

LEGAL NOTICE  
Notice of Proposed Rulemaking  
Public Hearing

Notice is hereby given of proposed rulemaking and public hearing by the Department of Labor and Industrial Relations, Hawaii Occupational Safety and Health Division (HIOSH) to Part 11 of Title 12, Subtitle 8, Hawaii Administrative Rules (HAR), pursuant to the Boiler and Elevator Safety Law, Section 397-4, Hawaii Revised Statutes (HRS), and the Hawaii Administrative Procedure Act, Chapter 91, HRS.

The public hearing will consider the amendments and compilation of chapter 12-229, amendments to chapter 12-240, the repeal of chapters 12-230, 12-231, 12-232, 12-233, 12-234, 12-235, 12-236, 12-237, 12-238, and 12-239; and adoption of new chapters 12-230.1, 12-232.1, and 12-234.1.

The proposed changes are as follows:

1. Chapter 12-229, “General, Administrative, and Legal Provisions”, is being amended, to clarify responsibilities of the State, owners of elevators and related systems, and contractors. Procedures have been updated to permit online submission of permit applications and inspection requests. Major revisions also include:
  - a. Section 12-229-2 is amended to the change the definitions of “new installation” and “existing installation”, to determine which code edition the elevator and related systems must comply with.
  - b. Section 12-229-2 deletes the vendor, contractor, and user as those being responsible for the elevator and related systems, except during active construction or alteration of the equipment.
  - c. Section 12-229-3.1 is added to harmonize the existing rules with other existing applicable codes such as the International Building Code (IBC), HIOSH

standards, National Fire Protection Association (NFPA) code, the NFPA electric code, the NFPA fire alarm code, the NFPA sprinkler code, and the International Code Council (ICC) accessibility code.

- d. Section 12-229-4.1 is amended to clarify that the installation or alteration permit is good for three (3) years from date of issuance, but if no work has begun after one (1) year, the permit would expire.
- e. Section 12-229-4.1 places responsibility for obtaining the permanent state identification number (HAW No.) on the contractor. The department would issue the HAW No. upon issuance of the permit to install, instead of after the acceptance inspection.
- f. Section 12-229-5.1 is amended to require all temporary permits to operate to be posted within or next to the conveyance, unless this is infeasible or impractical. The owner may petition the director for an alternative location. The alternate location for regular permits to operate must be accessible to the passengers as long as the conveyance is available for use, and there must be a permanent sign in the elevator that states where the permit may be viewed.
- g. Section 12-229-6.1 is amended to clarify when additional inspection fees may be charged. If the department is not notified of any postponement or cancellation at least 48 hours in advance of the scheduled date and time, and if the equipment is not ready or the requester is not ready to conduct the required tests within one hour of the scheduled date and time, the fee already paid would not be refunded and a new request with the appropriate fee would need to be submitted to the department.

- h. Section 12-229-7.1 is amended to clarify an owner's responsibility for "out of service" equipment. The equipment is to be considered "out-of-service" and must be properly decommissioned and barricaded if it is not continuously maintained for a period exceeding one year, or the owner has not requested that the required inspections and tests be conducted during the appropriate intervals.
- i. Section 12-229-10.1 is amended to require the owner to report any accident when there is damage to the equipment or any physical injury is sustained by a person(s). An accident report containing certain information is also required. The amendment also clarifies that accidents must be reported to the department within eight hours.
- j. Section 12-229-12.1 is amended to clarify when a code discrepancy becomes a violation, potentially subjecting an owner to penalties. It also clarifies when penalty reductions may and may not be applied.
- k. Section 12-229-13.1 is amended to change the appeals procedure for contested orders or citations to allow the first level de novo hearing at the departmental level. The proposed change would use the Labor and Industrial Relations Appeals Board for the second level of appeal and on the record only, thus expediting the contest process.
- l. Section 12-229-16.1 is amended to change the procedures for applying for a variance. The proposed change clarifies the steps involved in the application process as well as the reconsideration rights for denied applicants, including 30 days public notification in the paper and a formal hearing by the director.

- m. Section 12-229-16.1 is amended to allow "plans of compliance" to bring equipment into compliance where the cost of compliance may require phased work. Such plans must be approved by the department and may require interim protection steps in order to continue to use the conveyance.
- 2. The current chapter 12-230, "Elevators, Dumbwaiters, Escalators, and Moving Walks," is being repealed and replaced with new chapter 12-230.1, "Elevators, Escalators, Dumbwaiters, Moving Walks, and Material Lifts and Dumbwaiters with Automatic Transfer Devices". The major difference is the adoption and incorporation of updated national codes and in the clarification of what codes apply to existing installations and what codes apply to new installations. The codes to be adopted and the significant impacts are as follows:
  - a. American Society of Mechanical Engineers (ASME) A17.1-2010, Safety Code for Elevators and Escalators, is adopted for the installation of new elevators and kindred equipment and/or the relocation of existing equipment with the following major amendments:
    - i. Section 12-230.1 is added to clarify that limited use/limited application (LULA) elevators are not permitted. However, LULAs may be permitted under certain circumstances, e.g., a building required to be Americans with Disabilities Act (ADA) compliant, or is on the national or Hawaii register of historic places and accessibility cannot otherwise be provided without adversely altering the historically protected features of the structure.

- ii. Section 12-230.1-4 is added to clarify that the equipment owner is responsible to ensure that a written Maintenance Control Program (MCP) is in place and that the MCP is the property of the equipment owner, not the elevator maintenance company. The document, electronic or written, shall be made available on site.
- iii. Section 12-230.1-4 also clarifies that the data plate for escalators and moving walks must be in plain view and securely attached to the controller door as opposed to the controller, controller door, or mainline disconnect. An additional data plate shall be installed in the vicinity of the top key operated starting switch on the exterior of escalators and moving walks. As a result all necessary information is found in one place.
- iv. Section 12-230.1-3 is added to harmonize the existing rules with other existing applicable codes such as the IBC, HIOSH standards, NFPA code, the NFPA electric code, the NFPA fire alarm code, the NFPA sprinkler code, and the ICC accessibility code.
- v. Section 12-230.1-3 also clarifies that in each machine room, control room, machinery space, control space, and hoist way pit, there shall be provided at least one 125 volt, single phase, 15- or 20-ampere ground fault circuit interrupter (GFCI) duplex receptacle to prevent shocks and electrocutions.

The significant differences between the ASME A17.1-2010, Safety Code for Elevators and Escalators and the 1996 edition are as follows:

- In sections 12-230.1-3 and 12-230.1-4, new technology is addressed, such as smaller diameter wire ropes, and different compositions of hoisting, governor

and compensating means; computer moderated controlling and operating mechanisms; changes to factors of safety for the new materials and components and the addition of safety integrity levels (SIL) ratings for electrical/electronic/programmable electronic devices (E/E/PES); and new safety monitoring and testing methods to accommodate the new technology.

- Section 12-230.1-3 harmonizes the existing rules with other existing applicable codes such as the IBC, HIOSH standards, NFPA code, the NFPA electric code, the NFPA fire alarm code, the NFPA sprinkler code, and the ICC accessibility code.
- Sections 12-230.1-3 and 12-230.1-4 enhance accountability provisions such as traceability provisions for elevator and kindred equipment in the form of information on the code data plate indicating the year of the code to which the equipment was installed and the year of the code for each subsequent alteration; and documentation and certification requirements for component performance, equipment maintenance, and worker training.
- Section 12-230.1-3 regulates access by authorized persons to hazardous or sensitive portions of the elevator and kindred equipment during operations.
- Section 12-230.1-3 also provides for increased illumination for elevator cars and working areas, and creates safety access requirements for maintenance, repair and inspection. It also provides for guarding requirements of hazardous equipment as well as fall protection in conformance with HIOSH requirements, including redundant safeguards to prevent accidental falls, crushing, and caught-in or between dangerous machinery type incidents.

- Sections 12-230.1-3 and 12-230.1-4 require a written MCP for all elevators and kindred equipment to include how the equipment is to be properly maintained, including all code-required written procedures, maintenance records, what tests are required and how to conduct them, as well as any unique or product-specific procedures or methods.
- b. ASME A17.3-2011, Safety Code for Existing Elevators and Escalators, shall apply to all existing installations of such equipment, if the installation or alteration permit was issued after 1997, with the following amendment. Nonmandatory appendix C is made mandatory. Firefighters' service requirements were adopted in 1983 and applied to all new and existing installations, regardless of travel. This change merely maintains what is required for all elevator and kindred equipment installations, new or existing.
- c. ASME A17.1-2010, Safety Code for Elevators and Escalators, shall apply to elevator and kindred equipment if the installation or alteration permit was issued after the effective date of these rules, with the following exceptions which apply to both new installations and alterations:
- i. Part 1, General, shall apply to all existing elevators, escalators, moving walks, dumbwaiters, and material lifts.
  - ii. Section 5.10, Elevators Used for Construction, shall apply to all existing elevators used for construction.
  - iii. Section 8.1, Security, shall apply to all existing elevators, escalators, and moving walks.

- iv. Section 8.6, Maintenance, Repair, Replacement and Testing, shall apply to all existing elevators, escalators and moving walks, and dumbwaiters and material lifts with automatic transfer devices with the following amendments:
- 1) Section 8.6.1.2.1(c) of the American Society of Mechanical Engineers A17.1 is amended to read: "The written Maintenance Control Program in electronic or paper form created for the equipment is the property of the equipment owner, and shall be made available to the department and be located on site." This clarifies that the equipment owner is responsible to ensure that a written MCP is in place and that the MCP is the property of the equipment owner, not the elevator maintenance company. The document, electronic or written, shall be made available on site. Further elaboration is the same as discussed in 2(a)(ii) above.
  - 2) Section 8.6.1.5, "Code Data Plate," is amended so that the data plate for escalators and moving walks is to be in plain view and securely attached to the controller door as opposed to the controller, controller door, or mainline disconnect. An additional data plate shall be installed in the vicinity of the top key operated starting switch on the exterior of escalators and moving walks. As a result all necessary information is found in one place.
- v. Section 8.7, Alterations, shall apply to all existing elevators, escalators, moving walks, and material lifts and dumbwaiters with automatic transfer devices.

- vi. Section 8.8, Welding, shall apply to all existing elevators, escalators, moving walks, and material lifts and dumbwaiters with automatic transfer devices.
  - vii. Section 8.10, Acceptance Inspections and Tests, shall apply to all existing elevators, escalators, moving walks, and material lifts and dumbwaiters with automatic transfer devices.
  - viii. Section 8.11, Flood Resistances, shall apply to all existing elevators, escalators, moving walks, and material lifts and dumbwaiters with automatic transfer devices.
- d. Clarifies that for elevators and escalators installed or altered before 1998 the code in effect at the time of installation or alteration is the applicable code.
  - e. Chapter 12-240 shall apply to all elevators where the installation application was received by the department after December 6, 1990. This further clarifies which code is applicable for older elevators and kindred equipment.
3. The current chapter 12-231, “Manlifts”, is being repealed. Currently, dual jurisdiction exists for the enforcement of manlift safety. HIOSH considers manlifts to be hazardous equipment requiring safety training for employees who use them. ASME A17.1, Safety Code for Elevators and Escalators excludes manlifts, therefore, it is more appropriate for manlift safety to fall under the jurisdiction of HIOSH. There are only 6 manlifts throughout the State.
4. The current chapter 12-232, “Personnel Hoists”, is being repealed and replaced with new chapter 12-232.1 with the same title. The major difference is in the adoption and incorporation of American National Standards Institute/American Society of Safety

- Engineers (ANSI/ASSE) A10.4-2007, and in clarifying that the director may grant a temporary variance at no cost to the applicant.
5. The current chapter 12-233, “Aerial Passenger Tramways”, is being repealed. There are no such conveyances in Hawaii. Repealing this chapter avoids the confusion between such devices, zip lines, and canopy rides, which the department does not have jurisdiction over.
  6. The current chapter 12-234, “Inclined Passenger Lifts”, is being repealed and replaced with new chapter 12-234.1, “Platform Lifts and Stairway Chairlifts”. The major difference is the adoption and incorporation of ASME A18.1-2011, and in clarifying which national code applies to new platform lifts and stairway chairlifts and which code applies to existing installations. Also allows the director to grant a temporary variance at minimal cost to the applicant.
  7. The current chapter 12-235, “Existing Inclined Tunnel Lifts”, is being repealed. There are no such conveyances in Hawaii.
  8. The current chapters 12-236, “Vertical Wheelchair Lifts”; 12-237, “Inclined Wheelchair Lifts”; and 12-238, “Incline Stairway Chair Lifts” are being repealed. ASME A18.1, “Safety Standard for Platform Lifts and Stairway Chairlifts,” covers these equipment. The proposed revision incorporates ASME A18.1 into proposed new chapter 12-234.1, “Platform Lifts and Stairway Chairlifts”.
  9. The current chapter 12-239, “Personal Automatic Trains”, is being repealed. There are currently no personal automatic trains in Hawaii.
  10. The current chapter 12-240, “Elevator Requirements for Handicapped”, is amended to clarify which elevators and kindred equipment must comply with the current code,

i.e., those which have had their architectural plans reviewed for an installation permit after December 6, 1990 but before the effective date of the proposed rules. New installations whose applications are filed after the effective date of the proposed rules must comply with the provisions in new chapter 12-230-1, adopting and incorporating the 2009 edition of ICC A117.1-2009.

The proposed rule changes affect small business. Initial costs for the development of a written MCP will be passed on to tenants of buildings but they will be offset by reduced rate increases for insurance premiums due to the increase in public safety and a reduction in elevator accidents. Similarly, all other initial implementation costs are expected to level out with increased safety.

A copy of the proposed rule changes will be made available for public viewing from the first working day that the legal notice appears in the Honolulu Star-Advertiser, Hawaii Tribune Herald, West Hawaii Today, The Maui News, and The Garden Island, through the day the public hearing is held, from Monday – Friday, between the hours of 2:00 p.m. and 4:00 p.m., at the following locations: 830 Punchbowl Street, Room 423, Honolulu, Hawaii 96813; 75 Aupuni Street, Hilo, Hawaii 96720; 2264 Aupuni Street, Wailuku, Hawaii 96793; and 3060 Eiwa Street, Lihue, Hawaii 96766. A copy of the proposed rules may be obtained for a prepaid fee of ten cents per page plus postage or viewed at our website at <http://labor.hawaii.gov/hiosh>.

Interested persons may present at the public hearing any written or oral data, views, arguments, comments, and objections concerning the proposals on May 14, 2014, 1:00 p.m. at:

HONOLULU, OAHU

Keelikolani Building

830 Punchbowl Street, Room 427

Honolulu, Hawaii 96813

The public hearing will be continued, if necessary, to a time, date, and place announced at the scheduled hearing.

Interested persons may submit written data, views, arguments, comments, and objections concerning the proposals to the Hawaii Occupational Safety and Health Division, 830 Punchbowl Street, Room 423, Honolulu, Hawaii 96813, or via electronic mail at [dlir.hiosh.elevators@hawaii.gov](mailto:dlir.hiosh.elevators@hawaii.gov). All submissions for the record must be received at or prior to the scheduled public hearing.

Auxiliary aids and services are available upon request. Call the Hawaii Occupational Safety and Health Division at (808) 586-9116 (voice), (808) 586-8847 (TTY), or 1-888-569-6859 (TTY neighbor islands). A request for reasonable accommodations should be made no later than ten working days prior to the needed accommodations.

Dated: April 6, 2014

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DWIGHT TAKAMINE  
Director  
Department of Labor and  
Industrial Relations