STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
DIVISION OF INDUSTRIAL RELATIONS

IN THE MATTER OF THE ADOPTION OF PERMANENT REGULATION RELATING TO INDUSTRIAL RELATIONS; AUTHORIZING THE CHIEF OF THE MECHANICAL COMPLIANCE SECTION TO ISSUE AN EMERGENCY ORDER TO RESTRAIN CERTAIN CONDITIONS OR PRACTICES RELATING TO AN ELEVATOR, ESCALATOR OR MOVING WALKS WHICH CREATE A DANGER OF DEATH OR SERIOUS PHYSICAL HARM; CREATING AUTHORIZED INSPECTION AGENCIES AND REQUIRE SPECIAL INSPECTORS TO BE EMPLOYED BY OR AFFILIATED WITH AN AUTHORIZED INSPECTION AGENCY ON OR AFTER JULY 1, 2015; REVISING THE FEES ASSESSED BY THE DIVISION; REVISING VARIOUS PROVISIONS RELATING TO THE OPERATION, INSPECTION AND TESTING OF ELEVATORS, ESCALATORS AND MOVING WALKS; AND PROVIDING OTHER MATTERS PROPERLY RELATING THERETO.

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LEGISLATIVE REVIEW OF ADOPTED REGULATIONS
AS REQUIRED BY NRS 233B.066
LCB FILE NO. R077-14

AMENDED INFORMATIONAL STATEMENT

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) Chapter 455C.

1. A clear and concise explanation of the need for the adopted regulation.

The Division of Industrial Relations, Mechanical Compliance Section's proposed changes to NAC 455C.006, 455C.010, 455C.108, and various sections between 455C.404 and 455C.638, inclusive, make a variety of revisions that include the deletion, addition, and introduction of new requirements covering a wide variety of specific issues regarding elevators, escalators and moving walks. The proposed regulations are necessary to develop a vibrant special inspector industry, providing elevator owners/operators with competitive options; separate and define the

market for state inspectors and special inspectors to eliminate inappropriate competition between the state and private sector; transition the Division's Mechanical Unit from an enforcement role to a more appropriate regulatory role, to be known as the Mechanical Compliance Section; provide the mechanism for a more objective and consistent direction, interpretation and oversight of the regulated community; simplify applicable boiler and elevator codes adopted by reference, formally updates such codes, and creates flexibility to address special circumstances; delete "auto-adopt" provisions for both boiler and elevator codes; and decrease inequitable reliance upon assessments from the Workers' Compensation and Safety Fund for funding elevator regulation.

2. A description of how public comment was solicited, a summary of public responses, and an explanation of how other interested persons may obtain a copy of the summary.

Copies of the proposed regulation, notices of workshop and notices of intent to act upon a regulation were sent by U.S. mail and e-mail to over 3,800 persons who were known to have an interest in the subject of Chapter 455C concerning Boilers, Elevators and Pressure Vessels of the Nevada Administrative Code ("NAC"), as well as any persons who had specifically requested such notice. These documents were also made available at the websites of the State of Nevada and the Department of Business and Industry, Division of Industrial Relations, Mechanical Compliance Section (www.dirweb.state.nv.us/OSHA/mech.htm), mailed to all county libraries in Nevada and posted at the following locations:

Division of Industrial Relations
400 W. King Street, #400
Carson City, NV 89703

Department of Business and Industry
555 E. Washington Ave., #4900
Las Vegas, NV 89101

Mechanical Compliance Section
Division of Industrial Relations
1301 N. Green Valley Pkwy., #200
Henderson, NV 89074

Mechanical Compliance Section
Division of Industrial Relations
4600 Kietzke Lane, Bldg. F, #151
Reno, NV 89502

Grant Sawyer Building
555 E. Washington Ave,
Las Vegas, NV 89101

Bradley Building
2501 E. Sahara Ave.
Las Vegas, NV 89104

Nevada State Library and Archives
100 Stewart Street
Carson City, NV 89701

Workshops were held via videoconference on June 24, 2014, at 9:00 a.m. at the Legislative Building, 401 S. Carson Street, Room 2134, Carson City, Nevada; and at Great Basin College, High Tech Center, 1500 College Parkway, Room 137, Elko, Nevada and on June 25, 2014 at 9:00 a.m. at the Division of Industrial Relations, Training Room, 1301 N. Green Valley Parkway, Room 130, Henderson, Nevada. On or about September 8, 2014, the Administrator of the Department of Business and Industry, Division of Industrial Relations (Administrator),

issued a Notice of Intent to Act on Proposed Regulations. Public hearings were held on October 15, 2014, at 3:00 p.m. at Great Basin College, HSCI, Room 107, 1500 College Parkway, Elko, Nevada; on October 17, 2014 at 9:00 a.m. at Occupational Safety and Health Administration, 4600 Kietzke Lane, Building E, #144/Training Room, Reno, Nevada; and on October 20, 2014 at 1:00 p.m. at the Division of Industrial Relations, Training Room, 1301 N. Green Valley Parkway, Room 130, Henderson, Nevada.

A copy of this summary of the public response to the proposed regulations may be obtained from Donald C. Smith, Esq. at the Division of Industrial Relations, Legal Department, 1301 N. Green Valley Pkwy., #200, Henderson, NV 89074, 702-486-9070, or e-mail to donaldcsmith@business.nv.gov.

3. The number of persons who:

(a) Attended each hearing;

(b) Testified at each hearing; and

(c) Submitted to the agency written comments.

4. For each person identified in paragraphs (b) and (c) of number 3 above, the following information, if provided to the agency conducting the hearing:

(a) Name;

(b) Telephone number;

(c) Business address;

(d) Business telephone number;

(e) Electronic mail address; and

(f) Name of entity or organization represented.

At the **June 24, 2014, Workshop**, which was held at two sites via videoconference, in Elko, 1 person attended; in Carson City, 13 attended, with testimony received from four (4) attendees. A summary of the testimony at this public hearing follows:

Don Apodaca, John Ascuaga's Nugget, 1100 Nugget Avenue, Sparks, Nevada 89431; don-apodaca@janugget.com. We are concerned about the recent mailer requiring that 50% of the steps on escalators be removed for annual inspections. This means that the device is going to be down a lot longer and a lot more labor.

Mac Potter, Nevada Casino Holdings, P.O. Box 1847, Sparks, Nevada 89432; (775) 284-7255; mpotter@northernstarcasinos.com. We are concerned about the amendment (to NAC 455C.466), on page 15, item 4. We are the owners of a number of small gaming operations in Northern Nevada. Across our brand we have approximately nine elevators. The newest of which is a 1992 installation. An existing installation may be used without being reconstructed to comply with the requirements of NAC 455C.400 to 528 inclusive, except for those sections which specifically refer to such existing installations. One that comes to mind is the requirement of the shunt trip device when sprinklers are installed in the hoistway and machine room. Finally, none of our properties has in excess of 100 employees, and so from a small businessman's

prospective the cost of that particular installation at one of our locations was bid at $10,000. So with nine elevators across our brand you can see that that's a quick $100K that these small businesses would be hard pressed to afford.

Scott Butler, Thyssen Krupp Elevator Company, 740 Freeport Blvd., Suite 108, Sparks, Nevada 89431; scott.butler@thyssenkrupp.com. We are concerned about the proposed exemption in Section 4 for elevators with 50 feet of travel or less being exempt from firefighters emergency service exercise. We believe that exemption would create a safety concern. The state has required that elevators and elevator companies and fire companies jointly test the fire system. We have found that many of these systems have failed. And they have failed because the devices whether they be heat detectors, smoke detectors are not properly tied in are those that fail. Our position is that these should be tested on a monthly basis and again if they are tested by authorized building personnel or someone designated by the owner is fine because the firefighter Phase 1 and Phase 2 are some of the only things on the elevator that has an instruction list out in the hallway. Annual inspection is not adequate, they should be tested monthly.

On Section 20 we ask that we have opportunities to work with the Division on the development of policies and procedures.

On Section 25, subsection 6 (NAC 455C.450) regarding maximum charges for Authorized Inspection Agencies or special inspectors, we are concerned about dictating fees to special inspectors. I think you would be limiting new startup companies for startup special inspectors so in order to be able to promote more competition, I would just ask that you keep an open mind on that.

On Section 32, item 1(a) - Letter certifying currently employed and Section 34, item 1 (NAC 455C.468). I respectfully ask that you consider changing that to supervise. For example, vulcanizing escalator hand rails is kind of a specialty item. But if someone meets the criteria was a former C7 license elevator employee, IUEC technician that has started their own company, if they could be hired or subcontracted and just directly supervised by the C7 contractor, I think that would certainly again be more beneficial for our customers and give flexibility.

On Section 38, item (1)(h) (NAC 455C.500) the *Safety Standard for Platform Lifts and Stairway Chairlifts*, A18.1 should not be deleted and should remain an adopted standard.

On Section 39 about maintenance records, keeping records (NAC 455C.504). In items 3, 4 and 6, there is some language in there that says, "no less than." We request that language be reconsidered since we suggest that it is a bit vague and ambiguous and suggest using a minimum standard of "no less than five years."

Also in that same section, 39, you go down to item 3 (NAC 455C.504). Third line talks about written maintenance records. We suggest deleting "written" to just maintenance records because maintenance records can be kept electronically. So in lieu of a maintenance record if you would consider potentially broadening that to electronic or other types of records because we are trying to live in a paperless world. When an owner or a company retains an elevator company, a C7 licensed company to work on their unit, each company is going to have access to those records.

Their employees are going to have hand held devices that communicate. Moreover the building owners are assigned, whether it be web addresses, access codes to be able to access their electronic maintenance records on line. And since the building owner is also the certificate holder for the elevator certificate of operation, it is also the building owner's responsibility to provide that information to the inspectors.

We also suggest standardizing the timelines in the regulations by using "calendar days" rather than "business days." On Section 42, Item 2(a) and (b) (NAC 455C.510) we just propose "calendar days"; item 4(d) uses 90 "calendar days"; in item 5 we suggest striking "written" before report and suggest broadening that to include electronic records.

Section 47, item 1 (NAC 455C.522) again the word "written report" appears, which should be broadened to include electronic records.

Section 64, numbers 4 and 5 (NAC 455C.636), again "business days" are referenced. We would suggest consistency throughout the regulations by using "calendar days."

Section 65, item number 1 (NAC 455C.638) has "calendar days" and item number 3 switches over to "business days." We propose changing that to "calendar days" so that we have consistency.

I have been an independent consultant; a licensed third party inspector; and formerly an inspector with the State of Nevada and I would like to personally weigh in on some of the Special Inspector proposals that are in here. On Section 7, Item 1(c), item 1(d), the insurance limit on Authorized Inspection Agencies of five million dollars, that limit exceeds what C7 licensed contractors have to carry in the state. In regards to small business impact, and also going back to what I had mentioned earlier with limits on what special inspectors could charge. On Section 7, item 1(e), I would propose that library be changed to electronic library. On Section 7, item 2(a), again talks about the physical address of records and I would encourage you to consider electronic records. On item number 4, which talks about certification for three years from the date of issuance, I suggest that should be granted in perpetuity provided a company meets the criteria, annually renews the QEI certification and renews its business license.

On Section 9, item 1, the second sentence ends with 5 "business days" and should be changed to a "calendar days" standard. Also in Section 9, item 1(a) talks about proof of availability of code books should include an electronic format.

On Section 9, item 1(d), log of activity for each special inspector, I suggest it is over broad and redundant. A log is a bit redundant since the inspector performing the work is going to have to sign the inspection form and send that in. Also in Section 9, number 2(a) talks about an operations manual, setting forth instructions, again, I think it is vague and ambiguous. Item 2(b) is a redundant written policy for continued education through the QEI certification process. Item 3, I suggest the discipline should not be limited to three years.

In Section 20, item number 3, (NAC 455C.440), the Special Inspectors must demonstrate competence in elevator Special Inspector duties. I would respectfully request that Special

Inspectors that currently hold licenses with the State of Nevada that have already demonstrated that they are competent to hold a license not have to retake a test, or retake an exam. Secondly, when I did take my competency exam, I, to the best of my knowledge, I don't think that we have a specific test that is formatted just for Special Inspectors. As a person who holds a Special Inspector's license currently, I would like to think that I would be able to continue on and be able to renew that without having to take another exam. In that same Section 20, item number 6, has to do with compliance and quality audits. My question would be what is the standard in the guidelines that this will be conducted? It is very vague and ambiguous. It's pretty broad and needs to be outlined and a little more clearly defined on how they are going to be conducted and by whom.

Bill Stanley, International Union of Elevator Constructors, 5340 N. Campbell Road, Las Vegas, Nevada; (702) 241-8799; wstanley@iuec.org. First testified regarding the issue of shunt trips as required by A17.1 or A17.3. The elevator codes do not require sprinkling of the hoistway and/or the machine room. It is a building code requirement which is in the international building code. We don't believe that there is a conflict, or at least I don't think there is a conflict between the IBC, *International Building Code*, and A17.1. It simply says that prior to initiating water flow in a machine room or a hoistway, you must remove the power from the elevator. And that removal of power can't be initiated by the elevator equipment. How you accomplish that, and there is many ways to accomplish that, it is a building code requirement. It is not an elevator code requirement. So the elevator, the building code can simply, as it has chosen in many jurisdictions, simply not sprinkle the machine room and hoistway. Or if they choose to, then they must provide a mechanism by which to disconnect the power. And I think we can all understand that dumping water on a piece of live electrical equipment is never a good idea.

The next issue is the capping of the fees for special inspectors. My comment would be, let's be careful that I hope we are going to be careful in that we don't look at third party inspection through one business model. Having been a part of this process since 1999, and having engaged in conversations with both the Division and third party inspectors throughout the country, in trying to lure third party inspectors to the State of Nevada to increase that choice, there are many third party inspection companies throughout the United States that accomplish both the testing required under ASME 8.6, A17.1, 8.6 and the periodic inspections required under ASME 8.11, without the help of the chosen service provider of the building owner of the property owner. I could have my own inspection company in which I bring my own, certified mechanic to the job site to perform those tests on that day and then do the inspections myself. If you cap the fees, you have eliminated that business model, because I can't afford to pay the mechanic and the inspector for the day's work if you cap the fees the way you have. And there are many inspection companies across the United States that are nationally known inspection companies that employ individuals who could become certified under the terms of NAC 455C as a certified mechanic, who would then be eligible to perform those tests within the State of Nevada that would be witnessed by the special inspector of the same company. If we could just let the market set the rate. And how it's going to be done, don't limit how it's going to be done through a cap. So that's my comment there. And I think that would increase competition.

I would just caution that anything that we may do in allowing other contractors who may or may not be licensed with the State of Nevada Contractor's Board to practice is a violation of NRS 624 on various levels.

It is our opinion, and the opinion of National Elevator Industry, Inc. ("NEII"), in their written comments that the references within A17.1 to specific other codes mainly A17.3, 4, 5, 6, 7 are not adequate for you to cite as an agency. NEII and the IUEC both are on record that those codes should be adopted by reference within section 500 (NAC 455C.500). In addition, ASME A18.1, which is the platform code, is absolutely not included by reference in 17.1. In fact, 17.1 has the statement within the scope of 17.1 excluding 18.1. I would also bring your attention to the inclusion of ANSI 10.4, which is the code for personnel hoist is called out within A17.1 is being a code not included in A17.1. So if that's how the Division believes it's going to get to 10.4, A17.1 specifically excludes it. And so if you're going to regulate, inspect personnel hoists on construction sites, we have a concern in that area that you have the proper jurisdiction to inspect those hoists. Ensure that they are safely and properly maintained and serviced and operated.

In Section 39 (NAC 455C.504), I want the Division to understand that the way you have drafted that language says that the maintenance control program ("MCP") will only be maintained for 5 years. I think what the Division is intending there is that the records will be maintained for 5 years, not the MCP program. The MCP program is inclusive. It includes things like electrical wiring diagrams, specifications in a written documentation on how to perform the safety tests required by 8.6 of the code. Those things I don't believe you are trying to limit to 5 years. It's only the records that are derived from the MCP program. And to that point I would caution the Division again about including language that is already contained in the code. This 5 year exemption for records is already contained in ASME A17.1 the 2013 revision in section 8.6. This exact language comes straight from the code and I would suggest that we leave that stuff to the code.

Again there was some conversations about maintenance records and whether or not they are required to be maintained electronically or written. Knowing what the technician or the mechanic has previously done before you just arrived to the trouble call could be the difference between life and death. And while electronic records are great, I can tell you that I am unaware of a single NEIP whose records are updated instantaneously with access to the field. So what we have requested is modest is that the service calls be recorded written within the machine room where the service technician has access to what has happened previous to them getting there. Whether or not the contractor chooses to also save them electronically or written, we have no dog in that fight.

Having to do with inspections, electronic or written. It is our hope and desire that inspections be electronically generated at some point. Many third party elevator inspection firms across the United States that only deal electronically, they can forward to the Division instantaneously the records of that inspection, downloading and then printing it puts it into a written record where I come from. I don't know if it has to be in blue or black pen, the fact that you have it in a paper document is really the gist here. And I can tell you having been in the field for 35 years myself, I can tell you that I have spent hours trying to decipher what an inspector actually wrote on an inspection report. And one of the things these programs do is give you the citation of the Notice

of Violation typed out. So it automatically inserts it which makes that process much easier for those individuals that are trying to determine what actually was right or wrong.

The last comment that I have is coming from the NEII comments dated June 19, 2014. They are industry comments regarding the auto adoption, NEII recommends that references to any specific year be deleted from the regulations keeping the years in the regulations and require the rules be updated continuous and order the state to stay current on its building transportation other related safety code. The Division indicated that auto adoption for these codes in the State of Nevada is not preferred and NEII supports auto adoption so does the IUEC. We support auto adoption. So I can see this scenario coming up where if we wait three years we could literally be six years behind on one code and current on another code. And then a conflict may develop up between.

At the **June 25, 2014, Workshop** which was held in Henderson, 15 attended, with testimony received from 6 attendees. A summary of the testimony at this public hearing follows:

John F. Wiles, Esq., 3 Hillside Drive, Boulder City, NV 89005; Representing IUEC Local 18; jfwileslaw@gmail.com. I want to point out a couple of areas in which we are in agreement with the National Elevator Industry, Inc. (NEII). We believe the auto adoption process for the adopted reference codes is an appropriate way to deal with the changing industry and the constant improvement. There is a delayed implementation, if you will, within the codes themselves. It is contemplated that the authority having jurisdiction, if you will, will move towards adoption in an orderly but timely manner to get the Codes on the books. So we believe the auto adoption process could work with the appropriate outreach so that there is no unfair surprise and Nevada would be assured of having the safest elevators in the nation. In particular, we suggest that the Division adopt the Guides in A17.2 and the QEI-1 as standards.

Now, the other area that NEII and IUEC agree on is the use of the codes themselves to define the terms by which the industry, IUEC, special inspectors will work within this regulatory environment and that is the definitions. Each of the codes have a definitional section and those definitions, we believe, are the ones that the Division should use and it's not necessary for you to repeat them in the regulations themselves because it can lead to some confusion.

NEII and IUEC agree that the scope of the codes that you should adopt is greater than is currently reflected in your draft. There are codes that have been stricken suggesting that you do not intend to adopt them. Perhaps on the idea that the codes, some of the codes might be incorporated in A17.1, some of, we agree. Some parts of those codes are incorporated within the codes you've adopted, but not all of the codes are incorporated within A17.1 so essentially they're very selective and I think that if you'll check, in OSHA you call it the preamble, but essentially they lay it out in terms of the portions that are incorporated in the Guides and so I would, I guess give you a cautionary note. If it's your intention not to adopt a code because you think it might be in another code, think about it again. We certainly would request you do so.

On written records, the service call essentially, if it's electronically kept and instantaneously accessible, perhaps someday that might be the case. We don't believe that's the case and having the service calls in a written form allows the responding technician, who might be on a different shift, as I think Mr. Stanley pointed out, to know what's been done. And I can tell you from my

personal experience those sort of circumstances can lead to tragedy. In the course of inspection and testing or service calls, there can be certain safety features, which might be in the trade "jumped out." Unless you know somebody's been there and done that, a responding technician might not necessarily go to the place where you can discover that. We would encourage you to take those extra steps for protection so we again can be the safest in the nation. Not only for the public but for our members.

Bill Stanley, International Union of Elevator Constructors, 5340 N. Campbell Road, Las Vegas, Nevada; (702) 241-8799; wstanley@iuec.org. We were discussing the electronic versus written records that need to be onsite. The 2013 edition of A17.1, really goes through and delineates where records need to be written and where records can be electronically kept. We're suggesting that, for our membership, it is an invaluable tool to know when one of your colleagues has visited the job on a previous problem to make a notation in a log in the machine room so that for those issues, specifically those that are reoccurring and sometimes in the elevator business, it's not an exact science. We would like it to be; it's not. And sometimes you have an intermittent problem that really takes some time to flush out. And during that timeframe I would really like to know where the colleague that was here an hour or two before me had his mittens because knowing what's component, subsection or section of the elevator that he or she was working on gives me a lot of insights into what mousetrap may have been created for me that I would not have otherwise known. Besides giving me a trail on where maybe I don't need to look, but where I really need to look to fix the elevator so that the riding public be assured that they have a safe conveyance. So we're simply asking for a log that the Division adopt in addition to the extensive records that are required by 17.1. A logbook that simply logs trouble calls and/or service calls as they are defined in A17.1 in the machine room that logs the date, the individual who performed the work and a brief description of what it is you did.

The next issue I'll address is the issue regarding the testing, exercising, operation, whatever you want to define it, of the requirement in 8.6.11.1 of A17.1 regarding Firemen, Phase II. As Mr. Wiles alluded to, we have a NRS 477 requirement and statute that requires that every elevator be, have a function installed to recall the elevator. In the elevator industry, we call that Phase 1. That statute exists and that statute has a height of 55 foot. In NRS 618 there is a provision that uses the same 55 foot reference having to do with personnel hoists at construction sites. And I just think to be consistent with those two at 55 feet, it makes some sense to those of us in the industry. Okay, that's the difference between the 50 and the 55 foot that I think I suggested yesterday.

The other issue that I would bring to light is the Code is specific in that the Phase II which is the firefighters operation of the elevator is not intended for other emergency personnel. It is not intended for building use. It is specifically intended for firemen and the Code spells that out. If the Fire Marshal in the State of Nevada, the Clark County Fire Department and Washoe County fire departments produce protocols that dictate that the fire department is not to use an elevator until it gets over 55 foot of rise then it is our position that we are regulating a requirement that is never going to be used. That we are having a function of the elevator and requiring it to be installed in jurisdictions where the individuals that it's being installed for, which is the firefighters, have a mandate to never use it. That does not make sense to us. Our suggestion is that if a building owner chooses not to have the fireman Phase II functionality of his elevator

because it is under 55 foot of rise, they may have the choice to remove the functionality, which includes the removal of the key switches. However, we also believe that a building owner who may so choose to leave it there that, I do not know, maybe his insurance provider says you are going to provide it because of the clientele you have in your building. The building owner should have that choice; that if the building owner so chooses to leave the Phase II, now the building owner has a choice, I can remove it or I can leave it. However, if I leave it, it's going to be tested monthly. We will submit some language to that effect upon our written comments.

On the requirement for monthly testing of Phase II, the A17.1 Code is some 536 some odd pages of requirements and out of all those requirements, there is only one requirement that a consensus code committee made up of property owners such as BOMA, the regulatory, NEII and all the manufacturers of the world, really a cross section of all the stakeholders that are involved in the elevator industry. That committee has decided that there is one issue that is going to be required to be looked at monthly and this is it. They have decided that it is in the best interest of first responders who do not have the expertise but have an absolute need to be able to depend on this equipment, especially in a high-rise fire. Firefighters should know and understand when they walk into a building, Phase II operation is going to work.

We are not advocating that the Phase I be eliminated, just the testing Phase II if is not installed. Phase I in the code is to be tested annually in cooperation with the other fire code statutes in the state. I know the State Fire Marshal and the Division are comfortable with that and I think we are too.

As to the proposed regulations, on page 10, Section 15, instead of saying 455C this time, I'm just gonna give you the references – 410 (NAC 455C.410), my comments here are: in keeping with the A17.1 2013, and other codes adopted by reference and NAC 455C.500 contain definitions that the Mechanical Compliance Section can and should use to comply and enforce chapter 455C of the NRS and the NAC. It is not necessary or prudent to repeat or rephrase definitions like hoistway in the Nevada Administrative Code. NAC 455C.410 and other terms defined in the adoptive codes should be repealed. When the definition is in the code book, let's leave it alone, that's our suggestion.

So now we're going to move to page 13, Section 23 (NAC 455C.446), this section is in conflict with A17.3 *Safety Code for Existing Elevators and Escalators*. The purpose of A17.3 in conjunction with A17.1 is to ensure a minimum level of safety for elevators and escalators and related equipment. We believe public safety must be your paramount concern. This section undermines public safety; therefore, we're suggesting that NAC 455C.446 be repealed.

Section 24 (NAC 455C.448), exemptions to chapter 455C of NRS or the NAC should not be granted unless the applicant establishes by clear and convincing evidence that public safety and work place safety is not compromised. The MCS must not delegate its authority to local jurisdictions. NAC 455C.448(2)(a)(ii) must be deleted. This provision, if allowed to stand, would allow a local jurisdiction to supersede the state's administrative code and we do not think that is prudent.

Section 25 (NAC 455C.450). The Mechanical Compliance Section lists inspection fees for construction elevators and personnel hoists used during construction and platform lifts, yet it is not adopting ANSI A10.4, *Safety Requirements for Personnel Hoists and Employee Elevators on Construction and Demolition Sites for Construction and Demolition Operations*. You're also not adopting A18.1 *Safety Standards for Platform Lifts and Stairway Chairlifts*. It is our opinion that NAC 455C.500 must include the adoption of A10.4 and A18.1 if the Mechanical Compliance Section intends to inspect this equipment. It is fact, A17 specifically delineates that it does not include these two codes, so any reference that A17.1 includes them, we believe, is incorrect.

Section 26 (NAC 455C.460) amend subsection 4 to read: "Except as otherwise provided in subsections 5 and 6, if the applicant satisfies the requirements set forth in this section, the Mechanical Compliance Section may issue a certificate to the applicant." Add a new subsection 6 to read:
"If the working experience of the applicant is limited to personnel hoists and employee elevators covered by the safety requirements for personnel hoists and employee elevators on construction and demolition sites for construction and demolition operations, ANSI A10.4, the 2007 edition published by the American National Standards Institute, the certificate issued to the individual must only authorize that holder of the certificate to construct, install, alter, or repair such equipment on construction or demolition sites."

That language, we believe, is required because in 2001, and then in 2004 when we actually put forth the first set of regulations to 455C, we did provide an exception to the full elevator certificate for the mechanic for the residential and the individual who works predominantly in the residential market whose experience is limited to the residential market. We also believe that the Division, for a very long time, has issued a certificate to individuals, not represented by this Union, that construct, alter or repair personnel hoists and they have noted on their license that they're personnel hoist mechanic, but there's truly not any reference to that in the Administrative Code and we believe that it would be prudent for the Division at this time to include that reference so that the individual would be known to have his experience limited to the A10.4 and not for lack of a better 17.1 stuff.

Section 38 (NAC 455C.500) without repeating all the different codes – we're going to provide those to you in a written statement as Mr. Wiles had had earlier spoken to. We just believe that if you repeal the automatic adoption process, that some process needs to be set out so that the industry has some expectation of how new codes will be adopted or what process that might look like. Currently, and Mr. Wiles alluded to in his comment, was after a code is published, the codes specifically state that it shall not be enforced for six months and that six months is to give the AHJ time to vet them. In fact, in the current regulation 455C the Division has a process. If the Chief determines that a section of one of the codes that are being adopted, they want to take an exception, there's a process for taking exception to the code or piece of the code. We believe that's appropriate.

Section 39 (NAC 455C.504) Mechanical Compliance Section should follow the provisions of A17.1 regarding maintenance control programs. We believe that there has been an extensive amount of work in the 2013 code regarding maintenance control programs. There are several

references in your proposed regulations having to do with the maintenance control programs. I believe that we ought to be really cautious when we start inputting language that discusses the maintenance control program because the unintended consequences of that could lead individuals to question; what is the intent of the 2013 version of the code. For instance, the Division indicates that their proposed regulations would, you say that you want to put a five year limit on requirements of the MCP program. What I think you are implying is that you want to cap the records required by the MCP program to five years. Because the MCP program would include things like the electrical drawings and I don't think the Division is making a statement that you can do away with the electrical drawings after five years or with the provisions required in the MC program to direct or perform the safety test that should remain with the equipment for the life of the equipment. And so the code specifically in 8.6 talks about that exact issue that the maintenance records shall only be maintained for five years. The language, I think, is in the code that does what you're asking to do but you've stated it different which could have some implications and I, so I caution you and I would suggest that when we reference the MCP, the code is sufficient.

Section 40 (NAC 455C.506). Permits should be required as provided by A17.1, I think is Appendix L for alterations. In the proposed regulations we are looking at in section 500 (NAC 455C.500) the Division under its proposed adoption of A17.1 2013 has included the non-mandatory appendices and the code does in its preamble suggest that the authority having jurisdiction adopt which ones of the non-mandatory appendices they think is appropriate for their jurisdiction. I believe you've done what is prudent and we believe that adoption of those non-mandatory appendices is the right thing to do and given that we believe Appendix L when it talks about alterations gives a lengthy list, a comprehensive list of what are alterations, the code requirements associated with that alteration. Repairs are delineated in 8.6 of the code; alterations are in 8.12 of the code? 8.1.2 of the code? And I think that, once again, leave it alone. The code is comprehensive.

Section 44 (NAC 455C.516(3)) as revised contains inspection schedules for personnel hoist and construction elevators, yet the Mechanical Compliance Section is not adopting the necessary codes.

Section 45 (NAC 455C.518(2)) as revised, requires inspectors and special inspectors to perform duties as set forth in A17.1, A17.2 and QEI standards, yet we do not adopt the standards in the code. We believe that's an oversight and should be corrected.

Section 47 (NAC 455C.522) as revised requires an elevator mechanic to give three days notice for periodic tests. Notice is required to the special inspector and the Mechanical Compliance Section. A prior notice requirement, if any, should be placed on the licensed elevator contractor, or I would suggest, in concert with NEII, that the onus be placed on the owner of the equipment since that individual will be, that the building owner is the individual who or the entity that will be hiring the third party inspector, that that notification should come from them, not from the mechanic who may be asked or need to be onsite to assist with the inspection and the testing.

That's my written comments and we will – or my comments for today and we will reserve the written comments to expand on anything else that may be said and any questions you may have, I'd be happy to answer them at this time.

Jennifer Gaynor, Lionel, Sawyer & Collins, 300 S. Fourth Street, Suite 1700, Las Vegas, Nevada: Representing National Elevator Industry, Inc.; jgaynor@lionelsawyer.com. I think NEII's written comments that we've already submitted will speak for themselves. I'm not going to really make any changes to those except I will make a couple comments in reaction to what Mr. Stanley's addressed here today.

First of all, I love that we are in agreement with IUEC on the auto adoption issues and we really do support that and I hope there's a way that we can make that work.

The next thing I would like to address is the comments that were discussed on Section 4 of the fire service exercise. NEII does have some concerns that if we change the requirements regarding fire service for buildings that are less than 55 feet, it'll create an inconsistent standard for Nevada and we support the regulation contained in A17.1 to be retained in Nevada.

I think my final comment for today that I would like to add is we did hear some new issues addressed by Mr. Stanley which we'll need to take a look at. In particular, the request for written electronic records and that the service log that he was discussing needs to be onsite in the mechanical room. We'd like to evaluate this and see where we come out on that.

Harriette Underwood, High Sierra Elevator Inspections, 6440 Skye Point Drive, #140-124, Las Vegas, Nevada 89131; (702) 876-8600; haujbu@aol.com. I have a couple of comments or questions, I guess. On the proposed pulling of 50% of the escalator steps, I can see that needs to be done for a safety reason. Would it not make more sense to have an annual clean-down required on these escalators? And to show that that's been done as opposed to having the buildings pull 50% of their steps at the time of inspection, and if a clean-down is needed, to then again have to pull all of their steps.

Elevator companies do not have the manpower, obviously this is going to pick up more work for them. But I'm telling you we have escalators now that are six months past due because they do not have the people to send out to do the inspections. It is a scheduling nightmare.

The other thing is, I don't see how you can regulate how much we can charge for an inspection. Nevada's built on free enterprise. Obviously, we're going to keep our prices in check or our customers are going to go down the road. We try to give a good inspection for a quality price, but I don't see how you can regulate what we can charge.

We've done an audit also and we do not find the proposed new fees to be in line with other states that use private inspectors.

Another thing is I would like northern and southern Nevada to be equal in the way they regulate things. In northern Nevada, they won't issue a permit without an annual wheelchair inspection,

it's not required down here. There's no consistency between northern and southern Nevada at all, at this time.

And when we turn in our report and if, and we've written up a violation and you want us to notify you within five days if that's been abated or not. If it has not, is the State going to be the ones to follow up on this?

Bill Schaefer, High Sierra Elevator Inspectors, 6440 Skye Point Drive, #140-124, Las Vegas, Nevada 89131; (702) 876-8600; 2-schae@cox.net. I've worked for the State for about five years inspecting and been a third party inspector for about five years. I've written hundreds, if not thousands of violations and follow ups and it doesn't mean anything.

Now I have a question on this pricing and/or witnessing, which, put me on record as saying I'm for witnessing. I think it's a wonderful thing. I don't see how it can be done at the current rate of money because to do a proper, let's say a five year test on a 30 stop elevator, the State, I believe, is proposing a $1,000 for an operating permit for the initial on a 30 stop elevator?

Bill Stanley, International Union of Elevator Constructors, 5340 N. Campbell Road, Las Vegas, Nevada; (702) 241-8799; wstanley@iuec.org. I think the State has a real interest this time for no other reason that there are more stakeholders that have expressed concerns in this process than we could get involved in 1999, 2001, or 2004. So I am cautiously optimistic and I am here to support the Division in moving forward but I think everybody else needs to understand that the world is a changing when it comes to this process and if you read these regulations, don't assume that the regulations are for, or what we're operating on, we're having a discussion on what the future regulations are going to look like and to that point, third party inspectors are going to be hired by the building owner. It is up to the building owner to schedule his inspections with third party inspections and I can guarantee you that if the building owner tells his service provider, I have scheduled my third party inspector to be here on Friday, you will have a mechanic, a certified mechanic here to help them perform the tests required for the inspection, it'll happen. We need to allow the building owner to take responsibility for his equipment.

On pricing for third party inspectors, I did review the pricing that was included in the Division's handout for these workshops. We did an internal pricing of surrounding jurisdictions. I do not believe that what we had shared with the State and with the other stakeholders is what is presented by the Division. We believe that it's not accurate and I will make one area of reference.

In almost every other jurisdiction surrounding Nevada, there is a plan check fee. We don't charge for a plan check. That's why if you go back and look at the IUEC's analysis, we did it a little different. We took the first year of an elevator's life and determined what the fees and the other jurisdictions were based on the first year of an elevator's existence, which would include plan checks, the initial inspection, and the first follow up inspection. We believe that is a better analysis and a better comparison of what the other jurisdictions that surround Nevada are charging to process the plans and do the initial inspection and the first inspection. We in the state of Nevada don't charge a plan check fee. We do not believe what we've done here properly

reflects what's going on in surrounding jurisdictions. But we will submit it again and we will compare it to what you have so you will have it in a matrix, so you…

Now, there's been some discussion regarding what I believe to be a misinterpretation that has surrounded myself and the IUEC since the conclusion of the elevator working group that was convened by your predecessor, Mr. Czehowski. During those conversations the issue come up about individuals who were employed by the State as an inspector and what their job duties and tasks were going to be in relationship to inspecting a piece of equipment. I believe Mr. Czehowski decided that it was not in the best interest of the State to have his employees "interfacing" with a piece of equipment such that State employees were setting governors, unsetting governors, were accessing the car top and unbeknownst to them entering faults into the system that were shutting down elevators. Therefore, the decision was made by the Division that the State elevator inspectors were not going to access the hoistways and the pits and controllers without having an owner representative present. At no time, did anyone suggest that third party inspectors, if they possessed a certificate as a mechanic in the state of Nevada, were going to list what they could or could not do to the equipment. An individual who was certified as a mechanic in this state is authorized to do anything within the regulations, and an individual could possess both a certification as a mechanic and a certificate as a special inspector.

To that point, I believe, that fixing the price structure limits what business model a third party inspection firm may choose to implement. The model that is being contemplated in these regulations that have been drafted contemplates only one business model and that is an inspector reports to a building, after being hired by the owner, to do an inspection and the service provider that the building owner may have hired is going to be present to do the inspection and the test. There are other business models that are very successful around the country. I use the state of Virginia for an example where third party inspectors bring their own mechanic to the jobsite. They don't use the service provider that's been hired by the building owner and in many cases, building owners, in some states, believe they get a better inspection because they're not beholden to their service provider and, in fact, they would like to use the inspection process as a way to assure they're getting the service that they're paying for. So they bring, third parties bring their own weights, for instance, to a cat 5 test to the jobsite. They perform their own tests and give the owner an unbiased opinion about how his elevators or his equipment is being maintained.

Harriette Underwood, High Sierra Elevator Inspections, 6440 Skye Point Drive, #140-124, Las Vegas, Nevada 89131; (702) 876-8600; haujbu@aol.com. My comment is to your business impact statement. If you look at a corporation like Caesar's, they have about 40 high rises. When you're doing their high rise test and you are doing one a day at $1,000 a day, it's $40,000, give or take, as compared to the $10,000 that they are charged now for their yearly test. For a corporation like Caesar's, it going to be hundreds of thousands of dollars in difference.

Bob Ostrovsky, The Ferraro Group, 9516 W. Flamingo Road, #310, Las Vegas, Nevada 89147; Representing the Nevada Resort Association; rao@theferrarogroup.com. I think that what you produced is a good reflection of the discussions you have had with the stakeholders. We want to make sure we have the right standards in place. I'm not a subject matter expert. My only suggestion is to the extent that we can adopt a regulation that is a living document that changes as the codes change, we're probably better off than locking ourselves in

and finding ourselves standing in this room every three years. So, that's my comment for today but we'll submit comments in writing.

Written comments were received for the June 24 and 25, 2014 public workshops and shortly thereafter. A summary of the written comments follows:

June 19, 2014 Comments on Proposed Regulations of the Division of Industrial Relations, Occupational Safety and Health Administration for the Amendment of Chapter 455C, NAC from National Elevator Industry, Inc., 5537 SW Urish Road, Topeka, Kansas 66610; (785) 286-7599. NEII recommends that no exemption be provided for elevators traveling 50 feet or less for the monthly firefighters emergency exercise (Phase II), because it would create a potential safety issue and this function is used by other emergency personnel as well. Alternatively, NEII suggests that a definition be added allowing other non-C-7 licensed individuals to perform the monthly exercise.

New provisions be added to Chapter 455C the duties of inspectors and denials, suspensions and revocations of Certificates of Special Inspector Certificate of Competency.

NAC 455C.468(1)(a) and 455C.470(1) should be amended to authorize the issuance or renewal of a work card to a person "supervised by" a licensed elevator contractor because the cost to building owners and elevator contractors to require that all elevator refinishing, cab floor tiling, handrail vulcanization and other specialized work by elevator contractor employees is prohibitive. The best interests of both the public and the building owners can be met by allowing out of state C-7 licensees to perform specialized tasks as subcontractors.

In NAC 455C.500, the Division should adopt by reference the following Codes: ASME 17.1/CSA B44; A17.2; A17.3; A18.1; CSA B44.1/ASME A17.5; and ASME A17./CSA B44 Handbook, without reference to the specific year of adoption; that the Division retain the auto-adoption procedure, rather than deleting it.

Amend NAC 455C.504(3) and (4) so that on-site maintenance records are required as set forth in the standards adopted in NAC 455C.500(1)(a) [A17.1] and delete subsection 6, which requires a central location for the records and immediately accessible if kept electronically and conflicts with the requirements set forth in A17.1.

Delete the proposed amended language in NAC 455C.506(4) which allows an additional administrative fine of up to $5,000 for every 30 calendar days a violation continues because the fine is excessive and overly punitive.

Amend NAC 455C.510 to clarify that "written reports" may be submitted in either electronic or hard copy format.

Retain the existing language in NAC 455C.512 which does not require that periodic tests be witnessed by a special inspector. The presence of a special inspector provides no additional measure of safety, could add significant costs if periodic tests are negated because a special inspector is unable to attend or arrives after the tests are begun.

Amend NAC 455C.516(6) by striking the 100 mile limitation before requesting a state inspector and allow a state inspector when a special inspector is not available. NEII believes the 100 mile limitation is an arbitrary distinction and there may not be an adequate number of special inspectors available in Nevada.

Amend NAC 455C.522 to require a building owner, rather than the elevator mechanic, to notify the special inspector and the Mechanical Compliance Section when a periodic test is scheduled and remove the proposed amendment which makes the witnessing of periodic tests permissive, rather than mandatory, because the legal responsibility for compliance is with the building owner and it is not appropriately assigned to the elevator mechanic. Also add a new subsection which indicates that "written reports" may be submitted in either electronic or hard copy form and define periodic tests as those are defined in ASME A17.1/CSA B44.

Amend NAC 455C.526(5), (6) and (8) to indicate that accidents involve elevators, escalators and moving walks and in Subsection (6) add additional language regarding the "malfunction or destruction of any part" of an elevator, escalator or moving walk. Add a new subsection (7) which allows a building owner to return the elevator, escalator or moving walk to service if the accident was not caused by the failure, malfunction or destruction of any part without an immediate notification to the Mechanical Compliance Section, does require reporting to the Section within 3 business days and provides that the building owner assumes liability for any subsequent incidents that may occur.

Amend NAC 455C.528 to identify the required periodic tests as defined in ASME A17.1/CSA B44 and allow for electronic reporting to the person responsible for the operation of the elevator.

Amend NAC 455C.616(2)(b) and (c)(1) by striking the additional administrative fine of up to $5,000 for every 30 days if a violation continues, as these fines are excessive and overly punitive.

Additionally, NEII suggests that the entire regulation be reviewed and that timelines be consistently couched in either "calendar" or "business" days, rather than using both terms.

Finally, NEII suggests that the Division should separately develop lists of "like-for-like" items that will require a permit and/or inspection upon replacement.

July 7, 2014 e-mail attachment from Harriette Underwood, High Sierra Elevator Inspections, 6440 Skye Pointe Drive, #140-124, Las Vegas, Nevada 89131; (702) 876-8600; haujbu@aol.com. We suggest that third party inspectors who have been licensed elevator mechanics should be able to get on top of the cars and in the pits, etc.

We are in support of inspectors and special inspectors witnessing periodic tests, but suggest that this will increase the price to businesses within Nevada enormously. Internal inspections on escalators cannot be done without pulling 50 percent of the steps. However, the elevator companies are already telling our customers that they will be raising their prices to do escalator

inspections. We believe that annual clean downs of escalators are appropriate for the safe operation of the escalator. And should be covered in annual maintenance contracts.

We are in favor of issuing checklists for inspections so that all inspections in the state will cover the same items.

On the proposed fee schedule, third party inspectors should not be placed in the business model which has failed the state. We do not believe that the state can control or cap our prices. We agree that Nevada's current pricing is far below the national average. We suggest a number of changes to the proposed fee schedule. For 5 year tests, the proposed price should be the same as an initial or acceptance inspection charged by the state as the inspections are nearly the same; annual inspections should be half that amount. Hourly fees for re-inspections should be $150.00 per hour plus mileage. However, we believe $150.00 per hour is too low for third party inspectors as this amount only covers the costs of insurance coverage, overhead and benefits. The state should not set an hourly charge for third party inspectors.

On the proposed regulations establishing Authorized Inspection Agencies, errors and omissions coverage and liability insurance should be set at a $4,000,000 limit. The state should also be required to have a copy of all code books for each inspector, as well as carrying the same liability insurance limits. All state inspectors should be held to the same standard of QEI testing, continuing education and discipline as third party inspectors.

We suggest that quarterly meetings be set up between the third party inspectors and the Mechanical Compliance Section.

July 8, 2014 letter from John F. Wiles, Esq., 3 Hillside Drive, Boulder City, Nevada 89005; Representing the International Union of Elevator Constructors, Local No. 18 ("IUEC"); (702) 235-3587; jfwileslaw@gmail.com. IUEC submits that Chapter 455C is clear: absent an exemption, elevators must be installed, maintained, relocated, improved, altered or repaired by certified elevator mechanics, and disagrees with any comments that suggest or imply that the Division should authorize other persons or trades to perform this work.

IUEC suggests that a new provision be added requiring a written service call log be maintained in each machine room and immediately accessible to elevator mechanics. This log must include the description of the reported trouble, dates, time, and corrective action(s) taken.

IUEC also suggests that a new provision be added exempting elevators with 55 feet of travel or less are not required to have Firefighters' Emergency Operation – Phase II installed, but if installed, must be maintained and tested monthly.

IUEC suggests that definitions for many terms are set forth in A17.1 (2013) and should not be set forth in regulations. We suggest the repeal of NAC 455C.502 ("Alteration"); NAC 455C.420 ("Hoistway"); NAC 455C.424 ("Maintenance"); NAC 455C.436 ("Repair"); NAC 455C.438 ("Replacement"); and any other terms defined in the adopted codes.

On Section 23, NAC 455C.446 is in conflict with ASME A17.3, *Safety Code for Existing Elevators and Escalators*, which undermines public safety and must be repealed.

On Section 24, NAC 455C.448(2)(a)(ii) (a new provision), the Division must not delegate its authority to local jurisdictions and must be deleted.

On Section 25, NAC 455C.450, the regulation lists inspection fees for *Construction Elevators and Personnel Hoists Used During Construction* and *Platform Lifts* yet it is not adopting A10.4 *Safety Requirements for Personnel Hoists and Employee Elevators on Construction and Demolition Operations* or A18.1 *Safety Standard for Platform Lifts and Stairway Chairlifts.* Both of these codes, A10.4 and A18.1 should be adopted in NAC 455C.500.

Section 26, NAC 455C.460 should be amended to include a limited certificate for personnel hoists and employee elevators on construction or demolition sites.

On Section 38, NAC 455C.500, IUEC suggests that the language be changed to state, "the most recent edition" and that the year of edition be stricken for the following standards: *Safety Code for Elevators and Escalators*, A17.1; *Guide for Inspection of Elevators, Escalators and Moving Walks*, A17.2; *Safety Requirements for Personnel Hoists and Employee Elevators on Construction and Demolition Sites for Construction and Demolition Operations*, A10.4; *Safety Standard for Belt Manlifts*, A90.1; *Guidelines for Accessible and Usable Buildings and Facilities*, A117.1, sections 4.07 and 4.08; *Guide for Emergency Personnel*, A17.4; *Safety Standard for Platform Lifts and Stairway Chairlifts*, A18.1; *Standard for the Qualification of Elevator Inspectors*, QEI-1; *Elevator and Escalator Electrical Equipment*, A17.5; *Performance-Based Safety Code for Elevators and Escalators*, A17.7; *Standard for Elevator Suspension, Compensation, and Governor Systems*, A17.6; and *Handbook on Safety Code for Elevators and Escalators*, A17.1. Additionally, the auto-adoption provision in subsection 4 should be retained.

On Section 39, NAC 455C.504, the Division should follow the provisions of A17.1 (2013) 8.6.1.4.1 regarding maintenance control programs.

On Section 40, NAC 455C.506, permits should be required as provided by A17.1 for "alterations" and Subsection 3 should be repealed or revised to be consistent with A17.1 for "alterations."

On Section 44, NAC 455C.516(3) contains inspection schedules for personnel hoists and construction elevators, but the regulations do not adopt the necessary codes.

On Section 45, NAC 455C.518(2) as revised cites to *Standard for the Qualification of Elevator Inspectors* but the regulations do not adopt this standard.

In Section 47, NAC 455C.522, the 3 day notice for periodic tests should be the responsibility of the building owner or the licensed elevator contractor, not the certified elevator mechanic.

IUEC supports the requirement set forth in Sections 45 and 47, NAC 455C.518(2) and 455C.522(2), that periodic tests be witnessed by inspectors or special inspectors.

IUEC suggests that public safety will not be enhanced by imposing a dollar limit on special inspectors fees and charges, as set forth in Section 5, NAC 455C.450(6), and may be unlawful. IUEC also suggests that the $.50 per page charge for producing records in subsection 1, is inconsistent with other agencies in the Department of Business and Industry and may not reflect the "actual cost" of the copy, as set forth in NRS. 239.050.

At the **October 15, 2014, public hearing** on adopting the regulations, which was held in Elko, Nevada, two (2) attended and there was testimony from one (1) attendee. A summary of the testimony at this public hearing follows:

Bill Stanley, International Union of Elevator Constructors, 5340 N. Campbell Road, Las Vegas, Nevada; (702) 241-8799; wstanley@iuec.org. Had a question and a comment. On Section 31(2)(b) (NAC 455C.448(2)(b)) the Division in the proposed regulation has deleted "Compliance with the requirement is not practicable" and has inserted "The elevator or related system complies with the codes or standards adopted by the local jurisdiction within which the elevator or related system is located." What does this mean?

Section 76, subsection 4 states, "Section 33 of this regulation becomes effective on the date 2 years after the filing of this regulation with the Secretary of State." Once again this is more of a question than a statement. Is this delayed fee schedule or does Section 32 implement the same fee schedule immediately, and if the fee schedule is delayed 2 years from the effective date, is the Division prepared to continue to subsidize the Mechanical Division through its current funding form?

At the **October 17, 2014, public hearing** on adopting the regulations, which was held in Reno, Nevada, four (4) attended and there was testimony from two (2) attendees. A summary of the testimony at this public hearing follows:

Dennis G. Nolan, State Public Works Division, 515 E. Musser Street, Carson City, Nevada 89701; (775)684-4136; dgnolan@admin.nv.gov. My issue relates to the potential adoption of A17.2. As one of the Elevator Working Group members we have had one very interesting discussion about that particular document and a number of us were quite frustrated by the fact that it's a "guide" not intended to be adopted as an enforcing document and a number of us have expressed that in the meeting and continue to express that. It would be my recommendation not to adopt A17.2, but rather turn it into a training manual where by both the state employees and the contract employees would have to be educated and tested in accordance with that guide.

Bill Stanley, International Union of Elevator Constructors, 5340 N. Campbell Road, Las Vegas, Nevada; (702) 241-8799; wstanley@iuec.org. I would like to follow up on the previous speaker's comments regarding A17.2. Historically, the Division in consultation with stakeholders had discussed the adoption of A17.2 and many of those issues about whether or not it was a guide, whether it was a code, whether its enforceable, what is the intent, has been discussed for more than 15 years. When Nevada decided to allow third party inspectors to inspect this equipment, one of the questions was, what is the standard by which you judge whether or not a special inspector is competent? The standard that was adopted was A17.2. To

insure that a third party inspector had due process rights, what is the performance standard by which their inspections will be held? In order to develop that standard across the third party inspection world, we chose to use A17.2. If you don't adopt it A17.2, my fear is: What standard do you hold people to? We are not opposed to some conversation along these lines about how to use A17.2. Maybe in a different method as long as that remains the standard by which we hold all inspectors in the State of Nevada to as the minimum.

At the **October 20, 2014, public hearing** on adopting the regulations, which was held in Henderson, Nevada, ten (10) attended and there was testimony from four (4) attendees. A summary of the testimony at this public hearing follows:

Jennifer Gaynor, Lionel, Sawyer & Collins, 300 S. Fourth Street, Suite 1700, Las Vegas, Nevada: Representing National Elevator Industry, Inc.; jgaynor@lionelsawyer.com. We have submitted our updated amended comments in writing so you do have those, so I will keep this very, very brief.

The new Section 6 that was added regarding the firefighter's emergency test and the deleting the requirement for buildings that are 55 feet or less. We think that's not necessary to add this new language and you should retain the requirement as provided in ASME A17.1. We think that would create more clarity and consistency with the national model code.

In Section 45 (NAC 455C.500), that has to do with the adoption of the codes, we ask that this be amended to reflect that certain of these guides, including A17.2 and A17.4, are only guides and not intended to be adopted into regulation in this pattern. They are meant to be used as a reference.

Next in Section 46 (NAC 455C.504) and new Section 14, which discuss onsite records, should be revised to reflect the records requirements set forth in ASME A17.1. These sections should be clear and consistent with the model code.

And finally on Section 52 (NAC 455C.516(6)), we think it's important that you delete the requirement that a building, located more than 100 miles from the Mechanical Compliance Section office to request a state inspector when no special inspectors are available. We know this may not come up but it may, and we think that requirement is arbitrary and unnecessary.

Doug McMahan, Facilities Manager at McCarran International Airport, P.O. Box 11005, Las Vegas, Nevada 89111-1005; Representing the Department of Aviation and Clark County; dougm@mccarran.com. Clark County is extremely concerned with how the Division plans to proceed regarding the requirement for removal of 50% of an escalator steps each time we conduct such inspections, as provided in Mr. Jewett's memo for record dated June 12, 2014, although rescinded, by Mr. Jewett's memo for record dated September 4, 2014. It appears that the Division plans to issue another new memo for record on the subject in the coming weeks without undertaking any formal rule making process. Clark County does not believe that it is proper for the Division to move forward with the policy directive and requests that the Division undertake a formal rule making process to address such a controversial and costly policy decision.

We feel like this requirement will create some unintended, additional safety issues, as well as severe operational challenges to many Nevada escalator and moving walkway owners. Obviously the airport has several of them, a lot of them. Clark County does on The Strip, as well as the Regional Justice Center. We have hundreds of thousands of passengers moving through there all the time. These are low, low barriers and we believe that it's going to create a hazard and we can logistically create a barrier to keep them from folks getting into an area they are not supposed to be in. Some other issues we feel are going to create some hazards for mechanics, the steps are heavy and un-wieldy. Stacking them creates unsteady loads to move and store. We fear that, and we have heard from experts in the field that it can potentially cause more issues. Damaging the steps in transfer, storage and reinstallation, which is exactly the opposite of what we are trying to do with inspections. We have limited space anywhere near by at the airport. We can't stack them in public areas- that would be a hazard. Certainly stacks of steps could block some emergency egress areas in certain concourses and in areas at the airport. On The Strip, especially if the mechanics are not there working, you would have any open pit areas. We all know in Las Vegas, we could have some curious patrons and often inebriated patrons. They can wander into areas that could make this very unsafe. Therefore, the County feels it may incur additional costs to hire security guards to guard these areas. I won't get too much into the time, the extension in time that it's going to put some of our systems out of commission. We will say that, if you to have to do this, we are certainly going to have to re-route several folks to other adjacent elevators and escalators for two, three days a week, It's going to create serious bottleneck issues.

From our observations and participation to date, it seems to us that both industry and code experts have gone on the record stating there are definitely more reasonable means and methods, by which the intent of the proposed regulation could be met and that those alternative methods should all be carefully considered for merit without such quicker dismissal by the state division. Industry or manufacturer guides to be written or publicly heard or other materials provided for inspections or for training purposes and awareness, are just that, they are guides. It has been voiced that they are not something that should be adopted as law or policy or code. Certainly not by informal memorandum or correspondence, but by more formal vetting in a rule making process where all concerns are brought forth equally analyzed and carefully deliberated. We feel this is an issue that should not be hastily decided upon as it may not accomplish the intended neutral goal of making these systems and sites any safer, but perhaps, in fact, the opposite.

Bill Stanley, International Union of Elevator Constructors, 5340 N. Campbell Road, Las Vegas, Nevada; (702) 241-8799; wstanley@iuec.org. I'd like to just augment some of my previous statements in both Elko and in Reno last week. I'll keep these comments very short. I had my time there.

On page 44, Section 41, NAC 455C.468(1)(a), a letter certifying that the applicant is currently employed by or under contract with a licensed elevator contractor. There is no obstacle today under NRS 624, that does not allow a licensed elevator contractor to subcontract work to another otherwise properly licensed contractor in the State of Nevada. What I'd like to make sure is on the record here today is that a properly licensed contractor in the State of Nevada is not legally

permitted to subcontract work to an entity that they know is not properly licensed under NRS 624 in the State of Nevada.

There are individuals who are proposing changes to the, and the state has proposed changes to, certain sections for requirements for inspectors. We would like to go on the record that we believe that not only should the third party inspector assign his or her QEI certification number to the inspection and sign and print and sign their name on the inspection report but we also believe that the certified mechanic, who is performing the work required by the inspection, also affixes to the report, their Nevada license number, print and sign their name in addition to the requirements that the state is currently proposing. We believe that it is absolutely necessary so that the record can be established on who actually performed the work and ultimately the accountability issue for both the third party inspectors, the state elevator inspector and the mechanics.

We also would like to support the state's inclusion of what we are going to call the Elevator Machine Room Log. We support the state and how you've laid that out with the cause of the initial cause of the call back of the date and time and what it is you did to remedy the call back that that documentation being immediately available to the elevator mechanic at the time of the call, is essential to the elevator mechanic's safety. Knowing what an individual did hours before you get there, in many cases, is the difference between life and death. So, while others may argue that the changes to ASME A17.3 2013 version, the reporting requirements are adequate in 8.6, the Maintenance Control Program, the written records and some of the other documentation that is required. We believe that in that area they are lacking. Our argument is, with the call backs and what has happened immediately preceding, the people that we represent, coming to the job site and being blind to what it is they're walking into. So, we appreciate the state's change in that area and we support that change and like to go on record for that change.

Bob Ostrovsky, The Ferraro Group, 9516 W. Flamingo Road, #310, Las Vegas, Nevada 89147; Representing the Nevada Resort Association; rao@theferrarogroup.com. I'm not the technical expert here. There are plenty of folks here in the audience that can do that. We would just request that you keep in mind we think guest safety is paramount, so we need to find the appropriate balance between what we need to do in assuring customer service and that we meet the required standard to protect our customer and our employees in such a way that's minimally invasive or disruptive. In general, we support the position of the NEII that was presented to you in writing.

There are some other folks here who talked about the details of record keeping. I understand cost is important to us, but it's not as important as safety. So if, it's a balance between having to spend a few extra dollars to get the right safety outcome done and to do it in a reasonable way, we'll go in that direction. Spending unlimited dollars for incremental gains in what we see as safety, it probably is a questionable thing. I am comfortable that the Division will try to come up with a solution that both protects the general public and the employees. Protecting employees automatically rolls over into protecting our customers riding equipment and we want to see that the customer is safe.

Written comments were received before the November 4, 2014 deadline, following the October 15, 17 and 20, 2014 public hearings regarding the adoption of these regulations. A summary of the written comments follows:

October 17, 2014 e-mail from Tom Archie, Director of Regulatory Affairs, PFlow Industries, Inc., 6720 N. Teutonia Avenue, Milwaukee, Wisconsin 53209; (414) 352-9000, x-118; toma@pflow.com. PFlow is the world's largest manufacturer of vertical reciprocating conveyors (VRCs), which move material only- human riders are strictly prohibited.

VRCs are regulated under ASME B20.1 *National Safety Standard for Conveyors and Related Equipment*, which is incorporated by reference in Chapter 30 of the *International Building Code*, as adopted by the Nevada State Fire Marshall, pursuant to NRS 477.030 [sic. NAC 477.281(1)(b), as modified by NAC 477.283(2)]. ASME A17.1-2013 *Safety Code for Elevators and Escalators* specifically excludes B20.1 devices, including VRCs, from elevator requirements (see A17.1 Sections 1.1.1(c) and 1.1.2(g)).

We suggest that the definition of "Related Equipment" in NAC 455C.434 [Section 26] is quite broad and could lead to confusion in the future over what type of equipment would be subject to elevator requirements. We recommend the following addition to NAC 455C.434: Related equipment means a manlift, personnel hoist, or any other related equipment designated by the Mechanical Compliance Section in keeping with the provisions of NAC 455C.108 and NAC 455C.500.

October 16, 2014 Updated Comments on Proposed Regulations of the Division of Industrial Relations, Occupational Safety and Health Administration for the Amendment of Chapter 455C, NAC Draft dated 8.28.2014 from National Elevator Industry, Inc., 5537 SW Urish Road, Topeka, Kansas 66610; (785) 286-7599. NEII recommends that no exemption be provided for elevators traveling 55 feet or less for the monthly firefighters emergency exercise (Phase II), because it would create a potential safety issue and this function is used by other emergency personnel as well. The requirement contained in ASME A17.1-2013/CSA B44-14 should be retained in Nevada. Additionally, NEII suggests that a definition be added allowing other non-C-7 licensed individuals to perform the monthly exercise as required in A17.1-2013/CSA B44-13, Section 8.6.11.1.

New provisions be added to Chapter 455C Section 13 of this regulation setting forth the duties of inspectors and denials, suspensions and revocations of Certificates of Special Inspector Certificate of Competency. Proposed new subsection 7 of Section 13 would adopt ASME A17.2 as the standard for inspections, require special inspectors to comply with the code of ethics established by the "Qualified Elevator Inspector" (QEI) certifying agency, and set requirements for the reporting of results of inspection and testing. Proposed new subsection 8 of Section 13 would set forth criteria for the denial, revocation, suspension or non-renew a special inspector's certificate of competency if the person had been convicted of a felony; obtained the certificate by fraud, misrepresentation or deception; or engaged in fraud, misrepresentation, deception, malfeasance, misfeasance or nonfeasance in the conduct of business.

Section 41, NAC 455C.468(1)(a), and Section 42, NAC 455C.470(1)(a), NEII supports the addition of the phrase "or under contract with" in the draft regulation as amended. The best interests of both the public and the building owners can be met by allowing specialized work to be done by individuals that are employed by the contractor and licensed in Nevada.

In Section 45, NAC 455C.500, NEII supports the reinsertion and adoption of ASME A18.1, and the adoption of the following Codes: ASME A17.1/CSA B44-13; A17.3-2011; QEI-1-2013; and A117.1. NEII does not have an opinion regarding A10.4 and A90.1, but does believe the proposed adoption is necessary. Similarly, A17.2, A17.4 and the A17 Handbook are guides and not intended to be adopted into regulation. NEII suggests that *IBC* [*International Building Code*] 2012 and *NEC* [*National Electrical Code*] (NFPA 7-2014) should also be adopted by reference. Further, any specific year for adopted standards should be adopted without reference to the specific year of adoption and that the Division retain the auto-adoption procedure, rather than deleting it.

Amend Section 46, NAC 455C.504(3), (4) and (5) so that the proposed requirements are not in conflict with the international model code language as set forth in the standards adopted in NAC 455C.500(1)(a) [A17.1] and delete subsection 6, which requires a central location for the records and immediately accessible if kept electronically and conflicts with the requirements set forth in A17.1. NEII supports the adoption of ASME A17.1-2013/CSA 44-13 because it provides clear and detailed requirements for the maintenance control program, and On-Site Documentation and Maintenance Records. Additionally, with the adoption of ASME A17.1-2013/CSA B44-13, new Section 14 should be deleted in its entirety.

Delete the proposed amended language in Section 47, NAC 455C.506(4), which allows an additional administrative fine of up to $5,000 for every 30 calendar days a violation continues because the fine is excessive and overly punitive.

Amend Section 49, NAC 455C.510, to clarify that "written reports" may be submitted in either electronic or hard copy format.

Amend Section 50, NAC 455C.512(1), by referencing "as defined in ASME A17.1/CSA B44." and retain the existing language in Section 50, NAC 455C.512(3), which does not require that periodic tests be witnessed by a special inspector. The presence of a special inspector provides no additional measure of safety, could add significant costs if periodic tests are negated because a special inspector is unable to attend or arrives after the tests are begun.

Amend Section 52, NAC 455C.516(6), by striking the 100 mile limitation before requesting a state inspector and allow a state inspector when a special inspector is not available. NEII believes the 100 mile limitation is an arbitrary distinction and there may not be an adequate number of special inspectors available in Nevada.

Amend Section 55, NAC 455C.522(2), to require a building owner, rather than the licensed elevator contractor, to notify the special inspector and the Mechanical Compliance Section when a periodic test is scheduled; better define required "tests" by adding "required by NAC 455C.400 to 455C.528 inclusive" after the word, "test"; and remove the proposed amendment which makes

the witnessing of periodic tests permissive, rather than mandatory, because the legal responsibility for compliance is with the building owner and it is not appropriately assigned to the elevator mechanic. Also add a new subsection (4) which indicates that "written reports" may be submitted in either electronic or hard copy form and define periodic tests as those are defined in ASME A17.1/CSA B44.

Amend Section 57, NAC 455C.526(5) and (6) to indicate that accidents involve elevators, escalators and moving walks and in Subsection (6) add additional language regarding the "malfunction or destruction of any part" of an elevator, escalator or moving walk. Add a new subsection (7) which allows a building owner to return the elevator, escalator or moving walk to service if the accident was not caused by the failure, malfunction or destruction of any part without an immediate notification to the Mechanical Compliance Section, requires reporting to the Section within 3 business days and provides that the building owner assumes liability for any subsequent incidents that may occur as a result.

Amend Section 58, NAC 455C.528, to identify the required periodic tests as defined in ASME A17.1/CSA B44 and allow for electronic reporting to the person responsible for the operation of the elevator.

Amend Section 62, NAC 455C.616(3), by striking the additional administrative fine of up to $5,000 for every 30 days if a violation continues, as these fines are excessive and overly punitive.

Finally, NEII supports the decision to not amend NAC 455C.438, definition of "Replacement," but also suggests that the Division should separately develop lists of "like-for-like" items that will require a permit and/or inspection upon replacement.

October 20, 2014 letter from Luke Pusching, Esq. Legal Counsel, Las Vegas Convention and Visitors Authority, 3150 Paradise Road, Las Vegas, Nevada 89109; (702) 892-0711. The Las Vegas Visitors and Convention Authority (LVCVA) is very concerned with how the Division plans to proceed with its rulemaking regarding internal escalator inspections, as discussed at the Elevator Working Group meeting on October 8, 2014. There are no safety issues that require removal of fifty percent (50%) of the steps to facilitate detection during an inspection. Approximately 90% of an escalator's inner workings can be inspected by removing as few as two (2) steps, and removing additional steps as needed if the inspection indicates there may be maintenance issues or internal damage. ASME A17.2, A17.4 and A17 Handbook should not be adopted by reference in the regulations as they are guides, not codes. This new potential regulation will increase the cost of such work by at least twenty-five percent (25%), exhausting already depleted maintenance funding even further and for no apparent safety reason.

October 28, 2014 letter from Scott Scherer, Esq., Holland & Hart, 377 S. Nevada Street, Carson City, Nevada 89703; Representing FP Holdings, L.P. dba Palms Casino Resort; sscherer@hollandhart.com; (775) 684-6011. FP Holdings, L.P., dba Palms Casino Resort strongly opposes the requirement to remove 50% of the steps during escalator inspections. ASME A17.2 is a Guide which provides recommendations for inspections and "It is not intended to serve as a basis for governmental regulations." We respectfully request that the Mechanical

Section make the September 4, 2014 rescission of the memo for Record permanent and allow inspectors to use the Guide as it was clearly intended.

We share the concerns expressed by NEII and Dave Turner at the October 8, 2014 Elevator Working Group. Removal of 50% of the escalator steps may create unintended safety issues: steps are heavy and stacking them in public areas creates potential hazards; moving steps long distances to non-public areas is time consuming and dangerous; and removal of the steps will create open pits in public areas of the property and will require additional expense for security. Removing 50% of the escalator steps will increase the time that an escalator or moving walk is out of service from approximately a half day to 2 or 3 days.

In a typical inspection, removing as few as two steps allows visual inspection of the vast majority of an escalator or moving walk. The remainder may be viewed from the pit. An inspector must use his or her discretion to determine what, if any, additional procedures are required to comply with A17.1.

In conclusion, inspections are inspections, not maintenance. Inspections may be completed with the removal of two or four steps; removal of 50% is unnecessary. When an inspector determines that additional maintenance is required, the Mechanical Section should ensure that the additional maintenance is being conducted. A positive guest experience is the most important thing we offer and safety is an important part of that experience. Inconveniencing or annoying guests where there is no legitimate safety issue is bad for the Palms, Las Vegas and Nevada.

October 28, 2014 letter from Virginia Valentine, President, Nevada Resort Association, 900 S. Pavilion Center Drive, #160, Las Vegas, Nevada 89144; (702) 735-4888. The Nevada Resort Association (NRA) supports the effort of the Division to draft a new regulation that reflects the latest in safety innovation and recognizes the use of special inspectors. We worked with the National Elevator Industry, Inc. (NEII), who's comments and recommendations also reflect the opinions of the NRA.

However, we are also concerned about the new regulation will be cited as support for the complete removal of escalator stairs during routine inspections. We believe current procedures are adequate to meet the necessary safety standards and that any change would require a separate rule-making procedure.

October 30, 2014 letter from Peter McCann, Vice President and Chief Operating Officer, Las Vegas Monorail Company, 3900 Paradise Road, #260, Las Vegas, Nevada 89169; 702.699.8200. The Las Vegas Monorail Company (LVMC) is concerned with the proposed regulations regarding escalator inspections. Our concern is with the removal of 50% of the steps to perform periodic inspections/tests as suggested in by "ASME A17.2 Inspector's Guide". LVMC has learned that the State does not intend to undertake a formal rulemaking process to implement this critically important change; which is equally concerning.

As you are aware National Elevator Industry, Inc. (NEII) is opposed to such changes in the regulations and considers them unnecessary. Considering that 90% of an escalator's components

are visible by removing as few as two steps, to remove 50% of the steps is seemingly unnecessary and unwarranted.

LVMC is also concerned about the hazards and considerable passenger inconvenience that would occur when escalators would be out of service. LVMC does not have sufficient space or storage on its stations to house steps during inspections, which would result in the steps being stacked on the narrow platforms, creating a potential hazard and blocking the flow of traffic. Monorail stations are open 20 hours a day and leaving the escalator pit open for extended periods of time also creates a significant hazard to the hazards and would require the hiring of additional staff to secure the affected areas.

LVMC joins Clark County and NEII in asserting that this is an incorrect interpretation of how the ASME A17.2 is meant to be used. A17.2 is a Guide to be used for inspections and not to serve as a basis for government regulations. LVMC urges the State to implement a formal rulemaking process before considering the implementation of these regulations, as clearly outlined in the Nevada Administrative Procedure Act.

November 4, 2014 Comments from Bill Stanley, International Union of Elevator Constructors, 5340 N. Campbell Road, Las Vegas, Nevada; (702) 241-8799; wstanley@iuec.org. The International Union of Elevator Constructors (IUEC) has a concern regarding Section 41, NAC 455C.468(1)(a), and Section 42, NAC 455C.470(1), both of which present the same concern. Each of these sections add the language "or under contract with a licensed elevator contractor" regarding the issuance or renewal of a work card. The Legislature in 2001 determined that only elevator constructor mechanics would install, maintain, or repair elevators and related equipment in Nevada. (See NRS 455C.160). IUEC does not believe that the Division can make this exception in regulations. The IUEC believes this language circumvents the requirements of NRS 624 that prohibits a licensed contractor in Nevada from entering into a contract with an individual that is not licensed as a contractor. (Revised Comment.)

The Legislature in 2001 defined what "work" or "tasks" would be performed exclusively by elevator mechanics. Suggested language by others that would suggest that anyone other than an elevator mechanic is permitted to perform work on an elevator is contrary to the statute. ASME A17.1 defines "authorized personnel" and further defines situation where these individuals may perform certain work. However, the Nevada Legislature restricted this work to elevator mechanics. The IUEC strongly opposes any attempt to redefine the legislative intent.

The IUEC supports NEII's proposed change to NAC 455C.025.

The IUEC suggests changes to the new language proposed by NEII on Section 13 at subsections 7 and 8 of the proposed regulations. In subsection (7)(c) of Section 13 we suggest that "The report shall be signed by the elevator mechanic, and shall include the mechanics printed name and Nevada State Certification Number" and "The report shall be given to the owner or his representative at the conclusion of the inspection and/or tests." In subsection (8)(a) the time requirement for the filing of a complaint with the Mechanical Compliance Section should be reduced from "six months" to "30 days" so that evidence of the alleged violation is retrievable.

The IUEC supports the Division's language requiring the addition of the machine room log to be used to record callbacks, as set forth in Section 14 of the proposed regulation. Additionally, the IUEC supports the Divisions added language regarding Maintenance Control Program requirements [Section 46 (NAC 455C.504), subsections 3, 4 and 5]. These suggested requirements are not in conflict with ASME A17.1-2013 as stated by NEII. These are practical additions and/or clarifications that will provide a safer work environment for elevator mechanics and provide owners with additional insight to the maintenance of their equipment.

The IUEC strongly agrees with the Division that all inspection and/or tests should be witnessed by an inspector as ASME A17.1, A18.1 and A17.2 were constructed [Section 53 (NAC 455C.518(2)) and Section 55 (NAC 455C.522(2))].

The IUEC supports the Division language [Section 52 (NAC 455C.516(6))], when a building is located more than 100 miles from an office of the Mechanical Compliance Section, an inspector may perform an inspection.

The Division should not try to define "like for like". ASME A17.1 clearly delineates what is an alteration that requires a permit and inspection and what is a repair that does not require a permit or inspection.

At the October 20, 2014 hearing representatives of McCarran Airport suggested that requiring an inspector to inspect steps of an escalator or the pallets of a moving walk was intrusive, unnecessary, would not produce a safer environment for the riding public and create too high a financial cost. This line of testimony is contrary to what is required by the code. Nevada does not, today, require the witnessing of inspections and tests of elevators and related equipment. Nevada does require the owner insure that the maintenance, inspection and testing process defines in ASME A17.1 and A18.1 is being completed and documented in the required logs. A17.1 currently requires that every escalator and moving walk be cleaned and the steps or pallets be inspected at a minimum annually. Defective pallets could only be discovered by removing them from the unit. Any suggestion that steps and pallets should not be inspected at least annually is just dangerous.

November 4, 2014 letter from Scott Scherer, Esq., Holland & Hart, 377 S. Nevada Street, Carson City, Nevada 89703; Representing FP Holdings, L.P. dba Palms Casino Resort; sscherer@hollandhart.com; (775) 684-6011. FP Holdings, L.P., dba Palms Casino Resort (Palms) is opposed to the adoption by reference of the *Guide for Inspection of Elevators, Escalators and Moving Walks*, A17.2, 2007 as this adoption will result in attempts to make its recommendations mandatory despite express instructions to the contrary.

Palms supports the comments submitted by National Elevator Industry, Inc. (NEII), with two exceptions. First, we take no position with regard to striking the designation of the version of the codes adopted by reference. We are concerned that the Nevada Administrative Procedure Act may require notice and comment before substantive changes are made to the governing codes. Second, we do not support the addition of subsection 7 to Section 13 of the Proposed Regulations.

November 4, 2014 letter from Scott Scherer, Esq., Holland & Hart, 377 S. Nevada Street, Carson City, Nevada 89703; Representing High Sierra Elevator; sscherer@hollandhart.com; (775) 684-6011. High Sierra Elevator (High Sierra) is concerned that incorporating the *Guides for Inspection of Elevators, Escalators and Moving Walks*, A17.2 2007, will result in attempts to make its recommendation mandatory despite its express instructions to the contrary. High Sierra is opposed to the adoption of A17.2 by reference in the proposed regulations.

Section 32 (NAC 455C.450) subsection 6 purports to limit the fees that may be charged by an authorized inspection agency or special inspector to $150 per hour for the first eight hours of a day and $225 per hour for hours worked in excess of eight hours. High Sierra believes the hourly rate cap is too low and that any rate regulation should also include a flat unit price option. High Sierra suggests that any hourly rate cap should start at $250 in order to allow inspectors to fully and effectively perform the necessary inspection services. High Sierra questions whether the Division has legal authority to set rates for special inspectors.

It is our understanding that the hourly rate limitation is to be in effect for two years from the effective date of the proposed regulations, and are strongly opposed to increasing the time any price restrictions are in effect.

High Sierra has reviewed the comments submitted by National Elevator Industry, Inc. (NEII) and support most of their comments, with concerns about at least five of their comments. First, High Sierra supports Section 6 of the proposed regulations regarding the installation of Emergency In-Car Operations and do not agree with NEII's suggested deletion of that language. Second, High Sierra takes no position with regard to striking designation of the version of the codes adopted by regulation, and are concerned that Nevada's Administrative Procedure Act may require notice and comment before changes are made to the governing codes. Third, High Sierra is opposed to Section 13 subsection 4 as policies and procedures of the Mechanical Compliance Section should not be the basis for suspension of a certificate of competency. Standards that may result in suspension of a certificate of competency should be adopted by regulation. Fourth, High Sierra does not support the addition of NEII's proposed subsection 7 to Section 13 of the proposed regulation adopting ASME A17.2, *Guide for Inspection of Elevators, Escalators and Moving Walks*. A Guide should not be adopted as a standard in the regulations. Rather, qualified inspectors should be permitted to use their judgment in determining the appropriate means of complying with the *Safety Code for Elevators and Escalators*, A17.1. Fifth, High Sierra does not support the addition of NEII's proposed subsection 8 to Section 13 of the proposed regulation in its current form. Any process that may lead to fines or denial, suspension or revocation of a certificate should provide for the subject of the complaint to receive due process.

High Sierra agrees with NEII's comments regarding Sections 47 (NAC 455C.506(4)) and Section 62 (NAC 455C.616(3)) that the language allowing the imposition of additional fines up to $5,000 every 30 days beyond the initial fine is excessive and overly punitive.

5. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.

The Division met with stakeholder groups, including but not limited to, building owners, the elevator union, the elevator industry, special inspectors, the State Fire Marshall and Public Works prior to the Workshop. Copies of the proposed regulations were provided, reviewed and discussed at each of these stakeholder meetings.

Additionally, a summary of the proposed fee increases and a Survey Response were sent via the U.S. mail to over 3,800 Nevada small businesses which would be affected by the proposed fee increase. The Division received a total of 122 survey responses: 98 from small businesses; 12 from private residence owners; 9 from businesses with over 150 employees; and 3 made no disclosure regarding size. The small business survey responses were as follows:

Minimal effect	41
Moderate effect	23
Moderate-severe effect	1
Severe effect	29
No response on effect	4

The Division sent by U.S. Mail and via e-mail the Notice of Public Workshops to Solicit Comments on Proposed Regulations to over 3,800 persons who were known to have an interest in the subject of the Chapter 455C, concerning Boilers, Elevators and Pressure Vessels of the Nevada Administrative Code ("NAC"), as well as any persons who had specifically requested such notice.

A copy of this summary of the public response to the proposed regulations may be obtained from Donald C. Smith, Esq. at the Division of Industrial Relations, Legal Department, 1301 N. Green Valley Pkwy., #200, Henderson, NV 89074, 702-486-9070, or e-mail to donaldcsmith@business.nv.gov.

6. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulations without change.

A number of revisions were suggested at the October 15, 17 and 20, 2014 hearings and written comments received by November 4, 2014, some of which were not incorporated into the proposed regulation by the Division. Each of those suggested revisions are discussed separately below.

A suggestion was made that **Section 6**, adopting an exemption from providing firefighters emergency service (Phase II) for elevators traveling 55 feet or less, be deleted so that elevators in Nevada are consistent with the adopted ASME A17.1/CSA B-44-14 standard. This exemption was proposed because the State Fire Marshall confirmed that firefighter emergency service would not be used by firefighters in Nevada for elevators which travel 55 feet or less. This exemption as proposed saves the building owner the cost of installing, maintaining and

exercising Phase II of the firefighters emergency service, which will not be used in Nevada. Proposed Section 6 was not amended or deleted.

A number of suggestions were made regarding either amending or adding additional sections to **Section 13.** Proposed **new subsection 7** of Section 13 would adopt ASME A17.2 as the standard for inspections, require special inspectors to comply with the code of ethics established by the "Qualified Elevator Inspector" (QEI) certifying agency, and set requirements for the reporting of results of inspection and testing. This proposed new subsection was opposed in two separate written comments. The Division believes that these suggested changes are covered in other sections of this proposed regulation, specifically Sections 52 (NAC 455C.516) and 53 (NAC 455C.518), which require that the duties set forth in ASME A17.2 and QEI-1, both adopted in Section 45 (NAC 455C.500), be performed. Proposed **new subsection 8 of Section 13** would set forth criteria for the denial, revocation, suspension or non-renew a special inspector's certificate of competency if the person had been convicted of a felony; obtained the certificate by fraud, misrepresentation or deception; or engaged in fraud, misrepresentation, deception, malfeasance, misfeasance or nonfeasance in the conduct of business. These proposed new subsections were opposed in two separate written comments. The Division believes that these suggested changes are covered in other sections of this proposed regulation, specifically Sections 35 through 44 (NAC 455C.460 through 455C.476) and Sections 62 and 63 (NAC 455C.616 and 455C.618) covering potential actions regarding a special inspector's certificate of competency.

A suggestion was made that **Section 26** (NAC 455C.434) be amended to clarify that vertical reciprocating conveyors, regulated under ASME B20.1, National Safety Standard for Conveyors and Related Equipment, are not subject to the proposed regulation. The Division believes that this suggested change is not necessary as B20.1 is not adopted by reference in Section 45, (NAC 455C.500) and vertical reciprocating conveyors are not included in the definition of "elevators" set forth in NRS 455C.060.

Written comments were received that the Division does not have the legal authority to set rates during the early stages of the transition to special inspector inspections; that the maximum hourly charge of $150.00 per hour for the first eight (8) hours and $225.00 thereafter were too low; that the Division should consider a flat unit price option; and that the fee cap structure should not extend beyond two (2) years from adoption, all of which are set forth in **Section 32** (NAC 455C.450). In proposing these amounts, the Division increased the amounts in these proposed regulations by fifty percent (50%) following the Public Workshop. The Division considers the fee caps important to Nevada business owners as a way to avoid possible price gouging for inspections during the early stages of the transition to special inspectors. The Division considers the terms of the proposed regulation as reasonable and not prohibited by statute and regulation. Therefore, no change was made to the proposed regulation.

Suggestion was made that the amendment in **Sections 41 and 42** (NAC 455C.468(1)(a) and 455C.470(1), respectively) which adds the phrase "or under contract with a licensed elevator contractor" is prohibited by NRS 455C.160 and/or is prohibited by Chapter 624, NRS. The language in these new Sections also received support in a written comment. The Division does not believe that either NRS 455C.160 or Chapter 624, NRS prohibits a licensed elevator

contractor from entering into a contract with anyone. Additionally, the Division does not believe the proposed language alters or revises the cited statutory requirements.

Several suggestions were received regarding **Section 45** (NAC 455C.500). One suggestion was that specific codes should not be adopted by reference in this provision as they are guides or handbooks. Each of these standards will be addressed separately. ***Guide for the Inspection of Elevators, Escalators, and Moving Walks,* ASME A17.2**, is specifically referenced in Section 53 (NAC 455C518(2)) and is referred to in the *Safety Code for Elevators and Escalators*, ASME A17.1, adopted in Section 45 (NAC 455C.500(1)(a)). A17.2 has been adopted by reference in Nevada since 2004. Because of the reference to A17.2 in this other section of the Nevada Administrative Code, this code must be adopted by reference, pursuant to NRS 233B.040. The ***Guide for Emergency Personnel*, ASME A17.4**, is adopted in Section 45 (NAC 455C.500(1)(h)). A17.4 has been adopted by reference in Nevada since 2004 and will not be removed from the proposed regulation. The ***Standard for the Qualification of Elevator Inspectors*, QEI-1**, adopted in Section 45 (NAC 455C.500(1)(j), is specifically referenced in Section 53 (NAC 455C.518(2)). QEI-1 has been adopted by reference in Nevada since 2004. Because of the reference to QEI-1 in this other section of the Nevada Administrative Code, this code must be adopted by reference, pursuant to NRS 233B.040. A second suggestion was made that the Division should retain the automatic adoption provision for the codes adopted by reference in NAC 455C.500(4). The Division has proposed this change to provide a clearer standard of which codes are in effect at any specific time for the regulated community, including building owners, licensed elevator contractors, inspectors and special inspectors. The Division determined to retain the proposed deletion of the automatic adoption provision.

Written comments were received that **Section 46** (NAC 455C.504(3), (4) and (5) and new **Section 14** should be amended so that the language reflects the record requirements set forth in ASME A17.1, and that subsection 6 of Section 46 should be deleted as it conflicts with ASME A17.1. No changes have been made by the Division to these proposed regulations. The Division proposed these records retention and access regulations because of the unique nature of the Nevada business environment, i.e., many of the elevators, escalators and moving walks in Nevada operate 24 hours a day, 365 days of the year because of the tourist economy. The Division believes that the proposed regulations supplement, but do not conflict with the requirements of ASME A17.1. Additionally, the Division believes that ease of access to full and complete records by elevator mechanics, special inspectors and inspectors will better protect members of the public riding these objects, and is in the public and the state's best interest in terms of providing safety.

Written comments were received that **Section 4**7 (NAC 455C.506(4)) and **Section 62** (NAC 455C.613(6)) be deleted because they are excessive and overly punitive. This proposed new language imposes an additional administrative fine of up to $5,000 for every 30 calendar days a violation continues. The Division proposed this new administrative fine because it appears that some building owners have chosen to incur one administrative fine and not correct or abate the violation involving their equipment. The Division believes this additional fine is necessary to incentivize building owners to properly maintain and repair their equipment, thereby better protecting public safety.

A written comment was received that **Section 52** (NAC 455C.516(6)), be amended by striking the 100 mile limitation before requesting a state inspector when a special inspector is not available because the 100 mile limitation is arbitrary. A written comment was also received supporting this proposed regulation. The Division did not amend this proposed new section as it believes this limitation will help drive the development of a robust special inspector industry in Nevada.

A written comment was received that **Section 55** (NAC 455C.522(2)), which requires the licensed elevator contractor notify the Mechanical Compliance Section and the special inspector of periodic tests, be amended to place the requirement on building owners, who are ultimately responsible for the maintenance and repair of their equipment. The Division did not amend this proposed regulation. The Division initially considered placing this requirement on the building owner and decided that, as a practical matter, this notification requirement should rest with the party who actually schedules and performs the periodic tests.

A written comment was received that **Section 57** (NAC 455C.526), should be amended to allow a building owner to return an elevator, escalator or moving walk to service if the accident was not caused by the failure, malfunction or destruction of any part without notifying the Mechanical Compliance Section, provided the building owner assumes liability for any subsequent incidents that may occur as a result. No change was made as the Division believes that immediate shut down of the elevator, escalator or moving walk, notification of the Mechanical Compliance Section and investigation/inspection by the state is in the best interests of public safety.

7. The estimated economic effect of the adopted regulation on the businesses which it is to regulate and on the public. These must be stated separately, and each case must include:

(a) Both adverse and beneficial effects; and

(b) Both immediate and long-term effects.

The Division anticipates minimal adverse effects, both direct and indirect, on businesses and the public as the result of the adoption of these regulations. The adverse effects include increased fees for the issuance of an initial operating permit and annual renewals of operating permits for elevator, escalators and moving walks. The increased fees are necessary to satisfy the requirement that the fees reflect the actual cost of the function the Mechanical Section performs under NRS 455C.120 and are in line with the fees charged by other western states. This direct adverse impact on small businesses will be offset by the regulatory exemption from the requirement to install, maintain and conduct monthly exercises of Phase II Emergency In-Car Operation for elevators with 55 feet or less of travel. The Division does not anticipate any indirect adverse effect on businesses or the public.

The Division anticipates beneficial effects, both direct and indirect, on businesses and the public. The adoption of these proposed regulations may result in an indirect benefit to businesses because of the development of a vibrant special inspector industry, providing elevator owners/operators with competitive options; separates and defines the market for state inspectors and special inspectors to eliminate inappropriate competition between the state and private

sector; transitions the Division's Mechanical Compliance Section from an enforcement role to a more appropriate regulatory role; provides the mechanism for a more objective and consistent direction, interpretation and oversight of the regulated community; updates applicable boiler and elevator codes adopted by reference; and creates flexibility to address special circumstances. The adoption of these regulations will benefit the public indirectly by better ensuring the safe operation and maintenance of elevators, escalators and moving walks.

The Division anticipates minimal immediate effects, either adverse or beneficial, on businesses and the public as this regulation facilitates the development of a vibrant special inspector industry, providing elevator owners/operators with competitive options; separates and defines the market for state inspectors and special inspectors to eliminate inappropriate competition between the state and private sector; and transitions the Division's Mechanical Compliance Section from an enforcement role to a more appropriate regulatory role.

The Division anticipates beneficial long term effects on businesses and the public with the implementation of these adopted regulations. The Division believes these regulations will provide for businesses the mechanism for a more objective and consistent direction, interpretation and oversight of the regulated community; updates applicable boiler and elevator codes adopted by reference; and creates flexibility to address special circumstances. The adoption of these regulations will benefit the public long term by better ensuring the safe operation and maintenance of elevators, escalators and moving walks in Nevada.

8. The estimated cost to the agency for enforcement of the adopted regulation.

There is no additional cost to the agency for enforcement of these regulations.

9. A description of any regulations of other state or government agencies, which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

There are no other state or government agency regulations that the proposed regulations duplicate.

10. If the regulation includes provisions that are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.

The proposed regulations do not include any provisions which duplicate or are more stringent than existing federal, state or local standards.

11. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

The current fee structure, which has been in place since 2004, produces less than 50% of the revenue necessary for the agency to perform its obligations, necessitating the need for a great deal of subsidization from the Workers' Compensation and Safety Fund. This increase is necessary to satisfy the requirement that the fees reflect the actual cost of the function the Mechanical Compliance Section performs under NRS 455C.120. The proposed regulations create a fee structure in line with neighboring states providing comparable services. The Division believes that this increase will bring the unit closer to achieving this goal.

12. Is the proposed regulation likely to impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small business? What methods did the agency use in determining the impact of the regulation on a small business?

The Administrator has determined that the proposed regulation does not impose a direct and significant economic burden upon a small business or restrict the formation, operation or expansion of a small business.

Dated this 8th day of January, 2015.

By: /s/_____
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