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Sequence Number: 04-15-16
Rule ID(s): 6183
File Date: 4/22/16
Effective Date: 7/21/16

Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to Tenn. Code Ann. §§ 4-5-202, 4-5-207, and 4-5-229 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 ninety (90) days of 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 ten (10) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of ten (10) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	Elevator & Amusement Device Safety Board
Division:	Workplace Regulations and Compliance Division
Contact Person:	Chris Farmer
Address:	220 French Landing Drive, Nashville, Tennessee
Zip:	37243-1002
Phone:	615-253-1375
Email:	Christopher.farmer@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
Rule Number	Rule Title

(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://sos.tn.gov/sites/default/files/forms/Rulemaking_Guidelines_August2014.pdf)

Chapter 0800-03-04
Elevators, Dumbwaiters, Escalators, Aerial Passenger Tramways,
Moving Walks, and Amusement Devices

Paragraph (13) of 0800-03-04-.02 Definitions is amended by deleting subparagraphs (c) and (n) and renumbering the remaining subparagraphs accordingly. Paragraph (13) is further amended by changing the reference to the subparagraphs in the last sentence to "(a) through (q)", so that as amended Paragraph (13) and its subparagraphs shall read as follows:

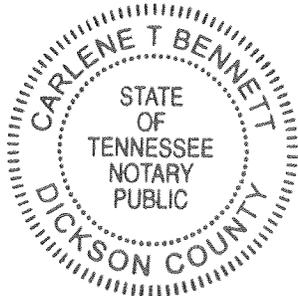
- (13) The Elevator Safety Code. The Safety Code for Elevators and Escalators, ASME A17.1 – 2010/CSA B44-10, Nineteenth Edition, approved by the American National Standards Institute on October 19, 2010, effective as of June 30, 2011, ASME A17.6—2010, approved by the American National Standards Institute 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 (q) shall be considered a part of this Chapter.
 - (a) The note in Requirement 2.11.1.3 Telephone as Alternative to Emergency Doors shall read as follows: Examples are pulp mills, grain elevators and dams;
 - (b) Section 4.3 Hand Elevators is deleted in its entirety;
 - (c) Section 5.3 Private Residence Elevators is deleted in its entirety;
 - (d) Section 5.4 Private Residence Inclined Elevators is deleted in its entirety;
 - (e) Section 5.8 Shipboard Elevators is deleted in its entirety;
 - (f) Section 5.9 Mine Elevators is deleted in its entirety;
 - (g) Section 7.4 Material Lifts Without Automatic Transfer Devices is deleted in its entirety;
 - (h) Section 7.5 Electric Material Lifts Without Automatic Transfer Devices is deleted in its entirety;
 - (i) Section 7.6 Hydraulic Material Lifts Without Automatic Transfer Devices is deleted in its entirety;
 - (j) Section 7.9 Electric Material Lifts With Automatic Transfer Devices is deleted in its entirety;
 - (k) Section 7.10 Hydraulic Material Lifts With Automatic Transfer Devices is deleted in its entirety;
 - (l) Section 7.11 Material Lifts With Obscured Transfer Devices is deleted in its entirety;
 - (m) Requirement 8.6.7.3 Private Residence Elevators is deleted in its entirety;
 - (n) Requirement 8.6.7.4 Private Residence Inclined Elevators is deleted in its entirety;
 - (o) Requirement 8.6.7.8 Shipboard Elevators is deleted in its entirety;
 - (p) Requirement 8.6.7.9 Mine Elevators is deleted in its entirety; and
 - (q) Nonmandatory Appendix H Private Residence Elevator Guarding (5.3.1.6.2) is deleted in its entirety.

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.

* 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)
Chairman Robbie Fox	X				
Mr. Roy Perry Burch	X				
Ms. Kelly O'Conner				X	
Mr. Charles J. Edens				X	
Mr. David Hale				X	
Mr. Larry R. Moore	X				
Mr. Lewis Moorner Jr.	X				
Mr. Mitch H. Rader	X				

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the Elevator/Amusement Device Board on 12/03/2015, and is in compliance with the provisions of T.C.A. § 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 ninety (90) days of the filing of the proposed rule with the Secretary of State.



Date: March 21, 2016

Signature: [Handwritten Signature]

Name of Officer: R. Mark Fink

Title of Officer: Asst. Administrator, WRC Division

Subscribed and sworn to before me on: March 21, 2016

Notary Public Signature: Carlene T. Bennett

My commission expires on: June 19, 2017

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.

[Handwritten Signature]
Herbert H. Slatery III
Attorney General and Reporter

4/6/2016
Date

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Filed with the Department of State on: 4/22/16

Effective on: 7/21/16

[Handwritten Signature]
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)

This proposed rule change reduces the cost to business owners who own or lease buildings with multiple stories by allowing Elevator contractors to install limited space disabled lifts without requiring the owner to seek a variance from the Tennessee Elevator and Amusement Device Safety Board. Therefore, this proposed rule change makes it easier for a business owner to achieve compliance with the Americans with Disabilities Act (ADA).

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)

This proposed rule change 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 T.C.A. § 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;

This proposed rule change reduces the cost to business owners who own or lease buildings with multiple stories by allowing Elevator contractors to install limited space disabled lifts without requiring the owner to seek a variance from the Tennessee Elevator and Amusement Device Safety Board. Therefore, this proposed rule change makes it easier for a business owner to achieve compliance with the Americans with Disabilities Act (ADA).

- (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;

There are no federal or state laws mandating promulgation of this proposed rule change.

- (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;

Any person or entity owning or leasing a building with multiple stories will be affected by this proposed rule change and all such persons or entities who have commented on this proposed rule change urge adoption of this rule change.

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

The Division is not aware of any Opinions of the Attorney General and Reporter or any judicial rulings that directly relate to this proposed rule change.

- (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;

This proposed rule change will have no effect on state and local government revenues and expenditures.

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

Tennessee Department of Labor and Workforce Development, Division of Workplace Regulations and Compliance, Elevator Unit Supervisor Chris Farmer and Legal Counsel for the Elevator/Amusement Device Board Dan Bailey have substantial knowledge and understanding of this proposed rule change.

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

Chris Farmer and Dan Bailey identified in response to (F) above will explain the rule at a scheduled meeting of the committee.

- (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

Chris Farmer, Tennessee Department of Labor and Workforce Development, Division of Workplace Regulations and Compliance, Elevator/Amusement Device Unit, 220 French Landing Drive, Nashville, TN 37243, 615-253-1375, christopher.farmer@tn.gov; and Dan Bailey, same address, 615-741-9550, daniel.a.bailey@tn.gov.

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

Any additional information that the Committee requests will be provided.

**RULES
OF
TENNESSEE DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT
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**

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0800-03-04-.01 SCOPE.

- (1) These rules establish administrative and operational procedures for implementation of T.C.A. §68-121-101 et seq. These rules also establish minimum standards for the operation, maintenance, construction, alteration and installation of elevators, dumbwaiters, escalators, aerial passenger tramways, and moving walks. Further, these rules establish minimum standards for the installation, assembly, disassembly, repair, maintenance, use, testing, operation, and inspection of amusement devices.

Authority: T.C.A. §§68-121-103(e), 68-121-104(c), and 68-121-116. **Administrative History:** Original rule filed February 24, 2010; effective July 29, 2010.

0800-03-04-.02 DEFINITIONS.

- (1) As-Built Document. A document signed by a licensed engineer responsible for the construction of an amusement device stating that the device has been constructed according to its final plans.
- (2) ASTM Standard. The latest standards and specifications set forth by the American Society for Testing Materials. Copies can be purchased from ASTM International, 100 Barr Harbor Drive, PO BOX C700, West Conshohocken, PA 19428-2959, United States, 610-832-9585 (phone), 610-832-9555 (fax), service@astm.org (email), www.astm.org (ASTM web site).
- (3) Authorized Person. A person who:
 - (a) Has been authorized by the owner or managing operator, in a determination which defines the specific duties and amusement devices to which the authorization pertains, to attend, operate, inspect, test, or perform maintenance on amusement devices and associated equipment;

- (b) Has successfully completed training in the duties to which the authorization pertains;
 - (c) Performs his or her duties within the scope of the authorization; and
 - (d) Is capable of reading and comprehending all written instructions, including those on device operator controls, that are required to be available to or to be in view of a person performing duties within the scope of the authorization.
- (4) DIN Standard. A standard published by the Deutsches Institute of Normung.
 - (5) Elevator, dumbwaiter, escalator, and other lift. Hoisting and lowering mechanisms as defined in Section 1.3 of the Elevator Safety Code.
 - (6) Existing Amusement Device. Any existing amusement device that was placed in operation, substantially designed, manufactured, or fabricated prior to the effective date of these rules.
 - (7) Major Modification. Any change in the structure or operation of an amusement device that materially alters either the performance of the device or any safety-related system of the device.
 - (8) New Amusement Device. An amusement device that is placed in operation and opened to the public for the first time.
 - (9) New Installation. Any new installation of elevators, dumbwaiters, escalators, or other lifts as defined in Section 1.3 Definitions of the Elevator Safety Code for which the plans and specifications and the application for the construction permit are filed as required by T.C.A. §68-121-108.
 - (10) Other Terms. All other terms used in this Chapter shall have the meaning as defined by Section 1.3 of the Elevator Safety Code, and Section 1.4 of the Safety Code for Existing Elevators and Escalators.
 - (11) Red Tag. A notice and order prohibiting the use of an amusement device, or any such device that restricts access to any particular part of any amusement device.
 - (12) Safety-Related Systems and Procedures. Systems and procedures that materially affect safety or are designed or intended to increase the safety of an amusement device, including, but not limited to:
 - (a) Control devices, including safety devices;
 - (b) Speed limiting devices;
 - (c) Brakes;
 - (d) Passenger-carrying devices, including restraint systems;
 - (e) Mechanical systems that materially affect the safe operation of the device;
 - (f) Amusement device electrical or electronic systems, including process-control equipment that are designed or intended to ensure safe operation of the amusement device;
 - (g) Daily pre-operational safety-related tests;

- (h) Owner or managing operator safety-related maintenance, inspection and operational activities;
 - (i) Emergency procedures related to the operation of the device, including, but not limited to, cessation of operation, evacuation procedures, ingress and egress controls, location of communication devices, and summoning of medical or emergency assistance; and
 - (j) Signage.
- (13) The Elevator Safety Code. The Safety Code for Elevators and Escalators, ASME A17.1 – 2010/CSA B44-10, Nineteenth Edition, approved by the American National Standards Institute on October 19, 2010, effective as of June 30, 2011, 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 (sq) shall be considered a part of this Chapter.
- (a) The note in Requirement 2.11.1.3 Telephone as Alternative to Emergency Doors shall read as follows: Examples are pulp mills, grain elevators and dams;
 - (b) Section 4.3 Hand Elevators is deleted in its entirety;
 - ~~(c)~~ Section 5.2 Limited-Use/Limited-Application Elevators is deleted in its entirety;
 - ~~(d)~~(c) Section 5.3 Private Residence Elevators is deleted in its entirety;
 - ~~(e)~~(d) Section 5.4 Private Residence Inclined Elevators is deleted in its entirety;
 - ~~(f)~~(e) Section 5.8 Shipboard Elevators is deleted in its entirety;
 - ~~(g)~~(f) Section 5.9 Mine Elevators is deleted in its entirety;
 - ~~(h)~~(g) Section 7.4 Material Lifts Without Automatic Transfer Devices is deleted in its entirety;
 - ~~(i)~~(h) Section 7.5 Electric Material Lifts Without Automatic Transfer Devices is deleted in its entirety;
 - ~~(j)~~(i) Section 7.6 Hydraulic Material Lifts Without Automatic Transfer Devices is deleted in its entirety;
 - ~~(k)~~(j) Section 7.9 Electric Material Lifts With Automatic Transfer Devices is deleted in its entirety;
 - ~~(l)~~(k) Section 7.10 Hydraulic Material Lifts With Automatic Transfer Devices is deleted in its entirety;
 - ~~(m)~~(l) Section 7.11 Material Lifts With Obscured Transfer Devices is deleted in its entirety;
 - ~~(n)~~ Requirement 8.6.7.2 Limited-Use/Limited-Application Elevators is deleted in its entirety;
 - ~~(o)~~(m) Requirement 8.6.7.3 Private Residence Elevators is deleted in its entirety;
 - ~~(p)~~(n) Requirement 8.6.7.4 Private Residence Inclined Elevators is deleted in its entirety;
 - ~~(q)~~(o) Requirement 8.6.7.8 Shipboard Elevators is deleted in its entirety;
 - ~~(r)~~(p) Requirement 8.6.7.9 Mine Elevators is deleted in its entirety; and

(s)(q) Nonmandatory Appendix H Private Residence Elevator Guarding (5.3.1.6.2) is deleted in its entirety.

- (14) The Safety Code for Existing Elevators and Escalators. ASME A17.3 - 1996, Fourth Edition, approved by the American National Standards Institute on October 3, 1996, effective as of August 21, 1997, prepared and published by The American Society of Mechanical Engineers shall be considered a part of this Chapter.
- (15) TUV Standard. A standard published by the Technischer Uberwachungs Verein or Technical Inspection Organization.

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.

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