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Or calling (audio only)
1-253-372-2181
Phone Conference ID: 232 782
37# (pound sign must be entered)

Date of intended adoption: August 31, 2021 (Note: This is **NOT** the effective date)

Submit written comments to:

Name: Alicia Curry
Address: Department of Labor & Industries, PO Box 44400, Olympia, WA 98504-4400
Email: Alicia.Curry@Lni.wa.gov
Fax: 360-902-5292
Other:
By (date) June 30, 2021

Assistance for persons with disabilities:

Contact Alicia Curry
Phone: 360-902-6244
Fax: 360-902-5292
TTY:
Email: Alicia.Curry@Lni.wa.gov
Other:
By (date) June 14, 2021

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The purpose of this rulemaking is to propose amendments to the state’s elevator rules and fees under chapter 296-96 WAC.

L&I has reviewed the elevator rules to address requests from stakeholders held over from a past 2018 rulemaking process and to further update and clarify existing rules. Washington’s elevator stakeholders were invited to participate in the review, submit proposals for changes to the rules, and provide recommendations to L&I regarding possible rule changes. A Technical Advisory Committee (TAC) of industry experts and the Elevator Safety Advisory Committee (ESAC) reviewed the proposals and provided recommendations to L&I on adoption of the rules. This rulemaking proposes amendments based on the review and stakeholder recommendations to improve public safety.

L&I has also evaluated the elevator program’s budget and projected revenue and a fee increase is needed to support operating expenses for inspections of conveyances and other elevator program public safety activities.

Proposed amendments to this chapter will:

- Increase fees by the fiscal growth factor of 5.08 percent for fiscal year 2020.
- Update rules for uniformity with national safety codes and standards that are recognized and used to regulate the conveyance industry. For example:
 - American Society of Mechanical Engineers (ASME) A90.1-2015 Safety Code for Belt Manlifts;
 - ASME A18.1-2017 Safety Standards for Platform Lifts and Stairway Chair Lifts – OSG Exemption; and
 - ASME A17.1-2016/CSA B44-13 Safety Code for Elevators, Escalators, Dumbwaiters, Residential Elevators, and Special Purpose Personnel Elevators.
- Make exceptions to the national safety codes and standards. For example:

- Excluding all references to QEI certification in ASME A17.1- 2016/CSA B44-13, ASME A18.1-2017 and American Society of Safety Engineers/ American National Standards Institute (ASSE/ANSI) A10.4-2016, as Washington State elevator inspectors are not required to be Qualified Elevator Inspector (QEI) certified;
- Requiring the installation of a stop switch that is accessible from the landing on existing elevators; and
- Disallowing alternative Category 5 testing methodologies for conveyances in the state of Washington.
- Amend rules to bring the rules up-to-date and improve public safety. For example:
 - Allow L&I to charge for portions of an hour for elevator services, such as technical services and consultations, and accident investigations to account for the actual time and cost of services;
 - Allow for reduced guard railing heights on car tops on existing elevators based upon existing instruction conditions to provide an alternative method of compliance;
 - Allow an access door to the motor brake for equipment installed in the hoistway for private residential elevators; and
 - Require posting of an overhead sign in the hoistway when guardrail clearances are less than allowed by code.
- Amend the elevator licensing and continuing education requirements. For example:
 - Clarifies the minimum passing scores on the Washington State written examination for elevator contractors and elevator mechanics to obtain a license;
 - Removes “special purpose elevators” from the (04) elevator mechanic licensing category, as the (04) license does not encompass this type of work; and
 - Clarifies that certificates of completion for continuing education courses for elevator mechanics must be signed or marked to receive educational credit from L&I.
- Amend rules to reflect L&I’s existing processes and practices. For example:
 - Clarifies a permit application needs to be sent to L&I, along with plans for new installations and major alterations prior to the start of construction and permit issuance; and
 - Allow L&I to request additional information and safety testing results for plan review exceptions for new residential incline chairlifts to ensure code compliance and testing standards are met.
- Amend language requested by stakeholders. For example:
 - Clarifying the allowance of driving machines in the hoistway for machine room-less elevators;
 - Clarifying the requirements for machine rooms and main line disconnects;
 - Requiring car safeties for belt manlifts to be tested at 100 percent of its rated load;
 - Replacing five-year safety testing with annual safety testing for belt manlifts;
 - Creating a new section to clarify the additional documentation that must be onsite and the items needed for maintenance and test logs;
 - Updating requirements for electric manlifts; and
 - Clarifying the governor overspeed safety testing requirements for residential stairway chairlifts and inclined commercial stairway chair lifts.
- Amend rules for clarity, to streamline the rules, and for ease of use. For example:
 - Corrects the safety code installation dates for the adopted standards;
 - Clarifies the requirements for keys and key boxes for operation and maintenance of elevators;
 - Clarifies the fee for processing of permit applications;
 - Adds standard application material lifts to Part D of the chapter to clarify provisions for older lifts; and
 - Clarifies the connection requirements for pit drains to sewers.
- Repeal rules that are obsolete, to eliminate redundancy, and simplify the rules.
- Amend rules for general housekeeping, such as punctuation, typographical and reference corrections, uniformity with code dimensions, formatting of section headers and numbers, removal of obsolete language, etc.

Reasons supporting proposal: This rulemaking proposes changes based on recommendations from L&I, TAC, and ESAC identified during the 2019 rule development process, as well as other changes needed for the improvement of public safety. A fee increase enables the elevator program to continue providing quality and timely services to customers to protect structures, workers, and the public from conveyance incidents.

Statutory authority for adoption: Chapter 70.87 RCW

Statute being implemented: Chapter 70.87 RCW

Is rule necessary because of a:

- Federal Law? Yes No
Federal Court Decision? Yes No
State Court Decision? Yes No

If yes, CITATION:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: None.

Name of proponent: (person or organization) Department of Labor & Industries

- Private
 Public
 Governmental

Name of agency personnel responsible for:

| | Name | Office Location | Phone |
|-----------------|----------------------------|----------------------|--------------|
| Drafting: | Gerald Brown, Prog. Mgr. | Tumwater, Washington | 360-902-6456 |
| Implementation: | Steve Reinmuth, Asst. Dir. | Tumwater, Washington | 360-902-6348 |
| Enforcement: | Steve Reinmuth, Asst. Dir. | Tumwater, Washington | 360-902-6348 |

Is a school district fiscal impact statement required under RCW 28A.305.135?

- Yes No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

Is a cost-benefit analysis required under RCW 34.05.328?

- Yes: A preliminary cost-benefit analysis may be obtained by contacting:
Name: Alicia Curry
Address: Department of Labor & Industries, PO Box 44400, Olympia, WA 98504-4400
Phone: 360-902-6244
Fax: 360-902-5292
TTY:
Email: Alicia.Curry@Lni.wa.gov
Other:
 No: Please explain:

Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

- | | |
|---|--|
| <input type="checkbox"/> RCW 34.05.310 (4)(b) (Internal government operations) | <input type="checkbox"/> RCW 34.05.310 (4)(e) (Dictated by statute) |
| <input checked="" type="checkbox"/> RCW 34.05.310 (4)(c) (Incorporation by reference) | <input checked="" type="checkbox"/> RCW 34.05.310 (4)(f) (Set or adjust fees) |
| <input checked="" type="checkbox"/> RCW 34.05.310 (4)(d) (Correct or clarify language) | <input type="checkbox"/> RCW 34.05.310 (4)(g) ((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit) |

This rule proposal, or portions of the proposal, is exempt under RCW _____.

Explanation of exemptions, if necessary:

COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES

If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

No Briefly summarize the agency's analysis showing how costs were calculated. Most of the proposed rule changes are exempt from the Small Business Economic Impact Analysis (SBEIS) requirements under RCW 19.85.025. Those changes that are not exempt from the SBEIS requirement include: requiring the installation of an accessible stop switch from the elevator landing for existing elevators, disallowing alternative testing, removing special purpose elevators from the (04) elevator mechanic licensing category, requirements for a signature on continuing education certificates, changes to the plan approval exceptions for residential incline chairlifts, fee increases for technical services and consultations and accident investigations, requiring an access door to the elevator motor brake in private residence elevators, allowing the installation of a slightly reduced railing height in existing elevators based upon existing instruction conditions, and requiring the posting of an overhead sign when guardrail clearances are less than allowed by code. To calculate costs, L&I identified the businesses who are potentially affected by the proposed rule and the estimated costs of compliance. The estimated average compliance cost per active conveyance owned would be \$6.24 to \$9.36 annually. For owners of more than one conveyance, the cost per owner was estimated by multiplying the estimated cost per conveyance by the number of conveyances owned. Owners with nine or fewer conveyances (97%) are estimated to incur less than \$84.28 in annual cost, while owners with more than 100 conveyances can incur as much as \$3,211.86 per year. For the 99.24% of owners that own 25 or fewer conveyances, the annual cost would be \$234 or less. The industry affiliation for all these businesses is unknown so L&I is not able to calculate the minor cost threshold for these industries. However, given the magnitude of this average cost, L&I believes it is unlikely it will exceed minor cost threshold by any of the above criteria (one percent of annual payroll, or the greater of three-tenths of one percent of annual revenue or one hundred dollars). For the companies that have more than 25 conveyances, they have minor cost thresholds (1% of annual payroll) greater than \$3,211, the largest possible cost to any affected businesses. This clearly indicates the average per-business cost of these proposed rule amendments is far below the threshold for businesses in any of the affected industries identified in the SBEIS as potentially impacted by the rule. As such, L&I is exempt from conducting a Small Business Economic Impact Statement (SBEIS) for this rulemaking.

Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

- Name:
- Address:
- Phone:
- Fax:
- TTY:
- Email:
- Other:

Date: May 18, 2021

Name: Joel Sacks

Title: Director

Signature:

A handwritten signature in black ink that reads "Joel Sacks". The signature is written in a cursive style with a large initial 'J' and 'S'.