

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

DEPARTMENT OF LABOR AND INDUSTRIES

STATE OF WASHINGTON

ELEVATOR SAFETY ADVISORY COMMITTEE MEETING

TRANSCRIPT OF PROCEEDINGS

Tuesday, August 20, 2019

BE IT REMEMBERED, that an Elevator Safety Advisory Committee Meeting was held at 9:00 a.m. on Tuesday, August 20, 2019, at the Department of Labor & Industries, 12806 Gateway Drive South, Tukwila, Washington.

Committee members present were: Robert McNeill, Scott Cleary, Garry Wood, Jan Gould, Brian Thompson and Patrick Strafer. The Department of Labor & Industries was represented by Wayne Molesworth, Acting Chief Elevator Inspector.

WHEREUPON, the following proceedings were held, to wit:

Reported by:
H. Milton Vance, CCR, CSR
(License #2219)

EXCEL COURT REPORTING
16022-17th Avenue Court East
Tacoma, WA 98445-3310
(253) 536-5824

A G E N D A

1		
2		
3	August 20, 2019 - Tukwila	Page No.
4		
5	Introductions/Purpose/Future Meeting Commitments	3
6	Vote ESAC Chair	4
7	Comments Regarding May's Minutes	4
8	Acting Chief's Report	5
9	New Forms On-line	13
10	MCP	11
11	New Website to Come	8
12	Review on Inspections	--
13	Rulemaking/Legislative Updates	16
14	CMS Update/Combined Stakeholder Information	26
15	Update Subcommittee Status	29
16	Check in with Committees on Plan	--
17	Risk Assessment for Inspections	29
18	Risk Assessment for Penalties	29
19	Alterations WAC ASME	32
20	Future Business	33
21		
22		
23		
24		
25		

PROCEEDINGS

1

2

3

Introductions/Purpose/Future Meeting Commitments

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

ACTING CHAIRPERSON CLEARY: Good morning. So basically we're going to do a little bit of committee business to begin with. Like it was talked about, we have to do a couple things for elections, which we'll do.

So I'm calling the meeting to order. This is the August meeting of the Elevator Safety Advisory Committee.

So with that, I'd like to do introductions, make sure we have a quorum, then we're going to do the minutes consent order.

So with that, I'm Scott Cleary, Mobility Concepts. I'm the Acting Chair and the Vice Chair. I represent the exemption from licensure, residential and commercial accessibility.

MR. STRAFER: Patrick Strafer. I represent labor.

ACTING SECRETARY MOLESWORTH: Wayne Molesworth. I'm the Acting Chief Elevator Inspector and the Acting Secretary.

MR. THOMPSON: Brian Thompson with Aegis Engineering, representing registered architects and engineers.

MR. McNEILL: Rob McNeill. I represent licensed elevator contractors.

1 MS. GOULD: Jan Gould, City of Seattle, the AHJ
2 representative.

3 MR. WOOD: Garry Wood with Excel Pacific. I
4 represent general contractors.

5

6 Vote ESAC Chair

7

8 ACTING CHAIRPERSON CLEARY: Okay. So basically we're
9 going to do -- Rob McNeill, who fulfilled his term, was
10 re-upped in June. So I'd like to entertain a unanimous
11 consent request to go ahead and nominate and re-elect Rob
12 as the Chair. So ...

13 MR. STRAFER: I'll second.

14 ACTING CHAIRPERSON CLEARY: Anybody on the Committee
15 have any objections to it? Hearing none, so ordered.

16 So I'm taking this back to the Chair; it's back to
17 you.

18 CHAIRPERSON McNEILL: Thank you, Scott.

19 It's a privilege to be on the Committee.

20

21 Comments Regarding May's Minutes

22

23 CHAIRPERSON McNEILL: So the first order of business
24 is the minutes from the May meeting. Are there any
25 additions or deletions to the meeting minutes? Seeing

1 none, the minutes are approved by unanimous consent.

2

3 Acting Chief's Report

4

5 CHAIRPERSON McNEILL: The first item of business is
6 the Acting Chief's Report.

7 Wayne, would you please take the floor.

8 ACTING SECRETARY MOLESWORTH: Sure.

9 Good morning, everybody.

10 So we've got some pretty good news to share with you.
11 I'm pretty impressed with where we've got in the last
12 three years.

13 We pulled some data from '17, '18 and '19. And so I
14 wanted to go through those with you so you can kind of see
15 the progress we've made.

16 Currently we're fully staffed at 27 inspectors. We
17 have 25 inspectors that are actually doing inspections,
18 and two others that are otherwise engaged.

19 So first of all, annuals, which is what we're
20 mandated to do is annual inspections, new inspections of
21 other conveyances. Annuals for FY17, we only did 1,833.
22 2018, we did 2,732. And so far in '19, we did 8,487. So
23 6,000 more inspections between '18 and '19. So we
24 continue to see an increase in the number of annuals
25 getting done as we're going forward, and that every single

1 month we see an increase with the new things that are
2 going in place and people getting more comfortable. So
3 I'm very encouraged by that.

4 And a lot of times we would have people that would
5 say that's because we're not doing as many other things.
6 But as far as alterations, in 2017 we did 918, and in '18
7 we did 1,051, and in '19 we did 1,068. So we did more
8 every year so far. This also goes to the increase in work
9 that's out there, and also the influx of work for you guys
10 as well that's out there in the industry.

11 The new installations, in '17 we did 1,492
12 inspections. In '18 we did 1,567. And in '19 we did
13 2,022. So you can see there was an influx there of over
14 500, almost 600 new installations over what it was last
15 year.

16 So we implemented a new program called IVIP a couple
17 years ago. Is everybody familiar with the IVIP program?
18 I think the ESAC is.

19 For the audience information, it's the -- it's a
20 system by where we take a look at stair chair lifts,
21 right? and we do it through interactive video. We don't
22 video it, but we're looking at it on Skype virtually. And
23 so we go through the process and look at all the elements
24 of the stair chair installation and we do it from a chair
25 in the office with an inspector instead of being on site.

1 It saves an enormous amount of time and miles driven, so
2 it's a good thing.

3 In '18 we did 436 of those types of inspections. In
4 '19 we did 538. We have yet to be able to find a way to
5 actually calculate what those miles are. But as you can
6 imagine, if we're driving out of our way to some of these,
7 we're talking about 30, 40 miles on the average, you
8 know, for some of these, and so it adds up to enormous
9 amount of time.

10 And lastly -- or no, I got one other thing. But on
11 accidents, this goes to show that hopefully that the
12 program is actually making a difference in safety since
13 that's what we're here for. Accidents in FY17 were 65
14 accidents reported and investigated. Accidents in '18 was
15 81. And so that went up a little bit, right? So '19, 37.
16 So considerably down from where it was last year.

17 And I just wanted to let you guys know that our
18 running total right now for conveyances needing annual
19 inspections is at 22,558. That goes up every year about
20 4- to 500 conveyances that are subject to annual
21 inspection. So the number's getting up there. It's very
22 large.

23 All right. And I think that's all I had for today.

24 CHAIRPERSON McNEILL: Thank you.

25 ///

New Web Site to Come

1

2

3 CHAIRPERSON McNEILL: The next item is the new Web
4 site. Wayne, you're still up on that as well.

5 ACTING SECRETARY MOLESWORTH: The new Web site?

6 CHAIRPERSON McNEILL: Yes.

7 ACTING SECRETARY MOLESWORTH. Okay.

8 So the new Web site is under construction. We're
9 doing some rework on it to make it more customer
10 available. During the stakeholder meeting we had a little
11 bit of input as to how we can make that happen. We're
12 going to take that information back and have a little
13 discussion about it.

14 We are going to be updating that Web site a lot more
15 often. And I think it's, as we were talking about
16 earlier, on a three-month schedule. And if you see
17 changes that need to be made sooner than that, we will
18 approach it at that time and make those changes.

19 We're going to have a contact -- or a content owner
20 and a content editor, so there will be people from the
21 program that are involved in both of those things, keeping
22 an eye on it so we keep it more up-to-date for you guys to
23 use and get information off of.

24 Hopefully we've eliminated a lot of the content that
25 was not -- that are not being used. We did a heatmapping

1 test which is it'll show you on this heat map that comes
2 up in different colors which Web pages were being used the
3 most. And there was a lot of our Web content that was not
4 being used at all. And so for simplicity, we removed some
5 of that.

6 And for continuity and for consistency amongst the
7 agency, we're going to have a lot of the same format
8 across the agency so it's easier to navigate as a whole
9 agency our Web sites.

10 Uhm -- well, it's escaping me.

11 I might ask, Jane, do we have a date for going live
12 with the new system?

13 MS. NESBITT: So it's tentative to go live. But
14 there is a dead date for our new content to be updated on
15 our Web site, and we'll communicate that through listserv.
16 So we'll make sure to send that out for our stakeholders.
17 So if you do notice on-line that some things are not
18 updated, please be patient with us. There is a reason why
19 due to workload for our current employees that they just
20 stopped updating on our current Web site because they're
21 pushing everything onto the new Web site.

22 ACTING SECRETARY MOLESWORTH: Thank you.

23 MS. NESBITT: But we will be sure to communicate that
24 through the listserv.

25 ACTING SECRETARY MOLESWORTH: Rob, was there anything

1 else for new Web site that you wanted to -- information
2 specifically?

3 CHAIRPERSON McNEILL: No. Thank you.

4 Jane, before we go any farther, could you check --
5 would you be kind enough to check and see if there's any
6 stakeholders that wanted to speak on specific topics, if
7 anybody signed up so I don't miss them as we go through
8 the agenda.

9 MS. ERNSTES: I wasn't aware that we could sign up.
10 I didn't get an agenda. I didn't get a notice or anything
11 of this meeting. Nothing came out on the listserv to me.

12 MS. NESBITT: I'm sorry.

13 MS. ERNSTES: So ...

14 CHAIRPERSON McNEILL: So yeah, I'll reiterate. So if
15 anybody --

16 MS. ERNSTES: I got this (showing).

17 CHAIRPERSON McNEILL: If anybody wants to speak on a
18 topic on the agenda, there's a sign-up sheet in the back.
19 And you get five minutes to talk so we can continue to get
20 better input than we've gotten in the past during the
21 meeting.

22 ACTING SECRETARY MOLESWORTH: Mr. Chair?

23 CHAIRPERSON McNEILL: Yes.

24 ACTING SECRETARY MOLESWORTH: A good explanation
25 here: But there was probably four or five people that

1 didn't hear at all that we were changing the meeting
2 process.

3 CHAIRPERSON McNEILL: Okay. Let me clear that up a
4 little bit.

5 So we're changing the process that we presently have,
6 which is stakeholder comment before the meeting and no
7 comment during the meeting. That's how it's been. That
8 will be changed. So if stakeholders wish to comment
9 during the meeting on a agenda item, they can sign up on
10 the whiteboard for public comment, and we'll get that
11 comment as that agenda item comes up. And you'll have
12 five minutes to speak.

13

14 MCP

15

16 CHAIRPERSON McNEILL: So the next item is New Forms
17 On-line and MCP. Actually we're a little backwards there.
18 And it appears that -- I can't see that far.

19 MR. CLEARY: It's MCP.

20 MS. NESBITT: It says MCP's.

21 CHAIRPERSON McNEILL: Okay. And who -- Becky? We're
22 at the MCP part of the agenda, so if you have any
23 comments, the floor is yours.

24 MS. ERNSTES: I just have a question.

25 Last week the senior inspector told me that they were

1 supposed to go into the elevator machine room, verify that
2 a log was posted on the wall, and that was the only thing
3 they had to do. They weren't to write up if there was no
4 dates there. They weren't to write up if the tasks
5 weren't done. And they weren't to write up any tests that
6 weren't done.

7 I'd like clarification on that and maybe written
8 clarification because this is a senior inspector who told
9 me that.

10 And when I questioned that, he said it's the job of
11 the owner to peruse the MCP and not the Department.

12 So could somebody comment on that?

13 CHAIRPERSON McNEILL: Wayne.

14 ACTING SECRETARY MOLESWORTH: I would address that by
15 saying that we need to be careful. And I'll have a talk
16 with staff because that's not been directed exactly what
17 to do because the MCP's will not be looked at in that way
18 until February after we do some other work.

19 We're going to talk about actually putting together
20 a process for how to use the new MCP's. And with that
21 process we'll probably be putting -- we will be putting
22 together an inspection process for the inspectors.

23 They have not received any direction as to how to do
24 that as of yet. So I'm not sure why they're saying that
25 that's the direction. But I will check on that to make

1 sure that the supervisors aren't giving them some idea.
2 But as far as I know, we haven't given them direction on
3 how we'll be using them or how they'll be inspecting.

4 Thank you.

5

6 New Forms On-line

7

8 CHAIRPERSON McNEILL: While we're on the subject,
9 let's talk about MCP's that ...

10 ACTING SECRETARY MOLESWORTH: Yeah. The new MCP
11 format is on-line. So you can see them on-line.

12 So the thing that we don't have that was brought to
13 my attention this morning and we've been talking about is
14 that we need to have a process in place for users. And
15 so we need to put something together on how to use that
16 particular format.

17 Again, we'll be putting something together for
18 inspectors on how to actually inspect that format and
19 what it's for.

20 One of the things that has come up is that, Are the
21 MCP's required? And ASME actually talks about -- and
22 pardon me, I don't have the code number for it right now.
23 But ASME gives us the authority by saying that the AHJ has
24 the authority to choose the format by which this is done.

25 And so since we've adopted the A17.1 we're going to

1 go ahead and take that authority so that we can implement
2 this across the board, and this is a format that the AHJ
3 is approving for the state of Washington.

4 We've been asked by several stakeholders many times
5 for a consistent method of doing that. And so we feel
6 that we're staying in line with that ask and by going down
7 that road. But we want to make sure that we have
8 consistency and continuity across the board with everybody
9 as we go through this, to make it more efficient for the
10 inspector, make it more efficient for building owners, and
11 maybe have multiple companies that are doing their
12 maintenance in different locations.

13 So I think that was virtually the update on that.

14 CHAIRPERSON McNEILL: Perfect. Thank you.

15 MS. ERNSTES: I have a question. Do I need to ...

16 CHAIRPERSON McNEILL: Go ahead.

17 MS. ERNSTES: So you have new forms, but they're not
18 in rule. How can you enforce forms when they're not in
19 rule?

20 We had the same discussion last year when the MCP
21 format came out, and basically they said the same thing
22 that we're going to get it into rule next year. This is
23 next year. Can you ...

24 So the same issue came up last year. So you say
25 it's on-line. But there's no rule saying anybody has to

1 fill it out. So ...

2 ACTING SECRETARY MOLESWORTH: The rule is actually
3 that we've adopted all of 17.1, right? And in 17.1 it
4 talks about the MCP's and that the authority having
5 jurisdiction has the authority to choose the format about
6 which this is done.

7 So our format is the one that we have on-line. And
8 as we go through this, we'll be putting something out.
9 And actually there will be direction on the Web site as
10 well to actually be using it.

11 The ASME being in WAC, in rule that we've adopted,
12 it gives us the authority to enforce any part of the ASME
13 that we don't make exception to in the WAC. The WAC is
14 designed to make exception to ASME and also to bring
15 clarity to the ASME.

16 MS. ERNSTES: I think the law requires some MCP. You
17 know, I think that's a really liberal interpretation of
18 what the law says.

19 ACTING SECRETARY MOLESWORTH: Almost word for word.
20 So ...

21 MS. ERNSTES: Basically it gives you the authority
22 to dictate who does the work, not that the work doesn't
23 get done.

24 ACTING SECRETARY MOLESWORTH: It dictates that we
25 chose the format for the MCP, what does it look like.

1 MS. ERNSTES: But the minimum requirements that have
2 been on that format are in ASME. So it's going to comply
3 with that?

4 ACTING SECRETARY MOLESWORTH: Yeah, yeah. They're
5 both there.

6 I'm sorry, I should have anticipated that and brought
7 the code reference. But I can send that code reference to
8 you.

9

10 Rulemaking/Legislative Updates

11

12 CHAIRPERSON McNEILL: Okay. The next item on the
13 agenda is rulemaking and legislative updates.

14 Alicia, do you have a report for us?

15 MS. CURRY: Good morning, everyone.

16 Just to give everybody a quick update on rulemaking
17 for the elevator program, we have several rulemakings at
18 the moment.

19 The first rulemaking is ASME A17.3. That was the
20 rulemaking where we were adopting those additional
21 requirements from A17.3. They were adopted on July 23rd,
22 and those rules are expected to take effect on September
23 1st.

24 All of the rulemaking documents are available on the
25 program's Web site as well as the rulemaking information

1 if you guys want to take a look at it; it's all available
2 there on-line.

3 The second rulemaking we have for the elevator
4 program was the rulemaking that -- for the rule review
5 where proposals were submitted and went through the TAC
6 and the ESAC. That rulemaking, we have withdrawn the
7 CR101 for that rulemaking and plan to file a new CR101.

8 When we evaluated the proposals that were submitted,
9 there were several proposals that were outside of the
10 scope of the rulemaking. On the notice that we sent out
11 to the public, the CR101, we were pretty specific about
12 the rule changes that we were going to be looking at or
13 the rules that we were going to be reviewing. And we
14 received some proposals for rule changes that went through
15 the TAC and the ESAC that were approved and recommended to
16 move forward with that were not included in that
17 rulemaking. So in order to consider those proposals, we
18 have withdrawn that CR101 and we will be filing a new
19 CR101 which will expand the scope for us to be able to
20 consider those proposals.

21 I am in the process of developing a draft document
22 for everybody of those rule changes which will be
23 available on-line. And that document will have the
24 rationale for each of the changes that we're going to be
25 moving forward with as well as the TAC and the ESAC votes.

1 I hope this document will make the rulemaking a little bit
2 easier for everybody by putting the TAC and the ESAC votes
3 and the rationale in this document so that everybody
4 doesn't have to go through several hundred pages of a
5 transcript to be able to see, you know, what was approved
6 and what wasn't.

7 And we're scheduled to file that new CR101 early
8 September. I'm hoping to get that filed on September 3rd.

9 And then we have tentative dates -- and these are all
10 tentative -- for the CR -- for filing the CR102 which is
11 the proposed rules that open the public-comment period as
12 well as we hold public hearings. That is tentatively
13 scheduled for November.

14 And then we would have the public hearings probably
15 sometime in early January.

16 And then the CR103 we would -- to adopt the rules
17 would -- the tentative date for that is March.

18 And then the rules would tentatively be effective on
19 April 3rd.

20 And if anybody has any feedback too on the draft
21 document, please let me know. Because my goal is to try
22 to, you know, make this process as easy as possible for
23 you guys. So any suggestions when you take a look at
24 that, you know, please reach out to me.

25 We also have another rulemaking. It's an expedited

1 rulemaking. And the purpose of that rulemaking is because
2 Senate Bill -- Substitute Senate Bill 5471 passed. And as
3 you all remember, that was our agency request legislation
4 that we proposed during the 2019 legislative session. And
5 that -- those statutory changes increased the number of
6 safety -- Elevator Safety Advisory Committee members from
7 seven to nine. It allowed temporary licenses -- temporary
8 elevator mechanic licenses to be valid for one year rather
9 than having applicants have to renew every 30 days, as
10 well as it allows homeowners to be able to remove stair
11 chair and platform lifts from their residence without
12 penalty.

13 So that agency-request legislation passed. The bill
14 took effect on July 28th of this year.

15 And so in order to -- so for this rulemaking for the
16 expedited, we need to update the rules so that they align
17 and coincide with those new statutory changes.

18 Just to give you guys an example: In rule it still
19 says that you have to renew every 30 days. But now the
20 law says that temporary elevator mechanic licenses are
21 valid for one year.

22 So we're going to be updating those rules, and we're
23 doing an expedited rulemaking.

24 An expedited rulemaking is a little bit different
25 than the standard rulemaking process. There is no public

1 hearing for expedited rulemaking. There is a 45-day
2 public comment period so people can send in comments. And
3 if the agency receives any objections to the rulemaking,
4 then we would start the standard rulemaking process which
5 means we would then again file a CR101, file a CR102, hold
6 public hearings, file a CR103.

7 And the purpose for doing this expedited rulemaking
8 is it allows us to have the rules in effect a little bit
9 faster. Because right now, we are still issuing temporary
10 licenses every 30 days. So this'll help us get the rules
11 in place a little bit faster so that we can start issuing
12 those one-year licenses to folks as well as, you know, --
13 (inaudible) -- committee members and allowing homeowners
14 to remove those pieces of equipment.

15 So we're scheduled to file that CR -- it's called a
16 CR105. And that is scheduled for September 3rd to be
17 filed. Comments would be due by November 2nd. And then
18 we would file a CR103 on November 5th. And then the rules
19 would become effective on November 5th.

20 And there will be information available, all the
21 rulemaking documents, the language, everything will be on
22 the program's Web site, as well as we also have the
23 agency's laws and rulemaking page too that has all of that
24 information for you guys.

25 Does anybody have any questions about the rulemaking?

1 CHAIRPERSON McNEILL: Scott.

2 MR. CLEARY: So it's already passed statute that a
3 homeowner can take out their equipment, correct?

4 MS. CURRY: Correct.

5 MR. CLEARY: But there's no WAC how to enforce it.
6 So they still can do it without having the risk of being
7 fined?

8 MS. CURRY: It's my understanding that we're not at
9 the moment, are we?

10 MR. CLEARY: But if it's already passed as a law that
11 allows them to do it, is there -- what's precluding them
12 from doing it?

13 MS. CURRY: Yeah, so they can do it.

14 MR. CLEARY: They can?

15 MS. CURRY: Yes.

16 MR. CLEARY: Okay, thank you.

17 CHAIRPERSON McNEILL: Alicia, I have a question --

18 MS. CURRY: Yes.

19 CHAIRPERSON McNEILL: -- regarding your comments on
20 the withdrawn CR.

21 MS. CURRY: Yes.

22 CHAIRPERSON McNEILL: Did that include 17.3 ASME?

23 MS. CURRY: No. That was a separate rulemaking.

24 Although, we were specific about some codes that we
25 might be looking at that were on there, I don't think

1 that included 17.3, though.

2 CHAIRPERSON McNEILL: So can you give us an update
3 on 17.3? Are we done with that or ...

4 MS. CURRY: Correct, yes. We adopted the rules for
5 ASME A17.3 on July 23rd, and those rules will take effect
6 September 1st.

7 MR. CLEARY: Where are we -- where is the State's --
8 since we've already codified 17.3, we had seven exceptions
9 in 675 which are addressed, correct? So are we enforcing
10 any part of 17.3 right now or are we not?

11 MS. CURRY: That's a question for Wayne.

12 ACTING SECRETARY MOLESWORTH: So at the present time
13 we're putting together training for -- to -- enforcement
14 of 17.3 and putting together some timelines. And so at
15 the current time we've put all the paragraph codes for the
16 corrections into the computer system. We'll be doing
17 training and actually start enforcement in January.

18 MR. CLEARY: So basically is there something that
19 could be put into rule that -- because right now 17.3's
20 going to be enforced on annuals, correct?

21 ACTING SECRETARY MOLESWORTH: Correct.

22 MR. CLEARY: So that would be a correction which the
23 statute says you got 90 days to correct. It doesn't say
24 that you can push it out for years. Is that going to be
25 addressed of how you come up with the timeline?

1 ACTING SECRETARY MOLESWORTH: Yes. In 17.3 in the
2 beginning of the article, it actually talks about that
3 the AHJ can determine the length of time by which we
4 require those things to be corrected.

5 So again, it's in 17.3. And we've adopted 17.3 as a
6 whole now. And so that would pertain to that. I don't
7 think there's a need to put that in the rule, but I think
8 we do need to come up with a guideline as far as what
9 those look like so we're standardized.

10 MR. CLEARY: Well, maybe you could help me with this
11 because my understanding is the RCW (gesturing), the WAC
12 (gesturing), national code (gesturing). So wouldn't the
13 WAC -- the RCW take precedent over what's in the main
14 body of 17.3 and wouldn't that need to be addressed in a
15 WAC?

16 ACTING SECRETARY MOLESWORTH: So only if you didn't
17 address it in the RCW or in a WAC.

18 And in the WAC we've actually adopted 17.3. And so
19 since we adopted it in its entirety now, including those
20 other elements, it pertains to -- it gives us guidance as
21 to how to -- you know, what we can do with it.

22 MR. CLEARY: I'm just -- I just want it clear so I
23 understand. But that's -- they've adopted it in WAC.
24 But RCW takes precedent over the WAC, and the RCW says 90
25 days.

1 ACTING SECRETARY MOLESWORTH: The RCW gives us the
2 authority to adopt the code, and the WAC lets us adopt
3 it. So ...

4 MS. ERNSTES: I have -- under 34.05 -- I have five
5 minutes, right?

6 CHAIRPERSON McNEILL: Go ahead.

7 MS. ERNSTES: 34.05 is how you make rules. 34.05,
8 you cannot supersede RCW by adopting an ASME. That's
9 really clear in rulemaking. It's really clear in 34.05.

10 The Department did that last year when they did
11 rulemaking, and they're trying to do it again. You have
12 no authority to supersede RCW by saying "I adopt an ASME."

13 I was trained by L & I code revisers. I was trained
14 by legislative people who taught me legislative law. And
15 you cannot supersede the legislative law by adopting --
16 Scott is correct.

17 The other thing, on 34.05, it requires you to do
18 cost-benefit analysis. It didn't happen for A17.3; that
19 was kind of a gray area. But now the new proposed rule
20 that we've just moved back is adopting a code that has an
21 economic impact which is not in A17.3 for existing
22 elevators, and that is handrails on hydraulic elevators.
23 That has to go through a cost-benefit analysis in order to
24 be effective.

25 And Scott is totally right. You cannot say that just

1 because ASME says something, it supersedes RCW. The
2 hierarchy rules is exactly what Scott said.

3 You have no authority to supersede RCW by timelines
4 unless -- and we've talked about that at length like three
5 years ago, we brought it forward for the Committee to ask
6 if they wanted to change the timelines by rule, and
7 everybody agreed that they didn't want to at that time.

8 If you want to do it again, then you have to put a
9 proposal forward to do that. You can't just say, "We have
10 the authority to do whatever we want." RCW is your law.

11 CHAIRPERSON McNEILL: So can the L & I staff look
12 into that from your legal side just to make sure we're --

13 ACTING SECRETARY MOLESWORTH: Yeah, we'll sure take
14 that into consideration and take a look at that as far as
15 how it's written in the RCW for the 90 days ... is what
16 you're talking about.

17 MR. CLEARY: I just want to make sure that it's
18 something that can be put back on; it's going to be you
19 guys have the authority to be able to do that. Because
20 that's -- the feedback I get is that's what people are
21 concerned about. So I just need to have a full
22 understanding because I'm not really sure.

23 CHAIRPERSON McNEILL: Okay. Thanks.

24 Alicia, did you have anything else?

25 MS. CURRY: Nope. I think that covers everything,

1 unless anybody else has any other questions?

2 CHAIRPERSON McNEILL: Good. Thank you.

3

4 CMS Update/Combined Stakeholder Information

5

6 CHAIRPERSON McNEILL: The next item is CMS update.

7 ACTING SECRETARY MOLESWORTH: You're looking at me
8 again.

9 MS. NESBITT: I'll take that.

10 So this is the other CMS. So this is the advanced
11 management system. It will have a different name.

12 On June 18th we had a external stakeholder meeting
13 with different business owners and building owners and
14 mechanics. There was an exercise done with -- the first
15 was have -- there's different pause work groups. And
16 first, we instructed the person -- the people to have
17 sticky notes and do "must do's," "must not," or what they
18 would think that the conveyance management system would do
19 on-line for them.

20 And I'm sorry for the people that are in here that
21 this is just a repeat for what they experienced in the
22 room.

23 And then for step 2, they would have -- they would
24 have a teammate in the -- at the table with them. And
25 then they would realize that the person next to them may

1 have the same or similar views. And then as a group, they
2 would figure out that there was similar things all
3 together or there's some things that was duplicates or
4 things that they realize may not be.

5 So then we did a report out. And here are some of
6 the -- and this is verbatim what we received. I don't
7 believe we should go over everything unless you guys feel
8 that this is necessary.

9 But some of the things that they felt that was
10 important was: To have the ability to apply and pay for
11 all permit tabs on-line; provide code year; the conveyance
12 must comply with an original install or modernization;
13 historical information is available for the conveyance;
14 allow for updating of contact information.

15 So 39 items were identified that was important for
16 everybody in the room, that everybody agreed that it was
17 important for the new conveyance system to have.

18 So we just promised to the stakeholders that we would
19 keep them updated on what we're doing for the new
20 conveyance management system. And this is just what we
21 gathered from the external customers. And this is our
22 report out for you guys.

23 And then we also had the discard list to ensure that
24 we -- if there was anything that we identified that maybe
25 we saw that might not be needed or why.

1 Is there any questions on the process? Yes.

2 MR. CLEARY: What was it going to be called again?

3 MS. NESBITT: So currently it's named the same, the
4 conveyance management system.

5 MR. CLEARY: You said -- (inaudible.)

6 MS. NESBITT: No. We're thinking about rebranding
7 it since it's -- it's kind of negative, so ...

8 Did you have an idea?

9 MR. CLEARY: No. I heard you say it; I didn't hear
10 you say what it was.

11 MS. NESBITT: Oh, no. Because we have --

12 MR. CLEARY: I was just --

13 MS. NESBITT: -- a different name, yeah.

14 MR. CLEARY: Oh, I have a couple names.

15 MS. NESBITT: Oh, okay.

16 CHAIRPERSON McNEILL: Okay, we're on -- still on
17 schedule date for the CMS for lack of a better word?

18 MS. NESBITT: Well, currently we're just -- we didn't
19 really have like a -- we have like a two-year timeline, so
20 yes, two years. Still working, making sure that we do it
21 correctly.

22 CHAIRPERSON McNEILL: Great. Thank you.

23 MR. CLEARY: You're still using that existing system
24 in the interim?

25 MS. NESBITT: Yes, we are.

1 Update Subcommittees Status

2

3 CHAIRPERSON McNEILL: The next item on the agenda are
4 subcommittees status. And at the time of the agenda I
5 wasn't appointed, so I was wondering -- I'll be happy to
6 take that, Scott.

7 MR. CLEARY: Okay.

8

9 Risk Assessment for Inspections

10

11 CHAIRPERSON McNEILL: No change on risk assessment
12 for inspections. That information was provided at the
13 last ESAC and given to L & I. As the Chair of that
14 subcommittee I did meet with L & I and review the items,
15 and it's expected that further meetings with L & I would
16 occur during the next quarter, and we can update you at
17 the next meeting of any actions that have happened.

18

19 Risk Assessment for Penalties

20

21 CHAIRPERSON McNEILL: Risk assessment for penalties,
22 Wayne, do you have anything on that? I think that was
23 complete, and it's just within L & I for review and
24 analysis?

25 ACTING SECRETARY MOLESWORTH: So -- yes. So just a

1 little bit of update on the full general kind of thing.

2 We submitted legislative language for the 2020
3 session to -- for risk assessment. We've been in contact
4 with Ontario who has this process in place and are getting
5 more details from them about how they use it and how they
6 evaluate other conveyances. We submitted the impact
7 statement and some other things to Tammy the other day
8 that does our legislative work. And so it's moving
9 forward, right? And so more to come.

10 CHAIRPERSON McNEILL: Thank you.

11 MS. BREWER: Rob, can I ask a question?

12 CHAIRPERSON McNEILL: Sure. Well, again, you can --

13 MS. BREWER: I'll go write my name.

14 MR. CLEARY: Yeah, go write your name.

15 CHAIRPERSON McNEILL: You have the floor.

16 MS. BREWER: Okay.

17 MR. CLEARY: And five minutes.

18 MS. BREWER: Yeah.

19 I just wanted to go back and ask Alicia if you could
20 go over the legislation for 2020. Because I -- you went
21 over rulemaking but I didn't hear legislation. And then
22 Wayne just mentioned it, so maybe you could go over that.

23 MS. CURRY: Thank you.

24 Yeah, Wayne was going to go ahead and give the
25 legislative update, and that really kind of was the

1 update.

2 We're still in the development stages of the
3 concepts. This is for the risk-based assessment.

4 Do you want to give more details about what you're
5 looking at as far as ...

6 ACTING SECRETARY MOLESWORTH: Sure.

7 So the language we're proposing is that we be able to
8 -- I'm not going to give you the specific language because
9 I didn't memorize the whole thing. But what it amounts to
10 is that we're looking to keep the one-year inspection as
11 a base. Unless it goes through this process of evaluation
12 and we find that it's at a lower risk, then it can be done
13 every other year.

14 An example would be a church that has a two-stop
15 hydro that's used twice every Sunday, right? And that's
16 the example that Ontario used for me. And that's a
17 low-risk conveyance, and they feel that they can inspect
18 that and it be safe for a two-year period.

19 Something like schools, we would not have schools of
20 any type on a low risk. Even though they would not be
21 used as often, they would be a low risk because they --
22 it's a state building, state funded. And also we've got
23 kids using them, and we just want to make sure that those
24 are ...

25 So there's evaluation criteria.

1 Toronto actually has a whole risk division that
2 evaluates risk. And so it'll be more interesting to see
3 how this goes and what we put together and what they --
4 more information that they can give to us. Because
5 there's several -- also several other states using this
6 process across the nation. So we're encouraged that
7 this'll help us to meet our mandate of getting to all
8 annuals, which will improve the amount of safety out there
9 for the individual conveyances that really need it that
10 sometimes we might not be getting to on a regular basis.

11 That's about what we know right now.

12 MS. CURRY: And I believe the next steps as this
13 concept moves forward is to reach out to stakeholders and
14 get feedback on that concept. So ...

15 ACTING SECRETARY MOLESWORTH: Yep. This is very
16 preliminary.

17 CHAIRPERSON McNEILL: Thank you.

18

19 Alterations WAC ASME

20

21 CHAIRPERSON McNEILL: I don't have any information on
22 any changes on the alterations subcommittee. There
23 haven't been any meetings.

24 We will have one new subcommittee forming. And those
25 meetings will occur within the next quarter. And that's

1 the MCP subcommittee so we can develop instructions for
2 use. We'll get that notification out to everybody on
3 listserv of the meeting dates. And then if you are
4 willing to attend, contact Jane or -- (inaudible).

5 I guess the second one is a curriculum subcommittee
6 to review the curriculum for education and training. That
7 will also occur in Q3. And we'll have that date on the
8 Web site and listserv, notification to the stakeholders
9 as soon as possible.

10 That's the end of my report on subcommittees. Any
11 questions or anything else from the committee?

12

13 Future Business

14

15 CHAIRPERSON McNEILL: That takes us to future
16 business. Does anybody on the Committee have any future
17 business they'd like to bring up or add?

18 MR. CLEARY: I got three things.

19 One is we've talked in the past about point of
20 contact and making sure that we put some sort of a test
21 in place for competency and making sure that everybody
22 updates and make sure that their point of contact is
23 relevant.

24 Where are we with that? We can get a readout or --
25 we've talked about it a couple times, and I haven't

1 heard.

2 ACTING SECRETARY MOLESWORTH: So I have nothing to
3 report on that. That's pretty clear in the WAC what's
4 required.

5 MR. CLEARY: But not testing required.

6 ACTING SECRETARY MOLESWORTH: There is testing
7 required for point of contact. Either it has to have
8 experience or they have to take a test.

9 You know, that might be something we want to add to
10 the secretary's report is testing and how many tests we've
11 given, what categories, and what's the pass/fail rate in
12 the future.

13 But we've given some point of contact -- (inaudible)
14 -- recently.

15 I think that there's more clarity, and we need to
16 actually do more communication with stakeholders on point
17 of contact because point of contact infers that I'm the
18 one you want to talk to at Wayne's Elevator Services. It
19 doesn't get specific that I'm the guy responsible for and
20 I'm signatory for this company. And so I'm -- the things
21 I do have legal ramifications, right?

22 And so we had a lot of people that were saying they
23 were the point of contact but actually weren't assigned
24 to that company as point of contact. And we've been
25 trying to do more communication on that.

1 CHAIRPERSON McNEILL: We'll put that on the agenda
2 for November as new business.

3 MR. CLEARY: Can we -- do we have -- can we have
4 discussion? Are we going to have discussion about third
5 party?

6 ACTING SECRETARY MOLESWORTH: We took that out 2020.
7 Legislative kind of put a pin in it. We got a lot of
8 other things that I think will make some significant
9 difference that this may not be an issue.

10 But it's still something that the study wanted us to
11 take a look at, and I don't want to diminish their ask
12 either.

13 We have looked at it. We've looked into it. We've
14 conferred with other states. And there's a lot of pro's
15 and cons. We put together a pros-and-cons statement.

16 Is that something the ESAC would like to put more
17 effort at this point? I guess I would ask your advice.

18 MR. CLEARY: I think I could ask -- we could ask
19 questions, and I just don't know what the State's position
20 is. And so the timeline and what's being done is really
21 simple, and I can do a readout. But ...

22 ACTING SECRETARY MOLESWORTH: And right now we're not
23 moving forward in 2020 with any legislation that would
24 allow us to use third party. That's all I can tell you.

25 MR. CLEARY: And then the last thing. This is for

1 the whole Committee is it's always been my understanding
2 that ESAC is also a vetting arm. So if the State has
3 things that are in the WAC that really haven't been
4 enforced but are going to be, that we let stakeholders
5 know before the inspectors start calling things that are
6 on the books but they haven't been calling. This is so no
7 one gets caught. So I don't know if you've been doing
8 that at all.

9 Because there's a lot of changes. But we don't let
10 the stakeholders know. And it's not in the minutes when
11 we go back and research it that we're going to start
12 looking for this. And if we start looking for this, it's
13 there, then we haven't been doing our best, and we've
14 really been I think lax to get that out to the
15 stakeholders and make sure that they know it's coming so
16 no one gets caught in a "gotcha" kind of thing.

17 And that's the type of relationship I think the
18 stakeholders want with the inspectors, right? So if
19 they're getting enforcement on stair chairs, there's
20 things -- let's get it out and let's talk about it.

21 ACTING SECRETARY MOLESWORTH: Yeah. And, for
22 example, we talked about that; we did some stuff. And I
23 agree with that completely.

24 I guess -- do you have -- just to give you -- do you
25 have a specific example? Because I know there will be

1 occasions where we're having a staff meeting and we say
2 something like, "Are you guys making sure that the
3 handrails are installed correctly on -- when you go out
4 and look?" Is that -- or what specifically are you ...

5 MR. CLEARY: We never vetted 18.1, okay? So 2017,
6 there's only two states in the nation that are working in
7 2017; that's us and Alaska. But there's things in there
8 -- like for the overspeed -- all stair chairs, no matter
9 residential, commercial -- that have an overspeed. You
10 can test them in the field at rated speed at a load as
11 long as you have a 993 certificate of a type test, right?

12 ACTING SECRETARY MOLESWORTH: Right, right.

13 MR. CLEARY: Then there's also with these residential
14 elevators the three-quarters forward. How do you meet
15 that? Can you widen your door? The code's very clear
16 that you can't do -- (inaudible), but can you do your
17 double door? How are you meeting those?

18 And so each inspector is looking at it differently.
19 I want to -- it would be nice to have consistency, then
20 once it's agreed upon, let the stakeholders know this is
21 how we're going to enforce these.

22 We haven't been through that exercise with adopting
23 all these new codes, correct? And so it would be really
24 nice to know what you're seeing in the field, you're
25 getting feedback from your inspectors, you guys have your

1 internal meetings saying, "This is how we're going to
2 enforce it," and then let everybody know that's a
3 stakeholder, that genre, that this is how we're going to
4 do that. Because there's been a lot of inconsistency just
5 because there's a lot of stuff new.

6 And that comes back to checklists for the inspectors
7 to have a consistent checklist that they all work off of
8 for some of the equipment that they're not -- (inaudible).

9 So that's kind of where I'm getting at. Vetting
10 things through the ESAC lets stakeholders know this is how
11 we're going to enforce it; be prepared; don't be
12 surprised.

13 ACTING SECRETARY MOLESWORTH: So would you like us
14 to develop that, bring it to you guys to vet, and then for
15 us to put out on like listserv?

16 MR. CLEARY: Well, if we like it or not, we need to
17 just discuss it and letting the stakeholders know. We can
18 say it's not -- (inaudible) -- have to go back to the
19 minutes; you'll read this is coming. It's nothing new; it
20 just hasn't been enforced -- this is new; be aware that
21 this is how we're going to do it. And just getting it out
22 through us so they can go back to the minutes.

23 Or they can call their representative and say, "Hey,
24 why did I get called on this?"

25 "Well, we talked about it here, and it's been there."

1 They haven't called people, and now they are to be
2 aware, that kind of thing. So -- (inaudible) --

3 I just had one two weeks ago getting called. "Why
4 are you calling me now?"

5 "Well, we found out there was a deficiency. This is
6 how we're going to address it."

7 And making sure that they really understand.

8 ACTING SECRETARY MOLESWORTH: So Jane, can you put
9 that on our parking lot, more communication and vetting
10 and corrections that haven't been in force prior,
11 something like that.

12 CHAIRPERSON McNEILL: We can add it to the agenda
13 next time.

14 MR. WOOD: Can we modify that slightly and say "Not
15 only with what Scott's talking about, but also codes that
16 have been accepted and now they're looking at -- their
17 more interpreting them differently.

18 And I'll give you one specific is the WAC code that
19 talks about the elevator disconnects being 24 inches of
20 the strike side of the door. Some inspectors now are
21 saying you have to -- if you have a duplex, you have to
22 stack the disconnects. Where it's always been acceptable
23 to have them side by side, now some inspectors are
24 requiring them to be stacked, and you don't know which is
25 which.

1 To the letter of the code, I understand why they're
2 going there. But it's been an interpretation change along
3 the lines of what Scott was talking about. The impacts,
4 the very costly impact on the commercial installation.
5 Those types of things have been coming into play.

6 ACTING SECRETARY MOLESWORTH: So thank you for the
7 specific example. Because as we know, the reason for it
8 being that close to the door is so that you got access to
9 it. Just coming in the door, you know exactly where it
10 is. So side by side should not make a difference. So I
11 need to address that anyway.

12 But I appreciate that. And we'll actually add that
13 into that communication as well, that part to say when
14 we're looking at these. Because we'll have to sit down
15 and really realize ourselves sometimes what am I really --
16 wait a minute, I got to stop myself and say this is going
17 to impact somebody when we say go ahead and enforce it
18 this way. And then we have to consciously make that
19 communication and vet it with the ESAC, right? And I
20 don't think that -- at least I think we can do a better
21 job at doing that and realizing that just by asking the
22 question: Is this going to have a major impact each
23 time? We need to communicate when we start talking about
24 these things.

25 MS. GOULD: In a high-rise machine room you can have

1 eight controllers in eight machines. And so you got to be
2 reasonable that there's a large panel there as opposed to
3 disconnects.

4 ACTING SECRETARY MOLESWORTH: Yeah. And with -- and
5 there might be, right? You might have a group of
6 disconnects that are in a -- (inaudible) -- section.

7 So it's just a matter of not being literal sometimes,
8 but being -- understanding what the code is calling for,
9 right? And so we need to do a good job of that with
10 staff.

11 Because there's a part where it's got to be what the
12 code says it is. But you also have to understand the
13 reasons for the code as well.

14 MR. CLEARY: And like I said, just multi-tiering.
15 It's not as much as we like or dislike how it's going to
16 be enforced; we need to know how it's going to be
17 enforced.

18 ACTING SECRETARY MOLESWORTH: Right.

19 MR. CLEARY: And if it's within the code parameters,
20 so be it. Just we want to make sure this goes back to
21 consistency from each region, each inspector, and then
22 having something say here, okay? So that's what I'm
23 saying. Because there's going to be something atypical --
24 or typ -- that should be enforced that hasn't been; let's
25 just talk about it.

1 ACTING SECRETARY MOLESWORTH: Right.

2 MR. CLEARY: And that way, it's part of the record,
3 and then we can refer them back to it, and then we go on.

4 And you just don't want to get caught and say, okay,
5 you're done. And then it's costing a lot of money.

6 ACTING SECRETARY MOLESWORTH: So for larger items, we
7 may be able to do that inside of a technical bulletin type
8 situation, right?

9 But I also want to address those things that might be
10 not as large and maybe not as broad as we use those
11 technical bulletins for.

12 So can you put a note under that just in parentheses,
13 "technical bulletin" ... okay.

14 MR. CLEARY: Can we -- is it more that we talk about
15 that for the bulletin or is that for ...

16 Well, you mentioned technical bulletins. I really
17 think the technical bulletins need to be vetted by the
18 stakeholders that it's going to affect and make sure it's
19 correct and doable.

20 ACTING SECRETARY MOLESWORTH: Okay.

21 MR. CLEARY: Because some of the technical bulletins
22 that have come out that affect my stakeholders and my
23 company don't work. So we got to make sure we vet them
24 and make sure that they're enforceable and they actually
25 make sense. So that would be nice to vet them, to at

1 least vet them with the stakeholders on -- I'm not saying
2 on everything, but there's some major things.

3 I'll give you some examples off the --

4 ACTING SECRETARY MOLESWORTH: Well, I think you raise
5 a good point. And I think that definitely we can put that
6 in as part of the meeting, you know, maybe not every
7 meeting unless we have technical bulletins every meetings.
8 But give you an opportunity to review them, send them out
9 ahead of time, and then have discussion on them.

10 MR. CLEARY: It would be nice to put them up on the
11 screen. And it goes well if there's wordsmithing that
12 needs to be done or something that is put together that
13 has unintended consequences, that we can highlight and
14 gee, should we think about this?

15 ACTING SECRETARY MOLESWORTH: Right, right.

16 MR. CLEARY: Thank you.

17 CHAIRPERSON McNEILL: Anyone on the Committee have
18 any other future business they want to discuss?

19 MS. GOULD: Personnel hoist. Has the Department been
20 looking at changing their position inspecting those? Or
21 is DOSH looking at that? Or -- there's some concern
22 because we have a lot of high-rise buildings in Seattle
23 that haven't been inspected since February. And so our
24 Department has been looking at this a little bit to find
25 out if Seattle needs to do something.

1 ACTING SECRETARY MOLESWORTH: So we've had some
2 discussions about that actually. I took your guys'
3 concerns to David and -- (inaudible). And we're looking
4 at it. And that's something we wanted to bring back to
5 the ESAC, get a little bit more input from you and also
6 from other stakeholders in that industry and say, Is this
7 something that you want? Because we have been getting a
8 lot of voluntary compliance people buying permits more
9 than -- (inaudible). You know, we're not saying we won't
10 inspect those. We just -- we'll do it on a voluntary
11 basis. If you want an inspector so you feel --
12 (inaudible), we'll go ahead -- or CPH, sorry -- we'll go
13 ahead and do it.

14 But we would like to -- we would like to look at
15 that a little bit closer and get some feedback from you
16 as to where we would go.

17 This would require us to make a change in the RCW and
18 take it out as one of the exemptions. And so we would
19 have to remove it from the exemptions, and so that would
20 be a legislative change I'm thinking.

21 And so we could do it on a voluntary basis letting
22 people know that that's the intent.

23 And Alicia, I'd ask you: Is there emergency -- you
24 can't put anything on a fast pace for a legislative change
25 like that or a RCW? It's got to go through this strict

1 process.

2 And so all we can do is just ask for people in the
3 interim to -- you know, if they wanted to do them, and
4 then we would go about doing it if that was something that
5 you saw a need.

6 MR. CLEARY: Alicia, this is for you.

7 We've already adopted 10.4, 10.5 and they've been
8 codified in the WAC. Does that need to get removed if
9 we're not going to inspect CPH's?

10 MS. CURRY: I would assume that we would if we were
11 -- if that decision was made to no longer inspect them,
12 correct?

13 ACTING SECRETARY MOLESWORTH: I was reading a note.
14 Sorry.

15 MS. CURRY: To take the CPH, what is it? 10.4?

16 MR. CLEARY: 10.4 and 10.5. 10.4 mainly is that
17 would have to be taken out of the adoptive code section of
18 the existing WAC, correct?

19 MS. ERNSTES: It's an RCW.

20 ASSISTANT ATTORNEY GENERAL TAYLOR: We haven't made
21 that decision that we're going to do that yet. We are
22 still working with our assistant attorney general and
23 getting that advice on should we be inspecting the
24 construction personnel hoists.

25 So that decision hasn't been made yet. We're

1 continuing to work with the attorney general's office to
2 make a determination so we can bring that back here to
3 this group and have that conversation before we actually
4 move it forward. Because I know there's some passionate
5 interest around this.

6 And so right now as we are continuing to work with
7 the attorney general's office, we are hoping that the
8 word gets out that we will -- if they buy a permit, we
9 will do those inspections. But right now we're just
10 trying to make a decision on how to move forward with
11 these if we are going to change our position.

12 MS. GOULD: Thank you.

13 CHAIRPERSON McNEILL: So we'll make sure this is an
14 agenda item for the next meeting.

15 MR. CLEARY: And then could I request one more?

16 CHAIRPERSON McNEILL: Sure.

17 MR. CLEARY: I know that, Jan, the City of Seattle is
18 looking at adopting and changing their chapter 30 and
19 adopting the newer codes. I'd really like to have some
20 really substantive discussion on harmonization, at least,
21 you know, the baseline between the City of Seattle and
22 state L & I because now they're -- we're way off. And so
23 however we do that, I think it's a very timely time to do
24 it now.

25 MS. GOULD: Yep.

1 MR. CLEARY: And so I'd like to have that discussion.
2 I think that needs to be an agenda item.

3 MS. GOULD: Yeah. We've reviewed all but chapter 30
4 right now, and that'll take quite a review. And then
5 we'll start within a formal meeting including BOMA because
6 there's a lot of very costly items in A17.3. And so we'd
7 be inviting a large group for comment. And then depending
8 upon how that goes, maybe relooking at some things. And
9 then we'll go in front of our CCAB committee --
10 Construction Advisory -- CCAB.

11 Anyway, we're proposing for all of our Seattle codes
12 -- Seattle Building, Seattle Electrical Code, residential
13 codes -- somewhere in late 2020, or at the very latest
14 January of 2021, and we will be mirroring almost exactly
15 what the State has adopted for the WAC rules.

16 That's our position at this point.

17 CHAIRPERSON McNEILL: Good information.

18 Anybody have any other items?

19 UNIDENTIFIED FEMALE: Are we going to have a meeting
20 after this meeting?

21 CHAIRPERSON McNEILL: The stakeholder meeting? Yes.

22 MR. CLEARY: Thank you for your indulgence.

23 ACTING SECRETARY MOLESWORTH: So would this be a good
24 time to bring up some conversation with you guys?

25 MR. CLEARY: Yes.

1 ACTING SECRETARY MOLESWORTH: So I wanted to submit
2 to you guys for your advice and guidance some ideas that
3 we're looking at that currently are not addressed in some
4 of our WAC rules that have to do with education and
5 temporary mechanic's licenses and testing for mechanic's
6 licenses and that type of thing.

7 So one of the things that I wanted you to consider
8 and see what kind of feedback you would have for me is
9 that in our education -- in the WAC's that address the
10 education and training of helpers in order to get their
11 temporary mechanic's license or in order to actually test
12 for a category license, there is language in there that
13 speaks to you need education completion certificates. And
14 completion certificates are given by those training
15 agencies that are approved and have approved instruction
16 and curriculums. So my comments or what I would like you
17 to consider is that we actually put into WAC as part of
18 that -- let me pull it out here real quick and give you
19 the language -- it would be -- for example, in 00908, part
20 (4), section (a) would be: Education requirements can
21 only be obtained through instructor-driven classes where
22 the instructor's qualifications and courses have been
23 reviewed and approved by the department. A list of
24 approved educational programs, classes and instructors
25 will be maintained by the department available, upon

1 request.

2 So I'm proposing that type of language to clear up
3 some of the problems I've been having with some of the
4 language which in the policy which is just a policy. It
5 says that the contractors are responsible for determining
6 the training of their employees. And the problem is is
7 that training and education are two different meanings,
8 but they're used interchangeably.

9 And so we're also proposing that we might put those
10 in the definitions so that we have good definitions of
11 what is training and what is education.

12 Training is the on-the-job training for staff that's
13 learning how to do the actual hands on. The education is
14 the theoretical part. It's instruction that's imparted
15 from one person to another. And there's elements involved
16 that have to do with the mastery of learning and
17 knowledge.

18 And without those, we don't have anything to base on
19 whether or not an individual has the capability or the
20 knowledge and ability to become an elevator mechanic and
21 have that opportunity to test, right?

22 And so I'm asking you your opinion and your guidance
23 on if you think that would be something that we should put
24 in to help clear up some of the understanding that we can
25 do this through self-study; we can do this through buying

1 our books for our guys and training them ourselves without
2 having any kind of approval or any kind of vetting of the
3 information in the curriculum.

4 MR. CLEARY: I chaired that subcommittee, and it was
5 pretty clear that it needed to be structured and that it
6 had to be -- meet the curriculum for the category for
7 which you are training for, and it had to be syllabused;
8 it had to be set up like a classroom; track hours for
9 curriculum; track hours for OJT and testing. And it also
10 -- that whole program had to be vetted and approved by the
11 State.

12 So I don't know how we got kind of down the road that
13 you could get a book off the Internet or watch a YouTube
14 video, but the subcommittee -- we had anticipation from 19
15 -- everybody -- we had stakeholders. It was pretty clear
16 that it was supposed to be structured and auditable by the
17 State.

18 CHAIRPERSON McNEILL: So Scott, are you willing to --

19 MR. CLEARY: Yes.

20 CHAIRPERSON McNEILL: -- revive that subcommittee and
21 review what we have --

22 MR. CLEARY: Yes.

23 CHAIRPERSON McNEILL: -- and determine with the
24 subcommittee any changes that may be necessary?

25 MR. CLEARY: Correct, yes.

1 CHAIRPERSON McNEILL: Okay, good. We will develop
2 that subcommittee and get that on listserv and --

3 MR. CLEARY: I have one other foundational question,
4 and this is for Annette or Alicia.

5 It still hasn't been clarified in my mind where we're
6 at with policies. So basically we have policies that have
7 been around for years. And my understanding is that a
8 policy will sunset after 12 months. Because the ideology
9 behind that is that if it's longer than 12 months, it
10 should be put into rule. So if it's -- what's the
11 duration of policies?

12 ASSISTANT ATTORNEY GENERAL TAYLOR: If -- well, it
13 would have to be noted in there that we're going to sunset
14 that policy.

15 And so -- just like other things, if there is no
16 sunset clause in there, then we haven't been operating
17 under that.

18 So I've been in this position for a year. I haven't
19 heard that.

20 So we can look into that. But unless we make
21 notification in there that we're going to sunset this
22 policy at a certain time, we would not do that unless we
23 are going to revise the policy with the work of the ESAC
24 and TAC or if we are going to completely change the
25 policy or remove the policy in cooperation with ESAC and

1 TAC.

2 So I don't know where that sunset, where that came
3 from. But unless it's specifically noted in there, we do
4 not sunset the policy.

5 MR. CLEARY: It came from working administrations
6 back on that, and it came from -- I think it came from
7 your AG's office that it was somewhere in the
8 administrative policies that a policy is meant to bridge
9 and give you enough time to get it in rule. And if it's
10 important enough to keep it in perpetuity, it should be
11 put into rule and not be a policy.

12 ASSISTANT ATTORNEY GENERAL TAYLOR: Well, I can
13 appreciate where you're coming from that perspective. But
14 I think there's just -- it's just two different things for
15 me.

16 One is I understand the perspective, and I can
17 provide a personal opinion whether I agree or disagree
18 with that perspective. But the question is around the
19 sunseting.

20 And so yes, I'm willing to reach out to our AAG to
21 find out does she have any historical knowledge on the
22 sunseting of certain policies. And I will also ask her
23 legal opinion with regards to, you know, if it's a policy
24 that we absolutely want in place, then would we want to
25 actually put it in rule.

1 We do not put all policies in rules for our programs.
2 We operate under administrative policies. And we don't
3 put them in rule so that if there's an opportunity that we
4 need to update the policy or delete the policy or simply
5 change the components of the policy, we don't want to have
6 to go through the rulemaking process every time we want to
7 update an administrative policy.

8 So if this is a different instance in which we want
9 to do that for the elevator program, then that's a
10 conversation I think we're going to want to have.

11 But I will tell you from my personal experience and
12 my personal opinion is I don't generally want to put all
13 policies in rule because I don't want to have to go
14 through the rulemaking process if we want to do simple
15 updates to the policies. And that's going to handcuff us
16 from able to do certain things in a timely fashion.

17 So I think we want to be careful around that and make
18 sure that if we are going to do something like that, that
19 we are really being thoughtful about why we're making that
20 decision.

21 MR. CLEARY: If that's the case, I just need to know
22 it. It would be nice to know what -- I think there should
23 be a process in place to review policies that are years
24 old.

25 ASSISTANT ATTORNEY GENERAL TAYLOR: I don't disagree

1 with you there. Yeah, I absolutely agree with that:
2 reviewing policies. There always should be a cycle in
3 which we review policies, but not make that cycle the
4 ruling.

5 MR. CLEARY: Okay. And I'm fine with that. As long
6 as we come to some understanding of how we do this, I
7 think that is very helpful.

8 ASSISTANT ATTORNEY GENERAL TAYLOR: Yeah, I think it
9 can be a conversation with the ESAC on, you know, having a
10 cycle to review all of the elevator policies that we have
11 in place that are not in rule and, you know, adopt that
12 cycle and move that forward.

13 MR. CLEARY: And I think it's a good example -- I
14 don't think we would have got down this road with the
15 curriculum if we would have reviewed the policy that's
16 been in place I think since '11, you know. So ...

17 ACTING SECRETARY MOLESWORTH: So that policy has
18 actually been put into rule. So that education policy's
19 actually -- (inaudible).

20 MS. ERNSTES: Actually 34.05 says that anybody who
21 petitions the Department where there's a policy, the
22 Department has a time frame to turn it into rule or drop
23 the policy. So there is an avenue to get policies turned
24 into rule.

25 ASSISTANT ATTORNEY GENERAL TAYLOR: Yeah, I don't

1 disagree with that either. I think I was trying to
2 address: Do we want to adopt every policy into rule that
3 we're operating under for the elevator program. And so
4 I'm not sure that --

5 MS. ERNSTES: People have an opportunity to do that
6 if they want.

7 ASSISTANT ATTORNEY GENERAL TAYLOR: Exactly.

8 And so I think it could be a thoughtful conversation
9 with the ESAC on which ones we would want to do that with
10 and which ones we just simply don't think that's the right
11 thing to do.

12 MS. CURRY: And it kind of depends on the information
13 too that's in the policy. You might not really want it in
14 the rule.

15 MS. ERNSTES: Well, I'm just saying that the law
16 gives you the right to petition any policy to be turned
17 into rule, or you have so long to -- (inaudible) -- if it
18 doesn't get ...

19 ASSISTANT ATTORNEY GENERAL TAYLOR: Yeah, I agree.

20 MS. ERNSTES: So you have an avenue to do that.

21 CHAIRPERSON McNEILL: Wayne, did you have some other
22 items?

23 ACTING SECRETARY MOLESWORTH: Yeah. I just wanted
24 us to take a look -- a closer look at that and see if you
25 guys have discussion. And if you feel comfortable with

1 that, if that's something that you would agree with. On
2 that one, if you've got any recommendation or if you think
3 it needs more discussion or

4 I think we're putting a committee together to
5 elaborate on that. But if we wanted to put something like
6 that in rule, then we got the ability to do that, right?

7 CHAIRPERSON McNEILL: Right.

8 ACTING SECRETARY MOLESWORTH: So I'm looking for
9 maybe if you guys have any suggestions or if you want
10 to ...

11 CHAIRPERSON McNEILL: I think at this point we'll put
12 the subcommittee together with a deadline next meeting so
13 we have the recommendations for L & I.

14 ACTING SECRETARY MOLESWORTH: Okay.

15 CHAIRPERSON McNEILL: For the Committee and then
16 L & I.

17 ACTING SECRETARY MOLESWORTH: Okay.

18 In the meantime I think we can put a communication
19 out there what the requirements really are for this
20 training.

21 And if you got information for that committee, I'd
22 love to get a copy of that information as well.

23 Okay. So another thing I would like the ESAC to
24 consider is that we're going into an era where we're going
25 to have a temporary mechanic's license for 12 months. And

1 what I would like us to consider is some different things
2 to put in there about when you're eligible for a temporary
3 mechanic's license and when you're not. So I'm looking
4 for some feedback from you, what your opinions are about
5 if an individual was to take a test for one of the -- or
6 for the category and fail that test, whether it be with
7 NEIEP or any other organization that did it or the state
8 test, any test that would qualify you then if you passed
9 it for a license. But if you failed that, then we
10 wouldn't allow you to get a temporary mechanic's license.

11 And my reasoning behind that and my thought behind
12 that is because if you've already demonstrated that you
13 weren't able to pass the mechanic exam, that we couldn't
14 give you a temporary mechanic's license because the law
15 allows you to do anything a normal mechanic would do. And
16 so I think it's important that we safeguard the risks that
17 really we all could run into by allowing that to happen.

18 I guess I'd just like to hear a little discussion on
19 that if you had any.

20 CHAIRPERSON McNEILL: Anybody have any comment?

21 MS. GOULD: Wayne, do you have to take a test to
22 become a temporary mechanic?

23 ACTING SECRETARY MOLESWORTH: No, you do not.

24 MS. GOULD: So it doesn't seem fair that in order to
25 continue your license, if you fail your mechanic's exam,

1 that you would have an additional requirement. So you
2 don't have to have it up-front to have it issued. So ...

3 CHAIRPERSON McNEILL: I think my concern on that
4 would be if taking the test and they failed the test and
5 the State's giving them a temporary license to do the
6 work, that there's a risk to the general public as well as
7 the inspectors that ride the elevators and the mechanics
8 that work -- I'd be a little leery on that. Just my
9 opinion.

10 That's something we can look at as a Committee; have
11 on the agenda for next time, have some discussion. That
12 will be a tough one to figure out.

13 MR. THOMPSON: I guess my question with that is:
14 Based on the CR105 rulemaking, we heard that public
15 comment is going to begin next month and might close
16 before our next meeting. So do we need to either as an
17 ESAC or as individuals prepare public comment addressing
18 the concern that Jan raised of how we track it, a TML who
19 fails a test during that year period where if it were left
20 at a 30 day, you might be able to catch it and not renew
21 that permit.

22 CHAIRPERSON McNEILL: And we couldn't do that as a
23 Committee, but we can do it as individuals.

24 MR. THOMPSON: Right, right.

25 ACTING SECRETARY MOLESWORTH: So I want to -- I

1 appreciate that. I want to be -- I want to be -- well, I
2 think it does take a little bit more discussion. Because
3 I wanted to be clear that I wasn't proposing that while
4 they still had a TML, if they failed it, that we take
5 their TML away from them, that they wouldn't be able to
6 renew or apply for a TML.

7 But that's also a consideration that if now they took
8 a test and they still have time left on their temporary
9 mechanic's license, that we rescind that license if they
10 were to fail a test. So that would be another
11 consideration.

12 CHAIRPERSON McNEILL: Yeah, I think we need a lot
13 more thought on this. That's a lot to think about there.

14 ASSISTANT ATTORNEY GENERAL TAYLOR: So I guess the
15 question is on the table then, with this being part of the
16 expedited rulemaking, is that something that we want to
17 pause on the expedited rulemaking --

18 MS. CURRY: No. Only -- it's only the statutory
19 changes.

20 ASSISTANT ATTORNEY GENERAL TAYLOR: Oh. Alicia tells
21 me no, and I do everything I'm told.

22 MS. CURRY: So just to clarify, the expedited
23 rulemaking is just going to be the changes specific to
24 what's in statute, the bill that passed, SSB 5471.

25 ASSISTANT ATTORNEY GENERAL TAYLOR: Right. So any

1 other rulemaking with regards to the temporary mechanic's
2 license then, we want to pause that until this Committee
3 and possibly a subcommittee does some additional work
4 around that. Is that what I'm hearing right now?

5 CHAIRPERSON McNEILL: (Nodding affirmatively.)

6 ASSISTANT ATTORNEY GENERAL TAYLOR: So the answer's
7 "yes" to that?

8 CHAIRPERSON McNEILL: I think the answer's "yes" to
9 that.

10 ASSISTANT ATTORNEY GENERAL TAYLOR: I'm looking at
11 Brian as well because he brought up --

12 MR. THOMPSON: I was looking to the Chair just to
13 be ...

14 ASSISTANT ATTORNEY GENERAL TAYLOR: So the Chair is
15 speaking for the Committee, and the answer is we want to
16 pause that until we do some additional work.

17 MR. THOMPSON: I guess I'm unclear what the
18 ramifications are as to -- the distinction as to whether
19 the year-long TML is valid with the rulemaking and what
20 the value is in having comment after that if it's already
21 been in place.

22 ASSISTANT ATTORNEY GENERAL TAYLOR: Sure, I
23 understand. So what we can do is we can talk about
24 pausing that CR101 until we have time to work with you
25 and the Committee to address some of the concerns and

1 sort of continue to lay out what it looks like moving
2 forward.

3 CHAIRPERSON McNEILL: So we -- it looks like we
4 should have a subcommittee to look at this as well.
5 We're going to be very busy. We're going to need to
6 stretch out some of the responsibilities to get this
7 done.

8 ACTING SECRETARY MOLESWORTH: We might be able to do
9 this in a, you know, in a smaller committee or a meeting
10 -- a separate meeting with the ESAC to report back on
11 later once you guys have a chance to review it.

12 CHAIRPERSON McNEILL: I think that's a good idea.

13 ASSISTANT ATTORNEY GENERAL TAYLOR: We'll do that.

14 CHAIRPERSON McNEILL: Thank you.

15 ACTING SECRETARY MOLESWORTH: So one of the other --
16 a question? Yes.

17 MR. McCLASKEY: Just not being from your state, why
18 is there -- or what was the thought behind the one-year
19 limit on the temporary mechanic license?

20 ACTING SECRETARY MOLESWORTH: Are you talking about
21 a limit or ...

22 MR. McCLASKEY: Is there only a one-year period in
23 which you can have a temporary mechanic's license? In
24 other words, I'm a -- I have two years in the industry,
25 or maybe I only have one year in the industry, and I'm

1 not able to obtain this temporary mechanic license, but
2 I'm not able to -- a journeyman out within a four-year
3 period or more. The need still is there for me to be a
4 temporary mechanic by my employer, but can I renew it
5 after one year? Or am I only limited to one year of
6 being a temporary mechanic?

7 ACTING SECRETARY MOLESWORTH: So currently the way
8 it's written is that when we do it, you would be given a
9 temporary mechanic's license for a 12-month period. At
10 the end of that 12-month period it would be reevaluated
11 before it would be renewed and determined if there's still
12 that need.

13 And then the way it's written right now, it would be
14 extended for another year. The concern from where we're
15 coming from is that during that apprenticeship program or
16 any other educational program, you have people that are
17 unsupervised for the last two years of that four-year
18 period. Now, some may say that's diminishing our
19 knowledge base by not having somebody there to teach that
20 person for the full four years going forward. So we want
21 to be really careful with these as to the extent that we
22 do that so we don't impede, you know, in the long term.

23 MR. CLEARY: The one foundational thing you have to
24 be cognizant about is in the WAC you have to have met 75
25 percent of your training and curriculum before you can

1 even apply. So if you haven't met that 75 percent, you
2 can't even apply for a permit.

3 MS. ERNSTES: It's three years, not four.

4 MR. CLEARY: It's -- yeah. But it's 75 percent.

5 MS. ERNSTES: Three years.

6 ACTING SECRETARY MOLESWORTH: And that's the State's
7 guidelines.

8 MR. McCLASKEY: Thank you.

9 CHAIRPERSON McNEILL: Any other business?

10 ACTING SECRETARY MOLESWORTH: So I had one more. And
11 I want you to know that we put a pin in this for now, but
12 still looking for some more guidance and some different
13 conversation. But one of the expectations that was put
14 out there for a change to licensing was that for
15 standardization and continuity that everyone be given the
16 same state-issued or administered exam for mechanics, and
17 that that would eliminate the other exceptions under
18 section 5 of that article that allowed for different
19 things that you can do without getting a state-issued
20 exam.

21 So I know that that's part of our stuff that we're
22 putting a pin in that right now because we discovered that
23 there may be some different issues, but I'm still looking
24 for some opinions and guidance from the ESAC.

25 MR. CLEARY: That's problematic when you have eight

1 different categories, right?

2 ACTING SECRETARY MOLESWORTH: Yes.

3 MR. CLEARY: So if we don't have a standardized test
4 and we have -- we got to close down the --

5 ACTING SECRETARY MOLESWORTH: Don't misunderstand --

6 (Whereupon, record became
7 "unreportable" due to
overlapping of voices.)

8 MR. CLEARY: Where are you going to get a
9 standardized test for hand-pull manlifts?

10 ACTING SECRETARY MOLESWORTH: I -- we would have to
11 put it together, right?

12 MR. CLEARY: Right.

13 ACTING SECRETARY MOLESWORTH: Because if that's not
14 something we have for that ...

15 MR. CLEARY: But are we going to have parameters for
16 that subcommittee to look at moving the categories around
17 that or just out of curriculum the existing categories?
18 Do we really need eight different categories that --
19 (inaudible)?

20 ACTING SECRETARY MOLESWORTH: Well -- and I think you
21 got to be careful. Some of the categories, people do
22 limited amount of work inside that category. And the
23 comment we always get is "You're testing me on something I
24 never use."

25 And so the categories I think are split up that much

1 just to try to prevent some of that, right? If you start
2 combining categories, now you're going to have testing
3 elements that really may be way outside of the scope of
4 what that individual may really want to do.

5 Now, that being said, you know, I come from a long
6 line of one category, right? and then you can do
7 everything. But that's not reality.

8 So it would be something that maybe that deserves a
9 little discussion as well is do we have the right to use
10 in the right categories for -- (inaudible).

11 MR. CLEARY: And for that subcommittee for the
12 curriculum, it would also be important to get feedback
13 from the State on what are we going to do with the CPH's
14 because that's category 4, right? So there's no sense
15 setting curriculum for that if that's going to go away.
16 So that would be helpful.

17 ASSISTANT ATTORNEY GENERAL TAYLOR: With all the
18 subcommittee work that we're talking about today, it seems
19 like that maybe we can combine some topics into one
20 subcommittee rather than developing individual
21 subcommittees by topic. So, you know, looking at what's
22 reasonable with regards to all these things that we're
23 talking about today and the subcommittee work that we're
24 asking everybody to participate in as what is reasonable
25 to combine certain topics into one subcommittee so that

1 we're not spreading so many people thin, but then we're
2 addressing sort of everything within that.

3 MR. CLEARY: If the curriculum subcommittee of the
4 past is anything like the future, that in itself --
5 there's a lot in it. So combining anything with that will
6 be problematic because there's a lot of stuff in there.

7 ASSISTANT ATTORNEY GENERAL TAYLOR: I think we're at
8 a point right now with this program and in the process of
9 looking at hiring a new chief elevator inspector that
10 there's an opportunity to look at other things too as to
11 how we're doing things and what recommendations would the
12 ESAC have to sort of change some of that structure to look
13 a little bit differently so it's more efficient, more --
14 (inaudible) -- than the time spent on it. It's a
15 tremendous amount of time to get the work done that we're
16 trying to get done.

17 MR. CLEARY: Sure. Thank you.

18 CHAIRPERSON McNEILL: Understood.

19 Jan, you wanted to clarify ...

20 MS. GOULD: Yes. I wanted to take the opportunity to
21 discuss which elevator codes the elevator program in the
22 city of Seattle would be adopting.

23 In ASME A17.1, 2016 edition. And if the 19's
24 available, we may look at the 2019. And then ASME A18.1,
25 2017 edition. ASME A17.6, which is the suspension and

1 roping standard, the 2017 edition. And then ANSI A117.1
2 for accessibility. And I think that's 2017. And then
3 the ANSI -- excuse me -- ASME A17.3, 2015 edition. And
4 then WAC 296-96 except for part A or part B or
5 administrative sections of those codes.

6 And then anyone that has comment on any changes or
7 strikes and additions that they'd like to have
8 incorporated with our chapter 30 is my -- I'm the lead on
9 this, so my e-mail address is jan.gould@seattle.gov. And
10 I would invite anyone that's got any proposals to please
11 forward.

12 Thanks.

13 CHAIRPERSON McNEILL: Thank you.

14 Does anybody have any further comments or business?
15 I'm looking at you.

16 ACTING SECRETARY MOLESWORTH: I just wanted to bring
17 up a point of clarity up for future just to have it on the
18 record is that during the TAC there was a proposal made
19 for the -- and voted on for -- given the standardized
20 test, right? by the State. The TAC turned it down. And
21 it came to the ESAC, and during that meeting it was
22 mentioned that the TAC turned this down, and that we will
23 move onto the next topic.

24 What I want to make clear is that the ESAC should be
25 reviewing those independently from the TAC and making sure

1 that the information -- and that they agree with the TAC's
2 decision.

3 So going forward, we need to make sure that that's
4 part of the process, that we review all of those proposals
5 and vote on.

6 Thank you.

7 CHAIRPERSON McNEILL: Thank you.

8 Last call. Any other comments or business?

9 Seeing none, then the meeting is adjourned.

10 (Whereupon, at 10:40 a.m.,
11 proceedings adjourned.)

12

13

14

15

16

17

18

19

20

21

22

23

24

25

