

# CSI - Ohio

The Common Sense Initiative

## Business Impact Analysis

Agency Name: Ohio Board of Building Standards

Regulation/Package Title: Elevator Rules

Rule Number(s): 4101:5-1-01, 4101:5-1-02, 4101:5-1-03, 4101:5-1-04, 4101:4101:5-1-05, 4101:5-1-06, 4101:5-1-07, 4101:5-3-01 & 4101-5-3-02

Date: June 14, 2017

**Rule Type:**

New

5-Year Review

Amended

Rescinded

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

### **Regulatory Intent**

1. Please briefly describe the draft regulation in plain language.

*Please include the key provisions of the regulation as well as any proposed amendments.*

The Ohio Board of Building Standards (Board) proposes to amend Ohio Administrative Code (OAC) Rules as follows:

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**4101:5-1-01** to add stages lifts and wind turbine tower elevators to list of elevators regulated by the rules and clarify the applicability of the rules for material lifts, workmen’s hoists, and in dwelling units;

**4101:5-1-03** to clarify the scope of authority of the Division of Industrial Compliance and certified building departments for enforcement of the Board’s rules for work in elevator hoistways;

**4101:5-3-01** to update ASME A 17.1 standard from 2010 to 2016 edition, to update ASME A 17.3 standard from 2008 to 2015 edition, to add ASME A 17.8-2014 Standard for Wind Turbines, to update ASME A 18.1 standard from 2008 to 2014 edition, to update ASME A 90.1 standard from 2009 to 2015 edition, to add ESTA E1.42-2016 Standard for Orchestra and Pit Lifts and make general editorial changes and clarifications to notes.

As part of five year rule review, the Board proposes to make **no change** to Ohio Administrative Code rules **4101:5-1-02, 4101:5-1-04, 4101:5-1-05, 4101:5-1-06, 4101:5-1-07, and 4101:5-3-02.**

- 2. Please list the Ohio statute authorizing the Agency to adopt this regulation.**

Revised Code § 4105.011: <http://codes.ohio.gov/orc/4105.011v1>

- 3. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?**

*If yes, please briefly explain the source and substance of the federal requirement.*

No.

- 4. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.**

Not applicable.

- 5. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?**

The Board is charged with the duty to formulate rules for the design, construction, repair, alteration, and maintenance of elevators. The Division of Industrial Compliance (DIC) in the Ohio Department of Commerce enforces these rules across the State except in the cities of Cleveland and Cincinnati. This program is intended to protect the health and safety of Ohio citizens by ensuring the safe construction, installation and use of elevators in Ohio.

- 6. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?**

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It is expected that the application of the newer edition of ASME standards will reduce number of appeals required for elevators utilizing newer technologies not recognizes in the current standards.

### **Development of the Regulation**

**7. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.**

***If applicable, please include the date and medium by which the stakeholders were initially contacted.***

The Board maintains a stakeholder distribution including building department personnel, contractors, designers and professional associations. The stakeholder list is available upon request. On February 7, 2017, the Board sent an email to all agency stakeholders informing them of a scheduled stakeholder meeting on February 24, 2017 to hear comments and respond to questions on these rules. The notice summarized the proposed amendments and also informed stakeholders that if they could not attend the stakeholder meeting, they could submit questions or comments via email or regular mail by March 1, 2017. On February 24, 2017, the Board conducted a stakeholder meeting on the proposed rules at 10:00 AM and the following individuals attended: Norman Martin, Schindler Elevator & NEII Charles Huber, OBOA/Medina County Building Department, Amit Ghosh, City of Columbus, Pete Baldauf, City of Vandalia, Don Phillips, COCOA, and Carl Lamping, Clermont County.

**8. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?**

After general discussion, Norman Martin read a statement of support of the proposed rules in updating to the latest editions of the ASME codes for elevators and escalators from National Elevator Industry, Inc. The NEII letter is attached as Exhibit A.

**9. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?**

These rules rely heavily on standards developed by American Society of Mechanical Engineers (ASME) national standards writing organizations. ASME and other technical standards writing organizations update their documents regularly to respond to changing technology and updated scientific data.

**10. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?**

See response to Question 8.

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**11. Did the Agency specifically consider a performance-based regulation? Please explain.**

***Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.***

Yes. These rules rely heavily on standards written by ASME which offers both prescriptive and performance-based requirements.

**12. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?**

The Board coordinated the proposed updates with the DIC Elevator Section. The Board and DIC are the only State entities that regulate elevators and their inspection.

**13. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.**

The Board does not enforce the Elevator Rules. The DIC Elevator Section is charged with enforcing the standards. The Board and the DIC Elevator Section work closely together to ensure that rules are consistently applied.

**Adverse Impact to Business**

**14. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:**

**a. Identify the scope of the impacted business community;**

Elevator manufacturers/contractors and building owners

**b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and**

Proposed Board rules: New construction/installation requirements in updated ASME Standards – familiarity with the new requirements and potential cost increase to comply.

Continuing law: Pursuant to RC Chapter 4105, the Division of Industrial Compliance is charged elevator/escalator installation plan review, acceptance inspections, and regular inspections and maintenance requirements.

**c. Quantify the expected adverse impact from the regulation.**

***The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a "representative business." Please include the source for your information/estimated impact.***

Proposed Board rules: The Board has contacted ASME to determine whether any studies are available on the cost impact on the new editions of the ASME standards referenced in the rules. There is no available data from ASME. Without available data from ASME, and due to the variance in allowed building designs, it is difficult to ascertain, in dollars, a cost increase/decrease in the design cost as a result of the proposed amendments. However, the National Elevator Industry which members include Otis Elevator, Schindler Elevator, KONE, Fujitec America, ThyssenKrupp and Mitsubishi Electric, submitted a letter of support for the adoption of the newer editions of the ASME standards as proposed in these rules.

Continuing law: While the Board does not enforce these rules nor set fees, RC § 4105.15 sets forth the fees to be charged by DIC for regular inspections of elevators and escalators, certificates of operation and associated fees, including. Elevator Acceptance Inspection \$120 + \$10/Floor; Elevator Certificate of Operation (6 month) \$220 + 12/Floor; Elevator Certificate of Operation (12 month) \$55 + \$10 Floor; and Escalator Acceptance and Renewal \$300.

**15. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?**

The proposed update to the latest ASME elevator standards ensure recognition of new technologies for the design and construction of elevators and coordinates with other building codes adopted by the Board. Moreover, both the Board's elevator rules for the design and installation of elevators and existing DIC rules for their inspection ensures the safe use of elevators and escalators by the public

**Regulatory Flexibility**

**16. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.**

The rules do not have special exemptions or alternative means of compliance specifically for small business. The Board does not enforce the elevator rules. The DIC Elevator Section is charged with enforcing the standards. As these rules are intended to ensure the safe construction, installation, and operation of elevators, it is critical that the Section actively seek compliance. However, the Board and DIC regularly communicate to ensure the fair and reasonable implementation of the Board's rules for the entire regulated community.

**17. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?**

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**18. What resources are available to assist small businesses with compliance of the regulation?**

The Board's technical staff spends approximately 25% of their time responding to questions on its rules and educating design professionals, contractors, the public, and code officials of the intent and rules assisting all parties in compliance. Additionally, DIC Elevator Section is responsive to questions from regulated community to assist them in compliance. The Board and DIC coordinate its assistance and regularly communicate to ensure the fair and reasonable implementation of the Board's rules.

# National Elevator Industry, Inc.



Codes & Safety Office

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February 22, 2017

Ohio Board of Building Standards  
6606 Tussing Rd  
Reynoldsburg, Ohio 43068  
Attn: Regina Hanshaw

Re: Proposed changes to the Elevator Rules – Ohio Administrative Code Rule 4101:5

Dear Ms. Hanshaw:

As the Ohio Board of Building Standards considers amendments to the state's building codes, the National Elevator Industry Inc. (*NEII*®) would like to provide our comments regarding the proposed changes.

*NEII*® supports the proposed changes, specifically the changes to update to the latest editions of the ASME family of codes. The most effective way of ensuring the safety of the riding public, as well as elevator personnel, is by the adoption of the latest version of the ASME A17.1/CSA B44 Safety Code for Elevators and Escalators and related codes. Adoption of the latest version of the ASME A17.1/CSA B44 code without modification ensures a uniform high level of safety throughout North America, without conflicts to other adopted national standards published by ICC, NFPA, ASME, etc. *NEII*® commends Ohio for striving to achieve the highest standards.

*NEII*® is committed to public and elevator personnel safety and is ready to support the authorities having jurisdiction in understanding the latest version of the code and assisting in the process of adoption. Representatives from *NEII*® and our member companies operating in Ohio are available to discuss specific issues within the proposal and provide additional technical input as needed.

Thank you for the opportunity to provide the elevator industry's comments. Again, *NEII*® strongly supports the proposal by the state of Ohio to adopt the latest editions of the ASME codes for elevators and escalators (i.e., ASME A17.1-2016/CSA B44-16) to ensure the most advanced safety for the riding public and elevator personnel.

For additional information, please contact:

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