

**Department of State
Division of Publications**

312 Rosa L. Parks Avenue, 8th Floor Snodgrass/TN Tower
Nashville, TN 37243
Phone: 615-741-2650
Fax: 615-741-5133
Email: register.information@tn.gov

For Department of State Use Only

Sequence Number: 04-04-11
Rule ID(s): 4939 4941
File Date: 04/07/2011
Effective Date: 09/28/2011

Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to T.C.A. §4-5-202, 4-5-207 in lieu of a rulemaking hearing. It is the intent of the Agency to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within sixty (60) days of the first day of the month subsequent to the filing of the proposed rule with the Secretary of State. To be effective, the petition must be filed with the Agency and be signed by twenty-five (25) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.

Agency/Board/Commission:	Department of Labor and Workforce Development
Division:	Boiler, Elevator and Amusement Device Division
Contact Person:	Gary W. Cookston
Address:	Floor 2 - Side B, 220 French Landing Drive, Nashville, Tennessee
Zip:	37243
Phone:	615-532-1929
Email:	Gary.Cookston@tn.gov

Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
0800-03-04	Elevators, Dumbwaiters, Escalators, Aerial Passenger Tramways, Moving Walks, and Amusement Devices
Rule Number	Rule Title
0800-03-04-.02	Definitions

Chapter Number	Chapter Title
0800-03-12	Safety Standard for Platform Lifts and Stairway Chairlifts
Rule Number	Rule Title
0800-03-12-.01	Safety Standards

Chapter Number	Chapter Title
0800-03-14	Rules of Procedure for Hearing Appeals Before the Elevator and Amusement Device Safety Board
Rule Number	Rule Title
0800-03-14-.01	Appeals

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <http://state.tn.us/sos/rules/1360/1360.htm>)

Amendments

The caption is amended by updating the division and board names so that, as amended, the caption shall read:

Division of Boiler, Elevator and Amusement Device Inspection
Elevator and Amusement Device Safety Board

Chapter 0800-03-04

Elevators, Dumbwaiters, Escalators, Aerial Passenger Tramways, Moving Walks, and Amusement Devices

Paragraph (13) of Rule 0800-03-04-.02 Definitions is amended by adding "ASME A17.6 – 2010, approved by the American National Standards Institute on March 17, 2010, effective as of July 30, 2010," after the date "February 12, 2006," and before the word "prepared" on the seventh line so that, as amended, paragraph (13) shall read:

- (13) The Elevator Safety Code. The Safety Code for Elevators and Escalators, ASME A17.1 - 2004, Seventeenth Edition, approved by the American National Standards Institute on January 14, 2004, effective as of October 31, 2004, with Addenda ASME A17.1a – 2005, approved by the American National Standards Institute on March 18, 2005, effective as of October 29, 2005; and the Supplement to ASME A17.1 - 2004, ASME A17.1S - 2005, approved by the American National Standards Institute on March 23, 2005, effective as of February 12, 2006, ASME A17.6 – 2010, approved by the American National Standards Institute on March 17, 2010, effective as of July 30, 2010, prepared and published by the American Society of Mechanical Engineers, except as modified in subparagraphs (a) through (s) shall be considered a part of this Chapter.

Authority: T.C.A. §68-121-103.

The caption and chapter are amended by updating the division and board names, and changing the single digits to double digits so that, as amended, the caption and chapter shall read:

Division of Boiler, Elevator and Amusement Device Inspection
Elevator and Amusement Device Safety Board

Chapter 0800-03-12

Safety Standard for Platform Lifts and Stairway Chairlifts

Paragraph (1) of Rule 0800-03-12-.01 Safety Standards is amended by changing "Tennessee Code Annotated" on the second line to "T.C. A.", changing "September 12, 2003, ASME A18.1 2003" on the third line to "July 3, 2008, ASME A18.1 2008", and changing "September 12, 2004" on the fourth line to "August 28, 2008" so that, as amended, paragraph (1) shall read:

- (1) All new stairway inclined lifts and platform lifts for transportation of persons with handicaps as defined in T. C. A. Section 68-121-101 shall comply with the Safety Standard for Platform Lifts and Stairway Chairlifts dated July 3, 2008, ASME A18.1-2008, effective August 28, 2008, prepared and published by the American Society of Mechanical Engineers, Three Park Avenue, New York, New York, 10016-5590, Telephone (212) 591-7722, www.asme.org., except as modified in subparagraphs (a), (b), (c), (d), and (e).

Authority: T.C.A § 68-121-103.

The caption and chapter are amended by updating the departmental, division and board names, changing the single digits to double digits, and adding the "Table of Contents" so that, as amended, the caption and chapter shall read:

Rules
of
Tennessee Department of Labor and Workforce Development
Division of Boiler, Elevator and Amusement Device Inspection

Chapter 0800-03-14
Rules of Procedure for Hearing Appeals
Before the Elevator and Amusement Device Safety Board

Table of Contents

0800-03-14-.01 Appeals

Paragraph (1) of Rule 0800-03-14-.01 Appeals is amended by adding the words "Elevator and Amusement Device Safety" after the word "the" and before the word "Board" on the first line, and changing the single digits "4" and "1" to double digits "04" and "01" on the second line so that, as amended, paragraph (1) shall read:

- (1) For the rules of procedure for hearing appeals before the Elevator and Amusement Device Safety Board, see Rules of the Tennessee Department of State, Chapter 1360-04-01.

Authority: T.C.A. §§68-121-103 and 68-121-112.

* If a roll-call vote was necessary, the vote by the Agency on these rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Jane Dawkins	X				
Perry Burch	X				
Jesse Cragwall	X				
John Downing	X				
Charles Edens				X	
Robbie Fox	X				
David Hale	X				

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the Elevator and Amusement Device Safety Board on 03/01/2011, and is in compliance with the provisions of TCA 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of sixty (60) days of the first day of the month subsequent to the filing of the proposed rule with the Secretary of State.

Date: 3/1/11

Signature: Jane W. Dawkins

Name of Officer: Jane Dawkins

Title of Officer: Chairperson



Subscribed and sworn to before me on: March 1, 2011

Notary Public Signature: Carlene T Bennett

My commission expires on: July 24, 2013

All proposed rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

RE Cooper Jr
 Robert E. Cooper, Jr.
 Attorney General and Reporter
3-27-11
 Date

RECEIVED
 2011 APR -7 PM 2:54
 SECRETARY OF STATE
 PUBLICATIONS

Department of State Use Only

Filed with the Department of State on: 4/7/11

Effective on: 9/28/11

Tre Hargett
 Tre Hargett
 Secretary of State

Regulatory Flexibility Addendum

Pursuant to § T.C.A. 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

(If applicable, insert Regulatory Flexibility Addendum here)

Regulatory Flexibility Addendum

The Department's Boiler, Elevator and Amusement Device Division submits the following economic impact statement in order to analyze how the proposed rules will affect small businesses in accordance with the Uniform Administrative Procedures Act, T. C. A. § 4-5-403.

1. The type or types of small businesses and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, or directly benefit from the proposed rule:

There are approximately 15 companies that install elevators in the state of Tennessee who would directly benefit from the proposed rule. By updating the Elevator Safety Code, it will be quicker and easier for them to provide services and equipment to their customers. The companies currently must submit material and attend quarterly meetings of the Elevator and Amusement Device Safety Board in order to have exceptions granted to install equipment labeled as "new technology."

2. The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record:

There will be no additional requirements for compliance with the proposed rule. Promulgation of the rule will actually decrease reporting and recordkeeping costs required for compliance.

3. A statement of the probable effect on impacted small businesses and consumers:

The Department feels the proposed rule will not pose a significant detrimental impact on small businesses. By updating the Elevator Safety Code, it will be quicker and easier for companies to provide a wider variety of services and equipment to their customers.

4. A description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and objectives of the proposed rule that may exist, and to what extent the alternative means might be less burdensome to small business:

Updating the Elevator Safety Code by rule is the less burdensome, less intrusive and less costly method of providing statewide approval of equipment labeled as "new technology."

5. A comparison of the proposed rule with any federal or state counterparts:

Now that the American National Standards Institute has approved and published ASME A17.6 - 2010, it will be adopted in the majority of states across the United States.

6. Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule:

This rule is to update the Elevator Safety Code statewide. There will be no exemptions for large or small businesses.

Impact on Local Governments

Pursuant to T.C.A. 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

Promulgation of the rule will not have an impact on local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to TCA 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

Editorial changes were made to Chapters 0800-03-04, 0800-03-12, and 0800-03-14 by updating names, changing the single digits to double digits, and adding a "Table of Contents."

Paragraph (13) of Rule 0800-03-04-.02 Definitions is amended by adding "ASME A17.6 – 2010, approved by the American National Standards Institute on March 17, 2010, effective as of July 30, 2010," after the date "February 12, 2006," and before the word "prepared" on the seventh line.

Paragraph (1) of Rule 0800-03-12-.01 Safety Standards is amended by changing "Tennessee Code Annotated" on the second line to "T.C. A.", changing "September 12, 2003, ASME A18.1 2003" on the third line to "July 3, 2008, ASME A18.1 2008", and changing "September 12, 2004" on the fourth line to "August 28, 2008."

Paragraph (1) of Rule 0800-03-14-.01 Appeals is amended by adding the words "Elevator and Amusement Device Safety" after the word "the" and before the word "Board" on the first line, and changing the single digits "4" and "1" to double digits "04" and "01" on the second line.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

T.C. A. Section 68-121-103 grants the Elevator and Amusement Device Safety Board the authority to adopt and promulgate rules and regulations governing elevators, dumbwaiters, escalators, aerial passenger tramways, moving walks, and amusement devices that are adequate, reasonable and necessary to provide for the safety of life, limb and property, and to protect the public welfare.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

Elevator companies installing equipment will be most directly affected by the proposed rules. Updating the Elevator Safety Code will allow them more flexibility in the products they choose to provide to their customers. To date, there haven't been any objections to these rules.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

There have been no opinions of the Attorney General and Reporter or any judicial ruling that directly relates to the rule.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

It is estimated that state and local government revenues and expenditures will not increase or decrease as a result of the promulgation of this rule.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Gary W. Cookston, Assistant Administrator and Ron Sidler, Chief Elevator Inspector, Boiler, Elevator and Amusement Device Division, Department of Labor and Workforce Development

- (G)** Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Gary W. Cookston, Assistant Administrator, Boiler, Elevator and Amusement Device Division, Department of Labor and Workforce Development

- (H)** Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Floor 2 - Side B, 220 French Landing Drive, Nashville, Tennessee 37243. Phone: 615-532-1929 Email: Gary.Cookston@tn.gov

- (I)** Any additional information relevant to the rule proposed for continuation that the committee requests.

**RULES
OF
TENNESSEE DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT
DIVISION OF BOILER, AND ELEVATOR AND AMUSEMENT DEVICE INSPECTION
ELEVATOR AND AMUSEMENT DEVICE SAFETY BOARD**

**CHAPTER 0800-03-04
ELEVATORS, DUMBWAITERS, ESCALATORS, AERIAL PASSENGER TRAMWAYS,
MOVING WALKS, AND AMUSEMENT DEVICES**

0800-03-04-.02 DEFINITIONS.

- (13) The Elevator Safety Code. The Safety Code for Elevators and Escalators, ASME A17.1 - 2004, Seventeenth Edition, approved by the American National Standards Institute on January 14, 2004, effective as of October 31, 2004, with Addenda ASME A17.1a - 2005, approved by the American National Standards Institute on March 18, 2005, effective as of October 29, 2005, and the Supplement to ASME A17.1 - 2004, ASME A17.1S - 2005, approved by the American National Standards Institute on March 23, 2005, effective as of February 12, 2006, ASME A17.6 - 2010, approved by the American National Standards Institute on March 17, 2010, effective as of July 30, 2010, prepared and published by The American Society of Mechanical Engineers, except as modified in subparagraphs (a) through (s) shall be considered a part of this Chapter.

Authority: T.C.A. §§68-121-101, 68-121-102, 68-121-103, 68-121-103(d), 68-121-104(c) and 68-121-108. **Administrative History:** Original rule certified June 10, 1974. Amendment filed September 19, 1974; effective October 19, 1974. Amendment filed March 29, 1978; effective April 28, 1978. Amendment filed March 12, 1979; effective April 26, 1979. Amendment filed February 5, 1991; effective May 29, 1991. Amendment filed July 24, 2000; effective November 28, 2000. Amendment filed December 13, 2001; effective April 30, 2002. Amendment filed July 17, 2006; effective November 28, 2006. Amendment filed February 24, 2010; effective July 29, 2010.

**RULES
OF
TENNESSEE DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT
DIVISION OF BOILER, AND ELEVATOR AND AMUSEMENT DEVICE INSPECTION
ELEVATOR AND AMUSEMENT DEVICE SAFETY BOARD**

**CHAPTER 0800-03-12
SAFETY STANDARD FOR PLATFORM LIFTS AND STAIRWAY CHAIRLIFTS**

TABLE OF CONTENTS

0800-03-12-.01 Safety Standards

0800-03-12-.01 SAFETY STANDARDS.

- (1) All new stairway inclined lifts and platform lifts for transportation of persons with handicaps as defined in Tennessee Code Annotated Section 68-121-101 shall comply with the Safety Standard for Platform Lifts and Stairway Chairlifts dated ~~September 12, 2003, ASME A18.1-2003~~, July 3, 2008, ASME A18.1-2008, effective ~~September 12, 2004~~ August 28, 2008, prepared and published by the American Society of Mechanical Engineers, Three Park Avenue, New York, New York, 10016-5590, Telephone (212) 591-7722, www.asme.org, except as modified in subparagraphs (a), (b), (c), (d), and (e).

Authority: T.C.A § 68-121-103. **Administrative History:** New rule filed May 18, 1978; effective June 19, 1978. Amendment filed July 26, 1991; effective October 29, 1991. Amendment filed July 24, 2000; effective November 28, 2000. Repeal and new rule filed December 9, 2005; effective April 28, 2006.

**RULES
OF THE
TENNESSEE DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT
DIVISION OF BOILER, ELEVATOR AND AMUSEMENT DEVICE INSPECTION**

**CHAPTER 0800-03-14
RULES OF PROCEDURE FOR HEARING APPEALS
BEFORE THE ELEVATOR AND AMUSEMENT DEVICE SAFETY BOARD**

TABLE OF CONTENTS

0800-03-14-01 Appeals

0800-03-14-01 APPEALS.

- (1) For the rules of procedure for hearing appeals before the Elevator and Amusement Device Safety Board, see Rules of the Tennessee Department of State, Chapter 1360-04-01.

Authority: T.C.A. §§68-121-103 and 68-121-112. **Administrative History:** Original chapter filed November 22, 1978, effective January 8, 1979. Amendment filed July 17, 2006; effective November 28, 2006.