

**ADOPTED REGULATION OF THE DIVISION OF INDUSTRIAL  
RELATIONS OF THE DEPARTMENT OF  
BUSINESS AND INDUSTRY**

**LCB File No. R160-08**

Effective December 17, 2008

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: §§1 and 2, NRS 455C.110.

A REGULATION relating to elevators; revising the definition of the term “special inspector”; revising provisions relating to certain publications adopted by reference by the Division of Industrial Relations of the Department of Business and Industry; and providing other matters properly relating thereto.

**Section 1.** NAC 455C.440 is hereby amended to read as follows:

455C.440 “Special inspector” means an elevator inspector who holds a certificate of competency and who is employed or retained ~~[as an independent contractor by an insurance company authorized to insure]~~ *to inspect* elevators in this State. *The term does not include an inspector as defined in NAC 455C.422.*

**Sec. 2.** NAC 455C.500 is hereby amended to read as follows:

455C.500 1. The following codes, manuals and standards are hereby adopted by reference by the Division and may be obtained for the price listed:

(a) *Safety Code for Elevators and Escalators*, A17.1, ~~[2004]~~ *2007* edition and addenda, including appendices, published by the American Society of Mechanical Engineers, for the price of ~~[\$195.]~~ *\$250*, except that rule 2.12.5 - Restricted Opening of Hoistway or Car Doors, is deleted.

- (b) *Guide for Inspection of Elevators, Escalators, and Moving Walks*, A17.2, ~~[2001]~~ **2007** edition, published by the American Society of Mechanical Engineers, for the price of ~~[\$125.]~~ **\$165.**
- (c) *Safety Requirements for Personnel Hoists and Employee Elevators on Construction and Demolition Sites for Construction and Demolition Operations*, A10.4, ~~[1990]~~ **2007** edition, published by the American National Standards Institute, for the price of ~~[\$91.]~~ **\$70.**
- (d) *Safety Standard for Belt Manlifts*, A90.1, 2003 edition, published by the American Society of Mechanical Engineers, for the price of ~~[\$50.]~~ **\$57.**
- (e) *Safety Code for Existing Elevators and Escalators*, A17.3, ~~[2002]~~ **2005** edition, published by the American Society of Mechanical Engineers, for the price of ~~[\$75.]~~ **\$99.**
- (f) *Guidelines for Accessible and Usable Buildings and Facilities*, A117.1, sections 4.07 and 4.08, ~~[1998]~~ **2003** edition, published by the American National Standards Institute, for the price of ~~[\$40.]~~ **\$46.**
- (g) *Guide for Emergency Personnel*, A17.4, 1999 edition, published by the American Society of Mechanical Engineers, for the price of \$35.
- (h) *Safety Standard for Platform Lifts and Stairway Chairlifts*, A18.1, ~~[2003]~~ **2005** edition, published by the American Society of Mechanical Engineers, for the price of ~~[\$75.]~~ **\$80.**
- (i) *Standard for the Qualification of Elevator Inspectors*, QEI-1, ~~[2001 edition and addenda.]~~ **2007 edition**, published by the American Society of Mechanical Engineers, for the price of ~~[\$58.]~~ **\$59.**
- (j) *Elevator and Escalator Electrical Equipment*, A17.5, ~~[1996]~~ **2004** edition, published by the American Society of Mechanical Engineers, for the price of ~~[\$69.]~~ **\$85.**

*(k) Performance-Based Safety Code for Elevators and Escalators, A17.7, 2007 edition, published by the American Society of Mechanical Engineers, for the price of \$135.*

2. The codes, manuals and standards set forth in subsection 1 which are published by the American Society of Mechanical Engineers may be obtained from the ASME International, 22 Law Drive, P.O. Box 2900, Fairfield, New Jersey 07007-2900.

3. The codes, manuals and standards set forth in subsection 1 which are published by the American National Standards Institute may be obtained from *IHS* Global Engineering Documents, 15 Inverness Way East, Englewood, Colorado 80112.

4. If any publication adopted by reference in this section is revised, the Administrator shall review the revision to determine its suitability for this State. If the Administrator determines that the revision is not suitable for this State, he shall hold a public hearing to review his determination and give notice of that hearing within 6 months after the date of the publication of the revision. If, after the hearing, the Administrator does not revise his determination, the Administrator shall give notice that the revision is not suitable for this State within 30 days after the hearing. If the Administrator does not give such notice, the revision becomes part of the publication adopted by reference in this section.

**NOTICE OF ADOPTION OF PROPOSED REGULATION**  
**LCB File No. R160-08**

The Division of Industrial Relations of the Department of Business and Industry adopted regulations assigned LCB File No. R160-08 which pertain to chapter 455C of the Nevada Administrative Code.

**INFORMATIONAL STATEMENT**

The Nevada Occupational Safety and Health Administration (OSHA), the Division of Industrial Relations, Department of Business and Industry, State of Nevada, (the Division), conducted public hearings on proposed permanent regulations to amend NAC 455C.440 to eliminate the requirement that a special inspector be employed or retained by an authorized insurance company; and amend NAC 455C.500 to adopt ASME A17.7-2007, Performance-based Safety Code for Elevators and Escalators.

Pursuant to NRS 233B.066, the Division is providing the following information pertaining to the public hearing and the proposed amendments.

**1(a). A description of how public comment was solicited, a summary of the public response, and an explanation of how other interested persons may obtain a copy of the summary.**

On or about April 11, 2008, the Notice of Public Workshop to solicit comments on the proposed regulations of the Division of Industrial Regulations was posted or deposited in the mail for posting in the main branch of every county library, the Grant Sawyer building, the Nevada State Library and Archives, and the Division's offices in Henderson, Reno and Carson City. The Notice was also posted on the Division's website at: <http://dirweb.state.nv.us/OSHA/mech.htm>. Additionally, on or about this time, the Notice of Public Workshop to solicit comments on proposed regulations of the Division of Industrial Relations was mailed to affected employers, labor organizations and other interested persons. The Notice advised the public of the time and place of the workshop on the proposed regulations and indicated that the public may submit written comments to the Administrator of the Division of Industrial Relations for consideration.

On May 16, 2008, the Division of Industrial Relations held the Public Workshop at its office located at 1301 North Green Valley Parkway, Suite 200 in Henderson Nevada to solicit comments on adoption of two proposed amendments to NAC 455C. The following people signed the attendance sheet prepared for the workshop: Barry Blakaby, Otis Elevator; T.L. Pope, Acme Home Elevator; William H. Stanley, International Union of Elevator Constructors (IUEC); Mario Vicchiullo, IUEC, Local 18; and Don Akins, IUEC, Local 18.

During the workshop, participants discussed the rationale for the proposed amendments. With NAC 455C.440, the change aims to address the shortage of state elevator inspectors and the backlog of required elevator inspections. Under NAC 455C.500, the adoption of Performance-based Safety Code would allow greater latitude for variances on issues not technically or specifically covered by existing codes. The change is anticipated to bring safety to a higher level.

Two members of the public provided comments and expressed their support for both amendments.

On or about August 1, 2008, the Notice of Intent to Act on Proposed Regulations (Notice of Public Hearing) was posted or deposited in the mail for posting in the main branch of every county library, the Grant Sawyer building, the Nevada State Library and Archives, and the Division's offices in Henderson, Reno and Carson City. The Notice of Public Hearing and proposed regulations were also posted on the Division's website at: <http://dirweb.state.nv.us/OSHA/mech.htm>.

Additionally, on or about the date indicated above, the Notice of Public Hearing was mailed to affected employers, labor organizations and other interested persons. The Notice of Public Hearing advised the public of

- the need and purpose of the regulation;
- the terms or substance of the proposed regulation or a description of the subject and issues involved;
- how to obtain the approved or revised text of the proposed regulation prepared by the Legislative Counsel;
- the estimated economic effect of the proposed regulations on regulated businesses and the public;
- the methods used by the agency in determining the impact on a small business;
- overlap or duplication of other state or local agency regulations;
- whether the regulation is required pursuant to federal law;
- whether the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity;
- whether the regulation imposed a new or increased fee; and
- the time and place of the public hearing and their opportunity to submit written comments to the Administrator of the Division of Industrial Relations for consideration.

Interested persons may obtain a copy of a summary of the comments by viewing/copying the summary at the Division's website at: <http://dirweb.state.nv.us/OSHA/mech.htm>; contacting Resty Malicdem at: **malicdem.resty@dol.gov**; (702) 486-9045; or writing to Resty Malicdem, Division of Industrial Relations, 1301 North Green Valley Parkway, Suite 200, Henderson, NV 89074.

**1(b). The number of persons who attended each hearing; testified at each hearing; and submitted to the agency written statements.**

On May 16, 2008, the Division of Industrial Relations held a public workshop on proposed regulation. Five people signed the attendance sheet used for the hearing. Two provided comments and one of these two, a representative for the International Union of Elevator Constructors, submitted a written statement.

On September 8, 2008, the Division of Industrial Relations held a Public Hearing on the proposed regulation. One person signed the attendance sheet but he did not provide comments and did not submit a written statement for consideration.

**1(c). A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how interested persons may obtain a copy of the summary.**

The Division of Industrial Relations solicited comment from affected businesses by posting the Notices of Public Workshop and Hearing at public libraries, the Grant Sawyer Building (State building), and the Division's offices in Carson City, Reno, and Henderson. The Notices were also mailed to affected businesses and the labor organization representing the trade.

Copies of the proposed changes to the regulation were available at the Division's offices at 1301 North Green Valley Parkway, Suite #200, Henderson, NV 89074 and 4600 Kietzke Lane, Suite #F-153, Reno, NV 89502, and at the Nevada Occupational Safety and Health Administration's website: <http://dirweb.state.nv.us/OSHA/mech.htm>

Nevada OSHA's proposed amendments to NAC 455C.440 and NAC 455C.500 are being brought forward to primarily alleviate the backlog of required elevator inspections and allow innovations in elevator/escalator designs to keep pace with new advances in technology, respectively

During the Public Workshop held on May 16, 2008, those who volunteered to comment were in support of the proposed amendments without change.

Below is a summary of the discussion that transpired during the Public Workshop:

NAC 455C.440 "Special Inspector" defined. NV OSHA proposes to eliminate the requirement that a special inspector be employed or retained by an insurance company. It supports this amendment based on two primary issues. First, NV OSHA is experiencing a shortage of elevator inspectors and second, because of this shortage there is a backlog of elevator inspections.

A change to this NAC will allow more special inspectors, who meet state requirements, to help reduce NV OSHA's existing inspection backlog and to provide employers the ability to hire third-party inspectors to meet their needs.

Mr. William H. Stanley, International Union of Elevator Constructors stated that the issue with special inspectors had been discussed during public hearings prior to the adoption NAC 455C. The industry raised the issue due to concerns that the Division would be unable to provide the number of inspectors necessary to meet inspection workloads.

He also said that the provision did not intend to require special inspectors to be employed by an authorized insurance company. This requirement negatively affected the Division's ability to include the private sector in meeting its legislative mandate. At times, the Division was unable to provide enough inspectors for owners to meet the requirements of NAC 455C.516.

Finally, he stated that while the change will reflect the original intent of third party inspectors, and it will provide access to qualified inspectors, the public will not be assured that equipment is properly maintained and functional until an adequate inspection program is implemented in the State.

Mr. Stanley also provided a written statement to Mr. Czehowski for consideration.

NAC 455C.500 Adoption by reference of certain codes, manuals and standards. NV OSHA proposes adoption of Performance-based Safety Code for Elevators and Escalators, A17.7, 2007 edition, published by the American Society of Mechanical Engineers (ASME).

As discussed during the workshop, this ASME standard would allow greater latitude for exemptions on issues not technically or specifically covered by existing codes. Safety will be brought to a higher level.

Mr. Barry Blackaby, a representative of Otis Elevators, supports the adoption of ASME A17.7. He stated that one reason to implement these performance-based codes is to allow manufacturers to create products up to code. Additionally, it was not a way of changing code, but a way for OSHA to have a standard by which to inspect. This code will bring change and will bring safety to the next level.

Mr. Stanley also supports the addition of this ASME standard to NAC 455C.500.

He stated that NAC 455C.506 requires licensed contractors to submit plans and specifications to the Division for review to determine that the equipment and modifications meet the minimum standards stipulated in codes adopted by the Division in NAC 455C.500.

He pointed out that the IUEC has had conversation with the Division regarding plan review and that the Division does not have anyone qualified to review the plans and specifications. He also said that a plan check performed by local and county entities qualified to do these reviews has been discussed.

ASME A17.7 requires a manufacturer to submit all plans and specifications to an outside or third-party engineering firm for review. The criteria for such a review has been constructed by the A17.7 Code Committee and approved by the American Society of Mechanical Engineers.

He suggested that the Division should accept any manufacturer who has submitted equipment for review under guidelines established by A17.7.

Mr. Czehowski adjourned the workshop after hearing all comments.

The Division held the Public Hearing on the proposed amendments on September 8, 2008. One person signed-in on the attendance sheet but he did not provide comment or submit a written statement for consideration regarding the proposed amendments to NAC 455C. Mr. Czehowski adjourned the hearing after providing the opportunity for the public to comment.

Interested persons may obtain a copy of a summary of the comments by viewing/copying the summary at the Division's website at: <http://dirweb.state.nv.us/OSHA/mech.htm>; contacting Resty Malicdem at: [malicdem.resty@dol.gov](mailto:malicdem.resty@dol.gov); (702) 486-9045; or writing to Resty Malicdem, Division of Industrial Relations, 1301 North Green Valley Parkway, Suite 200, Henderson, NV 89074.

**1(d). If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**

Public comments and the submitted written statement supported the proposed amendments to regulation. There were no public comments expressing opposition to the proposed amendments.

**1(e). The estimated economic effect of the regulation on the business which it is to regulate and on the public.**

**Adverse Effects:** None anticipated.

**Beneficial Effects:** The Division believes that the proposed amendment to NAC 455C.440 would provide additional inspectors available to businesses to meet their inspection needs. In turn, the Division deems that the change would reduce the inspection workload of the agency's Mechanical Unit.

The Division believes that the proposed amendment to NAC 455C.500 would allow innovations in elevator/escalator designs to keep pace with new advances in technology.

**Immediate and long-term effects:** No significant immediate effect is anticipated. However, long-term, the increased availability of third-party inspectors would help ensure public safety through timely inspections of



elevators. Likewise, adoption of performance-based safety codes for elevators and escalators has the same effect on safety—the change would allow manufacturers more options to meet safety requirements.

**1(f). The estimated cost to the agency for enforcement of the proposed regulation.**

The Division does not anticipate any significant cost to enforce the proposed regulation.

**1(g). A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and statement explaining why the duplication or overlapping is necessary.**

The Division is not aware of any overlap or duplication of other state or government agency regulation.

**1(h). If the regulation includes provisions which are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.**

Not applicable.

**1(i). If the regulation provides a new fee or increases an existing fee, the total amount the agency expects to collect and the manner the money will be used.**

Not applicable.