



**DEPARTMENT OF BUSINESS AND INDUSTRY  
DIVISION OF INDUSTRIAL RELATIONS**

**NOTICE OF INTENT TO ACT ON PROPOSED REGULATIONS**

**Notice of Hearing for the Adoption of Regulations  
of the Division of Industrial Relations,  
Department of Business and Industry**

**LCB File No. R077-14**

The Division of Industrial Relations, Department of Business and Industry, State of Nevada (the "Division"), will conduct a public hearing to receive comments from all interested persons on adding new provisions to and amending existing provisions of Chapter 455C, Nevada Administrative Code, regarding Boilers, Elevators and Pressure Vessels.

The public hearing on these proposed regulations will be conducted at the following locations at the listed dates and times:

**WEDNESDAY, OCTOBER 15, 2014 AT 3:00 P.M.**

Great Basin College  
HSCI, Room 107  
1500 College Parkway  
Elko, Nevada

**FRIDAY, OCTOBER 17, 2014 AT 9:00 A.M.**

Occupational Safety and Health Administration  
4600 Kietzke Lane  
Bldg. E, #144/Training Room  
Reno, Nevada

**MONDAY, OCTOBER 20, 2014 AT 1:00 P.M.**

Division of Industrial Relations

Training Room  
1301 N. Green Valley Parkway, Room 130  
Henderson, Nevada

Pursuant to NRS 233B.0603, the Division is providing the following information pertaining to the public hearing and the proposed regulations.

The need and purpose of the proposed regulations: *The Division of Industrial Relations, Mechanical Compliance Section's proposed changes to NAC 455C.006, 455C.010, 455C.108, and various sections between 455C.404 and 455C.638, inclusive, will make a variety of revisions that will include the deletion, addition, and introduction of new requirements covering a wide variety of specific issues regarding elevators, escalators and moving walks. The proposed regulations are necessary to develop a vibrant special inspector industry, providing elevator owners /operators with competitive options; separate and defines the market for state inspectors and special inspectors to eliminate inappropriate competition between the state and private sector; transitions the Division's Mechanical Unit from an enforcement role to a more appropriate regulatory role, to be known as the Mechanical Compliance Section; provides the mechanism for a more objective and consistent direction, interpretation and oversight of the regulated community; simplifies applicable boiler and elevator codes adopted by reference, formally updates such codes, and creates flexibility to address special circumstances; deletes "auto-adopt" provisions for both boiler and elevator codes; and decreases inequitable reliance upon assessments from the Workers' Compensation and Safety Fund for funding elevator regulation.*

The terms and substance of the proposed regulations: *The Division will adopt regulations that: authorize the Chief of the Mechanical Compliance Section to issue an emergency order to restrain certain conditions or practices relating to an elevator, escalator or moving walks which create a danger of death or serious physical harm; create authorized inspection agencies and require special inspectors to be employed by or affiliated with an authorized inspection agency on or after July 1, 2015; revises the fees assessed by the Division; and revises various provisions relating to the operation, inspection and testing of elevators, escalators and moving walks.*

The estimated economic effect of the proposed regulations on (a) regulated businesses and (b) the public, including, stated separately: (i) adverse and beneficial effects; and (ii) immediate and long-term effects:

*Adverse: The Division anticipates minimal adverse effects, both direct and indirect, on small businesses as the result of the adoption of these regulations. The adverse effects include increased fees for the issuance of an initial operating permit and annual renewals of operating permits for elevator, escalators and moving walks. This direct adverse impact will be offset by the regulatory exemption from the installation and monthly testing of Firefighters' Emergency Operation – Phase II for elevators with 55 feet of travel or less. The Division does not anticipate any indirect adverse effect on small businesses.*

*Beneficial: The Division anticipates beneficial effects, both direct and indirect, on small businesses. The adoption of these proposed regulations may result in an indirect benefit to small businesses because of the development of a vibrant special inspector industry, providing elevator*

*owners /operators with competitive options; separates and defines the market for state inspectors and special inspectors to eliminate inappropriate competition between the state and private sector; transitions the Division's Mechanical Compliance Section from an enforcement role to a more appropriate regulatory role; provides the mechanism for a more objective and consistent direction, interpretation and oversight of the regulated community; simplifies applicable boiler and elevator codes adopted by reference, formally updates such codes; and creates flexibility to address special circumstances.*

*The Division does not anticipate any economic effect, either immediate or long-term, on the public.*

The methods used by the agency in determining the impact on a small business: *The Division met with stakeholder groups, including but not limited to, building owners, the elevator union, the elevator industry, special inspectors, the State Fire Marshall and Public Works. Copies of the proposed regulations were provided, reviewed and discussed at each of these meetings.*

*Additionally, a summary of the proposed fee increases and a Survey Response were sent via the U.S. mail to over 3,800 Nevada small businesses which would be affected by the proposed fee increase. The Survey Responses to date indicate that the proposed fee increase would have minimal or moderate effect on small businesses.*

*The Division received a total of 122 survey responses: 98 from small businesses; 12 from private residence owners; 9 from businesses with over 150 employees; and 3 made no disclosure regarding size. The small business survey responses were as follows:*

<i>Minimal effect</i>	<i>41</i>
<i>Moderate effect</i>	<i>23</i>
<i>Moderate-severe effect</i>	<i>1</i>
<i>Severe effect</i>	<i>29</i>
<i>No response on effect</i>	<i>4</i>

*The Division determined that the proposed regulations will have a minimal adverse effect on small businesses. The direct adverse impact on small businesses will be offset by the regulatory exemption from the existing cost to the business of the installation, maintenance and monthly testing of Firefighters' Emergency Operation – Phase II for elevators with 55 feet or less of travel.*

The estimated cost to the Division for enforcement of the proposed regulations: *The Division estimates that the cost of implementation and enforcement is minimal. The Division already enforces substantially similar regulations. The required changes and the existing regulations necessary to implement and enforce this regulation do not appear to place a significant economic burden on the Division.*

The Division believes that the proposed regulation does not overlap or duplicate any existing regulations. *The proposed regulations are not required by federal law; and there is no equivalent federal law.*

The proposed regulation does not establish a new fee, but does increase an existing fee. *The current fee structure has been in place since 2004 and produces less than 50% of the revenue necessary of the agency to perform its obligations, necessitating the need for a great deal of subsidization from the Workers Compensation and Safety Fund. This increase is necessary to*

*satisfy the requirement that the fees reflect the actual cost of the function the Mechanical Section performs under NRS 455C.120. We believe that this increase will bring the unit closer to achieving this goal.*

The Division invites representatives of regulated businesses and the public to attend the public hearing and/or prepare written and/or oral comments concerning the proposed regulations. Interested persons may submit written comments to Donald C. Smith, Esq., Senior Division Counsel, Division of Industrial Relations, 1301 North Green Valley Parkway, Suite 200, Henderson, Nevada 89074. Written submissions must be received by the Division by October 10, 2014. If no person who is directly affected by the proposed regulation appears to make oral comments, the Division will proceed immediately to act upon any written submissions.

Persons with disabilities who require special accommodations or assistance at the public hearing must notify Kristin Dakuginow, at the Division of Industrial Relations at 1301 North Green Valley Parkway, Suite 200, Henderson, Nevada 89074, in writing or by calling (702) 486-9019, at least three (3) working days prior to the scheduled hearing date.

A copy of this notice and the proposed regulations are available at the Division's web page (<http://www.dirweb.state.nv.us/OSHA/mech.htm>), the Division's offices (400 West King, Suite 210, Carson City, Nevada; 1301 North Green Valley Parkway, Suite 200, Henderson, Nevada; 4600 Kietzke Lane, Suite F-153, Reno, Nevada) and at the main branch of the public library of each county. Additional copies of the notice and proposed regulations will be available at the main public library, for inspection and copying by members of the public during business hours, in all counties in which an office of the Division is not maintained. This notice and the text of the proposed regulations are also in the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the internet at <http://www.leg.state.nv.us>. Copies of this notice and the proposed regulations will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Notice required by NRS 233B.064: Upon adoption of any regulation, the agency (the Division), if requested to do so by an interested person, either before adoption or thirty days thereafter, shall issue a concise statement or the principal reasons for and against its adoption, and incorporate therein its reason for overruling the consideration urged against its adoption.

This notice has been posted at the Division's offices; the Grant Sawyer Building, 555 East Washington Avenue, Las Vegas, Nevada; Director's Office, Department of Business and Industry, 555 E. Washington Avenue, #4900, Las Vegas, Nevada; the Bradley Building, 2501 West Sahara Avenue, Las Vegas, Nevada; and the Nevada State Library and Archives, 100 Stewart Street, Carson City, Nevada. In addition, this notice has been posted on the Division's Web site: <http://dirweb.state.nv.us/OSHA/docs/R077-14RP1.pdf>.

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

**AMENDED SMALL BUSINESS IMPACT STATEMENT**

AS REQUIRED BY NRS 233B.0608

**LCB FILE NO. R077-14**

September 8, 2014

**Note: Small Business is defined as “a business conducted for profit which employs fewer than 150 full-time or part-time employees.” (NRS 233B.0382).**

**1. Describe the manner in which comment was solicited from affected small businesses, a summary of their response and an explanation of the manner in which other interested persons may obtain a copy of the summary.**

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

Additionally, a summary of the proposed fee increases and a Survey Response were sent via the U.S. mail to over 3,800 Nevada small businesses which would be affected by the proposed fee increase. The Survey Responses to date indicate that the proposed fee increase would have minimal or moderate effect on small businesses.

The Division received a total of 122 survey responses: 98 from small businesses; 12 from private residence owners; 9 from businesses with over 150 employees; and 3 made no disclosure regarding size. The small business survey responses were as follows:

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

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

**2. The manner in which the analysis was conducted.**

**ANSWER:** The Division determined that the proposed regulations will have a minimal adverse effect on small businesses. The current fee structure has been in place since 2004 and produces less than 50% of the revenue necessary of the agency to perform its obligations, necessitating the need for a great deal of subsidization from the Workers Compensation and Safety Fund to cover the salaries and expenses for the Division’s Mechanical Compliance Section. This increase is necessary to satisfy the requirement that the fees reflect the actual cost of the function the Division performs under NRS 455C.120. This analysis also compared the proposed fees with

fees charged by neighboring states for comparable services. The proposed fees are within the range of the fees charged by these other states.

- 3. The estimated economic effect of the proposed regulation on the small businesses which it is to regulate, including, without limitation:**
- (a) Both adverse and beneficial effects; and**
  - (b) Both direct and indirect effects.**

**ANSWER:** The Division anticipates minimal adverse effects, both direct and indirect, on small businesses as the result of the adoption of these regulations. The adverse effects include increased fees for the issuance of an initial operating permit and annual renewals of operating permits for elevator, escalators and moving walks. This direct adverse impact will be offset by the regulatory exemption from the requirement to install, maintain and conduct monthly exercises of Phase II Emergency In-Car Operation for elevators with 55 feet or less of travel. The Division does not anticipate any indirect adverse effect on small businesses.

The Division anticipates beneficial effects, both direct and indirect, on small businesses. The adoption of these proposed regulations may result in an indirect benefit to small businesses because of the development of a vibrant special inspector industry, providing elevator owners /operators with competitive options; separates and defines the market for state inspectors and special inspectors to eliminate inappropriate competition between the state and private sector; transitions the Division's Mechanical Compliance Section from an enforcement role to a more appropriate regulatory role; provides the mechanism for a more objective and consistent direction, interpretation and oversight of the regulated community; updates applicable boiler and elevator codes adopted by reference; and creates flexibility to address special circumstances.

- 4. Describe the methods that the agency considered to reduce the impact of the proposed regulation on small businesses and a statement regarding whether the agency actually used any of those methods.**

**ANSWER:** The Division initially proposed to reduce the impact of the proposed regulations on small businesses by adding a regulatory exemption from the maintenance expense of conducting the monthly firefighters emergency exercise for elevators with 50 feet or less of travel. As a result of the Public Workshop this proposal was revised to provide a regulatory exemption from the requirement to install, maintain and conduct monthly exercises of Phase II Emergency In-Car Operation for elevators with 55 feet or less of travel. It is anticipated that many of the small businesses which would be affected by the proposed fee increase own and operate these smaller elevators which will now be exempt from the cost of installing, maintaining and conducting monthly exercises of the Phase II Emergency In-Car Operation switch.

- 5. The estimated cost to the agency for enforcement of the proposed regulation.**

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

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

**ANSWER:** The current fee structure has been in place since 2004 and produces less than 50% of the revenue necessary of the agency to perform its obligations, necessitating the need for a great deal of subsidization from the Workers Compensation and Safety Fund. This increase is necessary to satisfy the requirement that the fees reflect the actual cost of the function the

Mechanical Section performs under NRS 455C.120. We believe that this increase will bring the unit closer to achieving this goal.

**7. If the proposed regulation includes provisions which duplicate or are more stringent than federal, state or local standards regulating the same activity, an explanation of why such duplicative or more stringent provisions are necessary.**

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

**8. The reasons for the conclusions of the agency regarding the impact of a regulation on small businesses.**

**ANSWER:** The Division complied with NRS 233B.0608 by making a concerted effort to determine whether the proposed regulations imposes a direct or significant economic burden upon small businesses, or directly restricts the formation, operation or expansion of a small business. The current fee structure has been in place since 2004 and produces less than 50% of the revenue necessary of the agency to perform its obligations, necessitating the need for a great deal of subsidization from the Workers Compensation and Safety Fund. This increase is necessary to satisfy the requirement that the fees reflect the actual cost of the function the Mechanical Compliance Section performs under NRS 455C.120. The proposed regulations create a fee structure in line with neighboring states providing comparable services. Additionally, the adverse effect of the proposed regulations is mitigated by the reduced fees and expenses a small business owner will no longer incur for the costs of installing, maintaining and conducting monthly exercises of the Phase II Emergency In-Car Operation switch on elevators with 55 feet or less of travel.

I, DON SODERBERG, Administrator of the Division of Industrial Relations, certify that, to the best of my knowledge or belief, the information contained in the statement was prepared properly and is accurate.

DATED this 8 day of September, 2014.

  
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DON SODERBERG, Administrator  
Department of Business and Industry  
Division of Industrial Relations