NAC that will clarify that this function may be performed by authorized building personnel. This could be achieved with the repeal of the NAC 455C.424 definition of "maintenance" as is suggested in Section 40 of the proposed regulations, combined with reliance upon the ASME Code for guidance. NEII also supports the addition of Section 5 of the proposed regulations, which echoes the language of the ASME Code by providing that monthly firefighter emergency operation be performed by "authorized personnel," with the understanding that "authorized personnel" will hold the meaning it does in the ASME code A17.1b, as "personnel authorized by the building." To ensure this is clear, NEII recommends a change of the word "test" in Sec. 5 to the word "exercise."

Suggested revision: See attachment A.

Floor and Cab Refinishing, Handrail Vulcanization (3rd Party Specialized Work)

Flooring and cab finish work are best performed by workers skilled in these trades. Requiring a C-7 license to perform such work does not add value or increase safety, but only adds expense to the customer. Elevator mechanic companies are forced to hire and retain specialized tradesmen or train their employees in skills such as tile-laying and handrail vulcanization. Although there may be a handful of elevator companies that have developed some competency in such areas, it cannot be expected that elevator companies will be at the forefront of the craftsmanship in tile laying and other decorative arts that are currently unavailable to Nevada elevator owners wishing to remodel their elevator cabs. This is a real and unnecessary burden on building owners and elevator service companies and detracts elevator mechanics' focus from their core responsibility of installing, repairing and servicing elevators to perform in a safe and efficient manner.

NEII understands concerns that such work must be done to meet all safety standards, including weight limits on elevator cabs, and is not requesting that such work should be performed without the proper oversight and inspection. A C-7 licensee must retain final responsibility over any work done to ensure the work does not cause the cab to become overweight and is otherwise safe and within the code requirements. NEII's members agree that the C-7 licensees shall maintain final and total responsibility, and if they sub-contract out any work to qualified experts in a field other than elevator mechanics - for example tile layers or vulcanizing experts for escalator handrails - they will supervise and inspect this work to ensure the work is done to meet all elevator code and safety standards.

Flooring installation and training is not provided to mechanics by the accredited training body (IUEC). The State of Nevada does not require competency in flooring installation to get a work card to perform this work in elevators. Therefore, Nevada is negligent in allowing a mechanic with no training or proficiency in flooring to have a work card and to perform flooring installations without any qualifications and then to specifically exclude Nevada licensed flooring contractors who do specialize in floor installation, with unique training and expertise in many types of floors, from performing this work in elevators. In fact, decreased safety to the public is created

by requiring an inexperienced elevator mechanic to perform tile/floor installations where the lack of experience with tools and methods increases the opportunity for defects and hazards to the public (e.g., tiles that detach from the subfloor and create uneven surfaces and tripping hazards or a carpet that is not tacked down correctly and comes detached prematurely).

Suggested revision: See attachment B.

Recordkeeping

NEII recognizes that there is not always consistency among the industry when it comes to recordkeeping regarding elevator repair, maintenance and testing. In particular, NEII would like for the requirements covering electronic records to be clarified by the Division, whether in the NAC or through other policy guidance. In addition, NEII members are increasingly moving towards electronic recordkeeping, which greatly enhances efficiency and the flow of information, and would like the Division to provide information on how this may be accomplished in a manner that will satisfy the needs of the inspectors today and how the Division foresees moving towards facilitating electronic recordkeeping in the future. NEII members would be happy to collaborate with the Division to create guidelines for recordkeeping that will meet the needs of all parties.

A written record that exists only in the machine rooms detracts from safety by not providing key information that will prevent future failures and accidents. Electronic records contain very accurate trouble call details that are not present in written machine room records. Is it acceptable to the state to ignore trouble call details (arguably a key area in record keeping) in favor of having less accurate information available to an inspector once a year immediately at hand upon inspection? Written machine room records do not allow companies to collect data and analyze failures to prevent future calls or breakdowns.

Suggested revision: None.

Injury/Accident reporting

The industry and building owners need clarity on when and how they should report an accident, how an "accident" is defined, when they must shut down operation, and when an inspection is needed prior to resuming operation. There is confusion on the part of building owners, and the guidance received from inspectors in the field is not consistent. However, NEII does not believe that any amendment of the NAC is necessary to reach this goal. Instead NEII suggests that the Division should produce guidance on what is currently failing in practice and work with the industry on clarifying what should be done and how they may better meet these goals.

One issue that requires such clarification is that an elevator/escalator operation need not be ceased pending inspection for an accident that is not caused by any malfunction or damage to the machinery. For example, if an inebriated person trips and falls on an escalator, it should be within the power of the building owners to do their own investigation into the incident and conclude that the equipment is not faulty, and report the accident to the Division with no need for inspection or cessation of equipment operation. If building owners fail to report accidents or mischaracterize accidents to the Division, there should be sanctions taken. However to require the cessation of equipment by all building owners for all accidents until an inspector can be sent will be a costly burden that does not enhance public safety.

NEII's recommendation is to not to strike the language proposed to be stricken in Section 39, but instead for the Division and the industry to work together to resolve areas of noncompliance and inconsistency. In addition, NEII does not believe that Section 3 or Section 4 of the Proposed Regulation is necessary and recommends striking those proposed sections.

Suggested revision: See attachment C.

Permitting

Clarity as to when permits are required is needed by the industry. Currently, elevator companies are receiving inconsistent guidance as to whether the replacement or repair of certain parts requires a permit. For example, some inspectors maintain that work such as adjusting a valve, or replacing a pump motor or door lock, is an alteration and therefore requires a permit. This is not consistent with NAC 455C.506 (3), which provides that: "A permit is not required for repairs and replacement that are necessary for the maintenance of an elevator if parts of equivalent materials, strength and design as that used in the original construction are used." The industry supports the following of the ASME code regarding the issues of what is a modification or replacement requiring a permit and what is a like-for-like repair. Alternatively or in addition, the industry supports further clarity in the form of examples from the Division as to what part replacements do and do not require permitting.

Suggested revision: None.

Other Comments

Finally, NEII would also like to reiterate our support for creation of a subcommittee for the elevator industry. This would allow for a continued discussion of processes and policies that are working well as well as how to improve them to create improvements in safety and efficiency. It has been suggested this may be best formed as a subcommittee to the current Division advisory council rather than as a legislatively mandated committee. Such a subcommittee should be conducted with notice, open meetings and publicly available minutes to facilitate robust industry participation.

NEII also supports the Division's efforts to create standardized checklists for the inspectors to follow, which will create greater consistency in elevator safety inspections.

Thank you for your consideration of these important comments. Please let us know if you have any questions or need additional information.

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Attachment A

Sec. 5. *Building owners must ensure that all elevators with firefighters emergency operation are ~~tested~~ exercised monthly, by authorized personnel, to Phase I recall by use of the key switch, and a minimum of one floor operation on Phase II. Deficiencies shall be corrected. A record of findings shall be available to elevator personnel and the authority having jurisdiction.*

Attachment B

Sec. 26. NAC 455C.468 is hereby amended to read as follows:

NAC 455C.468 Work card: Application; issuance; expiration. [Effective until the date of the repeal of the federal law requiring each state to establish procedures for withholding, suspending and restricting the professional, occupational and recreational licenses for child support arrearages and for noncompliance with certain processes relating to paternity or child support proceedings.] (NRS 455C.110)

1. An applicant for a work card *to be an elevator mechanic apprentice or an elevator mechanic helper* must submit to the Enforcement Section:

(a) A letter certifying that he is currently employed by or under contract with an elevator mechanic or *a licensed C-7* contractor ~~[as an elevator mechanic apprentice or elevator mechanic helper, as applicable];~~

(b) The fee for issuance of a work card set forth in NAC 455C.450; and

(c) The statement required by NAC 455C.474.

2. A work card issued pursuant to this section expires at midnight on September 1 next following the date of issuance, unless the work card is renewed.

3. If an applicant satisfies the requirements set forth in this section, the Enforcement Section shall issue a work card to the applicant.

Sec. 27. NAC 455C.468 is hereby amended to read as follows:

NAC 455C.468 Work card: Application; issuance; expiration. [Effective on the date of the repeal of the federal law requiring each state to establish procedures for withholding, suspending and restricting the professional, occupational and recreational licenses for child support arrearages and for noncompliance with certain processes relating to paternity or child support proceedings.] (NRS 455C.110)

1. An applicant for a work card *to be an elevator mechanic apprentice or elevator mechanic helper* must submit to the Enforcement Section:

(a) A letter certifying that he is currently employed by or under contract with an elevator mechanic or contractor *with a C-7 license* ~~[as an elevator mechanic or apprentice or elevator mechanic helper, as applicable];~~
and

(b) The fee for issuance of a work card set forth in NAC 455C.450.

2. A work card issued pursuant to this section expires at midnight on September 1 next following the date of issuance, unless the work card is renewed.

3. If an applicant satisfies the requirements set forth in this section, the Enforcement Section shall issue a work card to the applicant.

(Added to NAC by Div. of Industrial Relations by R101-02, 12-15-2004, eff.

Sec. 30. NAC 455C.500 is hereby amended to read as follows:

NAC 455C.500 Adoption by reference of certain codes, manuals and standards. ([NRS 455C.110](#))

1. The following codes, manuals and standards are hereby adopted by reference by the Division and may be obtained for the price listed:

* * *

(m) Handbook on Safety Code for Elevators and Escalators A17.1/CSA B44 - 2007, published by the American Society of Mechanical Engineers for a price of \$210

Attachment C

Sec. 39. NAC 455C.526 is hereby amended to read as follows:

NAC 455C.526 Accidents: Notification of Enforcement Section; investigation; inspection and report; subsequent use or removal of equipment. ([NRS 455C.110](#))

1. Before an initial operating permit has been issued for an elevator, the ~~[elevator mechanic]~~ *contractor* who will install, relocate or alter the elevator shall promptly ~~[promptly] immediately~~ notify the Enforcement Section of every accident involving the elevator.

2. After an operating permit has been issued for an elevator, the owner of the elevator or his agent shall promptly notify the Enforcement Section of every accident involving the elevator, *escalator, or moving walk.*

3. The elevator mechanic, contractor or owner of the elevator or his agent shall provide any assistance required by the Enforcement Section for the investigation of an accident or for any inspection relating to an accident.

4. The Enforcement Section shall, as soon as practicable after receiving notification of an accident, make an inspection and keep in its files a complete report of its findings, including a detailed list of all material facts and information available and the cause, as far as it can be determined, for the accident.

5. If an accident involves the failure or destruction of any part of an elevator, t [~~If an accident involves the failure or destruction of any part of an elevator, t~~] ~~t~~he use of the elevator is prohibited until:

- (a) The Enforcement Section has been notified;
- (b) The elevator has been made safe;
- (c) The elevator has been re-inspected and, if necessary, tested; and
- (d) Any repairs, changes or alterations have been approved by the Enforcement Section.

6. If an accident involves the failure of an elevator, no part of the elevator may be removed from the premises until the Enforcement Section authorizes that removal.

7. As used in this section, “accident” means an event involving the operation of an elevator that:

(a) Causes serious bodily injury; or

I. Requiring off site medical attention.

a. Elevator, escalator, moving walk etc. can not be restored to service until it is inspected by the AHJ.

II. If off site medical attention is not required it is up to the elevator service mechanic and the owner of the equipment or his agent to return the elevator back to operation.

~~—(b) Requires an alteration, repair or replacement of the elevator.]~~

~~[7. As used in this section, “accident” means an event involving the operation of an elevator that:~~

~~(b) Causes serious bodily injury; or~~

~~I. Requiring off site medical attention.~~

~~a. Elevator, escalator, moving walk etc. can not be restored to service until it is inspected by the AHJ.~~

~~II. If off site medical attention is not required it is up to the elevator service mechanic and the owner of the equipment or his agent to return the elevator back to operation.~~

~~—(b) Requires an alteration, repair or replacement of the elevator.]~~