



## **Cost-Benefit Analysis**

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### ***Chapter 296-96 WAC – Code Adoption***

### ***Safety Regulations and Fees for all Elevators, Dumbwaiters, Escalators, and Other Conveyances***

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***August 31, 2018***

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## **Cost-Benefit Analysis Requirements of the Administrative Procedure Act (APA)**

The Administrative Procedure Act (APA; Chapter 34.05 RCW) requires that, before adopting a significant legislative rule, the Department of Labor & Industries (L&I) must analyze the probable costs and benefits of the rule, and determine that the benefits are greater than its costs, taking into account both the qualitative and quantitative benefits and costs.” [RCW 34.05.328(1)(d)]

Under certain circumstances, a rule or rule component is exempt from this requirement. These exemption criteria are listed in RCW 34.05.328(5)(b) including:

- Emergency rules adopted under RCW 34.05.350;
- Rules relating only to internal governmental operations that are not subject to violation by a nongovernment party;
- Rules adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule;
- Rules that only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect;
- Rules the content of which is explicitly and specifically dictated by statute; and
- Rules that set or adjust fees under the authority of RCW 19.02.075 or that set or adjust fees or rates pursuant to legislative standards, including fees set or adjusted under the authority of RCW 19.80.045.

This cost-benefit analysis has been prepared in compliance with the APA for the rule amendments to Chapter 296-96 that do not fall under these exemptions.

## Background of the Proposed Rule

Chapter 70.87 RCW regulates elevators, lifting devices, and moving walks. 70.87.030 requires the Department to adopt rules governing the mechanical and electrical operation, acceptance tests, conveyance work, operation, and inspection that are necessary and appropriate. Safety regulations and fees for all Elevators, Dumbwaiters, Escalators, and other Conveyances are codified at Chapter 296-96-WAC.

When exercising its rulemaking power, L&I must consider national codes including the American Society of Mechanical Engineers (“ASME”) standards.

ASME issued a new standard safety code in 2016. Thereafter, L&I determined its safety rules were inconsistent with the ASME safety code and, accordingly, began a formal rulemaking process during 2017.

### **Rule Adoption Process:**

***Stakeholder Input:*** L&I filed a CR-101 Preproposal Statement of Inquiry on July 18, 2017. The CR-101 sought input from stakeholders to be used in the formulation of the proposed rules. L&I asked interested stakeholders to submit proposals between September 1-October 5, 2017. One hundred and three (103) rule proposals were received.

L&I also appointed a new Technical Advisory Committee (TAC) to review the proposals and to make recommendations for action following its review. Candidates for appointment to the TAC submitted applications to L&I between August 1-August 25, 2017.

Appointed TAC members were:

- The Chief Elevator Inspector;
- The Washington State Fire Marshal;
- Representatives from labor in the elevator industry;
- A representative from the grain industry;
- L&I inspectors;

- City regulators;
- An ASME Code Panel Member;
- An engineer;
- Testing laboratory employee;
- A member from the general public;
- Elevator mechanics;
- Elevator contractors; and
- Building owners.

After appointment, the TAC evaluated proposals using a 5-step process, considering whether the proposal:

- Addressed a critical life or safety need;
- Addressed a specific state policy or statute;
- Helped maintain a fair competitive environment;
- Addressed a unique state characteristic; and
- Corrected errors or omissions.

On November 15, 2017, the TAC met and voted whether proposals should be adopted as rules. The TAC also reviewed and voted on proposals from L&I.

In addition to the TAC, L&I used its existing Elevator Advisory Safety Committee (“ESAC”) to obtain stakeholder input on the rule proposals. On November 21, 2017, ESAC made recommendations to L&I about the rule proposals.

**Public Comment:** L&I filed a CR-102 on June 5, 2018, and sought public comment on the draft rules. Public hearings are scheduled for July, 2018.

### **Initial Determination**

The majority of the rule changes are exempt from the cost benefit analysis requirements under the Administrative Procedure Act RCW 34.05.328(5)(b) based on the following exemptions:

- Rules adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule;
- Rules that only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect; and
- Rules the content of which is explicitly and specifically dictated by statute.

A comprehensive list of the rule categories for all sections of the proposed rules is in Appendix 1 (Due to the length, this is a separate document).

***Significant Legislative Rules:*** At present, there are four proposed changes to the elevator safety code that are significant legislative rules.

**WAC 296-96-01000 What is the permit process for conveyances?**

**WAC 296-96-02640 Incline commercial stairway chair lifts.**

**WAC 296-96-23000 Compliance time frames**

**WAC 296-96-23283 What requirements apply to rope data tags?**

## Probable Costs of the Proposed Rule

This section considered only the probable costs associated with the portion of the proposed rules considered to significant legislative rules and does not consider those portions of the proposed rules that are exempt from this analysis. The estimated costs in this analysis, if any, represent only the new costs of complying with the proposed rules for the affected parties, excluding realized or potential costs associated with or originated from the current practices, or “baseline” standards under existing laws. This analysis excludes realized or potential costs caused by or associated with current baseline standards that are required by, attributable to, or are insignificantly different from existing laws, rules, or national standards.

*The proposed rules do not impose additional direct costs nor create safety hazards.*

### Explanation of Proposed Significant Legislative Rules:

#### **WAC 296-96-01000 What is the permit process for conveyances?**

Current WAC 296-96-01000 requires a licensed elevator contractor to submit an installation application and plans to the department for approval; thereafter, the department issues a permit. The contractor must then post the permit. The contractor must then obtain and pass an inspection prior to placing the conveyance in service and are restricted from working without a permit or releasing the conveyance without the department’s written permission.

The proposed change to this rule considered a significant legislative rule is the requirement to post the approved plans. Currently, customers must keep the plans on the jobsite under WAC 296-96-01030. WAC 296-96-01030 requires the plan include all information necessary to determine whether the installation or alteration complies with all applicable codes and copies are required to be kept onsite until the department has witnessed all acceptance tests. This change does not impose any new costs or requirements and reflects the existing practices of the department to require customers to post an approved installation or alteration permit along with approved plans.

**WAC 296-96-02640 Incline commercial stairway chair lifts.**

This proposed significant legislative rule change is the addition of the following language:

“Governor overspeed testing shall be verified by manufacturer documentation and manually tripped at rated speed with no load.”

ASME A18.1 10.4 requires the governor overspeed testing, this rule clarifies that the tests be performed as documented by the manufacturer and no load required. ASME A18.1 10.1 requires testing with a load, the change to no load testing does not add any additional costs. There is no additional cost to do the test with no load.

**WAC 296-96-23000 Compliance time frames**

The proposed rules, in part, adopt the ASME A17.3 2015 national standard, which is currently in effect. This rule phases in the compliance dates, allowing for more time for customers to comply. As such, there are no additional costs imposed, rather the rule reduces costs of adopting the national standards.

**WAC 296-96-23283 What requirements apply to rope data tags?**

The national standard under ASME A17.1 requires data tags be attached to wire rope fastening detailing how strong a rope is, how it was made, when it was installed, and who installed it. However, ASME A17.1 does not explain what to do when data tags are missing and information about the installation cannot be readily obtained. This can be costly for customers that need to research when it may have been installed, the person that installed the ropes, rope manufacturer, etc. The proposed significant legislative rule change allows for the creation of a replacement tag. The change does not impose any new costs since data tags are required and offers an affordable and

reasonable means for owners to comply with the data tag requirements rather than undertake costly efforts to research information that is difficult or impossible to find.

## **Probable Benefits of the Proposed Rule**

The purpose of this rulemaking is to establish elevator rules that are consistent with the most current national safety standards and industry best practices, and to ensure that the rules will accomplish the goal of safe design, operation, maintenance, inspection and performance of conveyance work. The four proposed significant legislative rule changes detailed in this document do not impose additional costs and will make it easier to comply with rules and provide clarity as to the requirements. The benefits of these rule changes are significant in terms of promoting effectiveness and efficiency as well as safety for the involved businesses and the public. In addition, the improved consistency, simplicity and clarity of these codes benefit all the affected parties.

## **Cost-Benefit Determination**

As explained in the probable costs section, the vast majority of the changes proposed in this rulemaking will impose no new costs on the affected businesses as they adopt national consensus standard, are required by statute, or clarify existing requirements of a rule without changing the effect. In contrast, the benefits of these rule changes are significant in terms of improving consistency, simplicity and clarity of elevator codes, as well as promoting efficiency and safety for the involved businesses and the public. Considering all these factors, the department concludes the probable benefits of this proposal outweigh the probable costs.

## **Appendix 1**

Appendix 1 includes a table that identifies the category of proposed rule change under RCW 34.05.328, indicating whether the proposed change is a significant legislative rule or exempt from the significant legislative rule analysis and summarizes the effect/impact of the proposed rule.

Due to the length of the appendix, it a separate document.