

2014



Vermont Elevator Safety Rules

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effective date, July 1, 2014

2014 VERMONT ELEVATOR SAFETY RULES

Section 1: PURPOSE OF THE RULES

The purpose of these rules is to assure that elevators and other automated conveyances are correctly and safely installed and operated within the state by authorizing and enforcing rules for the design, installation, operation and maintenance of conveyances, and by licensing mechanics and inspectors who work on these conveyances.

[Note: Further information about these rules and their application may be obtained from the Department of Public Safety, Division of Fire Safety, 1311 US Route 302 – Berlin, Suite 600, Barre, VT 05641-2351, (802) 479-7561. firesafety.vermont.gov]

Section 2: AUTHORITY AND DEFINITIONS

(a) These rules are adopted by the Elevator Safety Review Board pursuant to 21 VSA Section 144 (b) and 152 (b) to regulate the design, construction, operation, inspection, testing, maintenance, alteration, and repair of the following conveyances and associated parts that are installed in or on a public building:

(1) Hoisting and lowering mechanisms equipped with a car or platform that moves between two or more landings, including:

- (A) Elevators
- (B) Platform lifts and stairway chairlifts
- (C) Power-driven stairways
- (D) Escalators
- (E) Material Lift

(2) Hoisting and lowering mechanisms equipped with a car that serves two or more landings and is designed to carry material, not people, but not including dumbwaiters and vertical reciprocating conveyors.

(b) These rules do not cover the conveyances that are regulated by the Vermont Tramway Board or by the rules of the Vermont Occupational and Safety Administration, or by the Federal Mine Safety and Health Act.

(c) For the purposes of these rules all definitions shall be the same as 21 V.S.A. section 141(b) contained in the annex of these rules and:

(1) "Material alteration" means any change to equipment, including its parts, components and/or subsystems, other than maintenance, repair or replacement.

(d) Private chair lift provided inside an apartment or condo unit shall be exempt from these rules.

(e) A private chair lift installation for an individual apartment tenant or condo owner and not for public use located in a common area shall be exempt from these rules. Example; a 4-unit condo has two units on first floor and two on second floor with a common stairway leading to upper units.

Section 3: License Requirements for Design, Installation, Maintenance and Inspection of Conveyances:

(a) No person shall erect, construct, wire, alter, replace, or maintain any conveyance located in any public building in this state unless the person is licensed as an elevator or lift mechanic.

(b) An apprentice or helper may perform any of the activities described in this section only when a mechanic licensed under this chapter is physically present and is immediately available to direct and supervise that apprentice or helper.

(c) The main disconnect for the conveyance and building wiring and devices associated with a conveyance, such as electrical lights outside of a conveyance, receptacles and fire alarm devices, are required to be installed, replaced and maintained by an electrician licensed under the Vermont Electrical Safety Rules.

(d) A licensed electrician, or any other person, shall only enter an elevator shaft when the elevator is under the control of a licensed elevator mechanic who is present at the site.

Section 3.1: Elevator Mechanic License: To be eligible as a licensed elevator mechanic an applicant shall demonstrate:

(a) An acceptable combination of documented experience and education credits including not less than 4 years' work experience in the elevator industry, in construction, maintenance and service/repair, as verified by current and previous employers; or,

(b) A certificate of completion and successfully passing the mechanic examination of a nationally recognized training program for the elevator industry such as the National Elevator Industry Educational Program, National Association of Elevator Contractors (NAEC) Certified Elevator Technician or the Canadian Elevator Industry Education Program or their equivalent, that have been approved by the department; or, Certified Elevator Technician (CET).

(c) Certificate of completion of an apprenticeship program for elevator mechanic, having standards substantially equal to those of this chapter, and registered with the Bureau of Apprenticeship and Training, U.S. Department of Labor, National Association of Elevator Contractors (NAEC) Certified Lift Technician or the Vermont State Apprenticeship Council; and

(d) Satisfactory completion of a written examination administered by the department on the most recent adopted codes and standards.

(e) The person that is enrolled in an apprenticeship or training program must complete the program and is not eligible to take this examination until completion of the program.

(f) A person who holds an elevator mechanic's license is permitted to work on all conveyances.

Section 3.2: Lift Mechanic License: To be eligible as a licensed lift mechanic an applicant shall demonstrate:

(a) An acceptable combination of documented experience and education credits including not less than 2 years' work experience in the platform lift industry, in construction, maintenance and service/repair, as verified by current and previous employers; or,

(b) Certificate of completion of an apprenticeship program for lift mechanic, having standards substantially equal to those of this chapter, and registered with the Bureau of Apprenticeship and Training, U.S. Department of Labor or the Vermont State Apprenticeship Council; and Certified Accessibility Technician (CAT).

(c) Satisfactory completion of a written examination administered by the department on the most recent adopted codes and standards.

(d) The person that is enrolled in an apprenticeship or training program must complete the program and is not eligible to take this examination until completion of the program.

(e) A person who holds a lift mechanic's license is permitted to work on platform lifts and stairway chairlifts.

Section 3.3: Elevator Inspector License: To be eligible as a licensed elevator inspector an applicant shall demonstrate:

(a) An acceptable combination of documented experience and education credits including not less than 4 years' work experience in the elevator industry, in construction, maintenance and service/repair, as verified by current and previous employers, and

- (b) Possession of a valid certification as an Qualified Elevator Inspector (QEI) 1; and
- (c) Possession of insurance coverage in the amount of \$1,000,000 per occurrence and \$3,000,000 general aggregate.
- (d) A person who holds an elevator inspector's license is permitted to inspect all types of conveyances.
- (e) A person who holds an elevator inspector's license shall avoid a conflict of interest.

Section 3.4: Recognition of Out of State License: An elevator mechanic license or lift mechanic license shall be issued without examination to an individual holding a valid license from a state or province that has equal or more stringent requirements than Vermont. Documentation shall be submitted in the form of a certified copy of the license and a description of the license requirements from the authority issuing the license.

Section 3.5: License Card: Upon successful completion of the requirements listed in section 3.1, 3.2, or 3.3 of this section and payment of the required fee, the applicant shall receive a license in the form of a wallet-sized card. The license card shall be carried by the license holder at all times while working under these rules and the license holder shall display the license card upon request.

Section 3.6: License Renewal:

- (a) A license issued under these rules shall be valid for two years.
- (b) Applicants for license renewal shall provide evidence of completion of eight hours of related instruction completed during the preceding 24-month licensing period.
- (c) All licenses expire the last day of the month for the license period. The signed application for renewal, the certification of related instruction, child support certification, tax certification, fine or penalty certification and the fee for renewal shall be returned to the board prior to the date the license expires.
- (d) If a license is not renewed within one year of its expiration date the inactive licensee shall make application for a new license and shall follow the appropriate licensing procedure. The board may waive the requirement for reexamination where there is an undue hardship or other unusual circumstance.
- (e) A license holder who is unable to complete a course of related instruction during the time specified may request an exemption from the Board on a form provided by the department.
 - (1) When the exemption request is due to temporary disability a certified statement from a competent physician attesting to such temporary disability shall be provided.
 - (2) When a temporary exemption for related instruction is approved by the Board a new license shall be issued with a new expiration date 90 days beyond the previous expiration date.
- (f) A license holder whose license has reached the expiration date shall not accomplish any unsupervised work regulated under these rules until the license has been renewed.

Section 3.7: License and Examination Fees:

- (a) The fees for all licenses are established by the legislature as follows:
 - (1) Elevator Mechanics license (initial and renewal) - \$75.00;
 - (2) Lift Mechanic License (initial and renewal) - \$50.00
 - (3) Elevator Inspectors license (initial and renewal) - \$150.00.
- (b) The board has contracted with a national testing service to develop and administer license examinations. The examination fee shall be paid by the applicant to the testing agency.
[Note: The examination fee is based on contract agreement with testing agency.]

Section 3.8: Approval of Related Instruction:

(a) Eight hours of related instruction, as required under section 3.6 (b) of these rules for license renewal, shall be approved by the board.

(b) Each course of related instruction shall be designed to ensure the continued qualification of the license holder.

(c) Courses of related instruction shall be taught by qualified instructors through continuing education providers that may include, but shall not be limited to, association seminars and labor training programs.

(d) Course providers shall submit a course outline, information on the standards used for the course and a resume for each instructor of their technical and instruction experience, to the board for approval.

(e) An instructor approved for a course of related instruction shall receive credit for the course toward renewal of their license for a course taught within the year prior to the expiration date of the license.

(f) Course providers shall keep records for a period of ten years of the attendance of license holders and shall make such records available to the board upon request. Approved course providers shall be responsible for the security of all attendance records and certificates of completion. Falsifying or knowingly allowing another to falsify such attendance records or certificates of completion shall constitute grounds for suspension or revocation of the approval required under this section.

Section 3.9: Temporary Emergency License:

(a) Whenever an emergency exists in the state of Vermont due to a natural or man-made disaster, or work stoppage, and the number of persons in the state holding a license granted by the Board is insufficient to cope with the emergency, any elevator or lift company shall respond as necessary to assure the safety of the public.

(b) Any person with a valid out of state elevator license shall seek a temporary emergency license from the Board within five business days after commencing work requiring a license. The company shall furnish proof of competency as the Board may require.

(c) Each temporary emergency license shall indicate that it is valid for a period of thirty days from the date of the emergency. The board may also designate conditions to the temporary emergency license for particular elevator manufacturers or geographical areas in the state.

(d) The Board may designate and otherwise may entitle the temporary emergency license holder to the rights and privileges of a license holder as otherwise issued under these rules.

(e) The department may renew a temporary emergency license during the existence of an emergency.

(f) No fee shall be charged for any temporary emergency license.

Section 3.10: Disciplinary Action Against a License Holder:

(a) Any person may file a complaint with the Board by doing so in writing, setting forth a full statement of the facts concerning the alleged infraction of the elevator licensing law or rules. In the event a complaint is filed with the Board, the Board's investigation shall not be limited to the matter set forth in the request for investigation but may extend to any act coming to the attention of the Board which appears to violate the law or these rules.

(b) The board will proceed with initiating a complaint against a license holder, investigation of the complaint, actions and hearings as described in Annex II of these rules.

(c) In accordance with 21 V.S.A. Section 149, the Elevator Safety Review Board may suspend or revoke a license and assess administrative penalties pursuant to 21 V.S.A. sections 149 and 156. This shall not preclude the Board from taking less severe steps, including but not limited to, formal reprimand, additional required education or placing conditions on work regulated by these rules.

The Board may act if:

- (1) Fraud or deceit in obtaining the license.
- (2) Failure to notify the department and the owner or lessee of a conveyance of the noncompliance of the conveyance with the standards adopted under these rules.
- (3) Violation of any provision of these rules.

(d) The Board may take disciplinary action against a license holder only after notice and an opportunity to appear before the Board for a hearing, in accordance with 3 V.S.A. Chapter 25, the Vermont Administrative Procedure Act, and these rules.

Section 4: Duties of License Holder:

(a) Any person who has obtained a license under these rules shall:

- (1) Not install, repair or maintain conveyances and equipment in a manner that is likely to be unsafe.
- (2) Observe these rules regarding the design, installation, operation and maintenance of conveyances and equipment and the supervision of unlicensed employees.
- (3) Not begin any work until a permit has been issued by the department.
- (4) Not work on or inspect a conveyance or equipment until the conveyance has been registered with the department.
- (5) Report the results of all conveyance inspections to the department within 14 days of the inspection in a format approved by the department.
- (6) Participate in additional training as may be directed by the Board.

Section 5: ADOPTION OF NATIONALLY RECOGNIZED SAFETY CODES:

THE SAFETY CODE FOR ELEVATORS AND ESCALATORS (ASME A17.1-2013) To meet the needs of Vermont ASME A.17.1 is amended as follows:

-delete & replace- A17.1 Preface: The Vermont Elevator Board regulations do not recognize or accept ASME A17.7, and does not allow Machine Room Less (MRL) Elevators, unless a variance is granted by the Board.

-delete & replace- section 2.2.2.5 In elevators provided with Firefighters' Emergency Operation, a sump pit shall be provided to accommodate the future installation of a sump pump if required.

-delete & replace- 2.8.3.3.2 **Sprinklers/Shunt-trip Breakers** – Regardless of hoistway or machine room building construction type shunt trip breakers are not permitted. Where a building is protected with an automatic sprinkler system, sprinkler head protection is required within 24” of pit floor of hoistway. Sprinkler head shall be provided in machine room of a hydraulic elevator and shall be a higher temperature setting than a heat detector, or system smoke detector provided in lieu of a heat detector. Sprinkler head shall not be installed at top of elevator shaft. Sprinkler protection is not permitted in machine room of a traction elevator, but shall have a smoke detector or heat detector provided. Smoke detector in hoistway shall only be used in conjunction with a hoistway vent.

-delete & replace- 2.27.1.1.2(a) Two-way communications shall be directed to a location(s) staffed by authorized personnel who can take appropriate action. Communication shall be answered by a live operator only. Interactive Voice Response is not a permitted communication under these rules.

-delete & replace- 8.6.11.1 Fire service recall test shall be conducted by a qualified elevator mechanic during scheduled maintenance.

-add- LU/LA elevators installed prior to 1996 shall meet A17.1-1996 Part 25.

-delete & replace- section 8.11.1.1.2(a) Periodic tests shall be performed by a person holding a valid Vermont elevator mechanic's license.

THE SAFETY CODE FOR EXISTING ELEVATORS AND ESCALATORS (ASME A17.3-2011)

THE SAFETY STANDARD FOR PLATFORM LIFTS AND STAIRWAY CHAIRLIFTS (ASME A18.1-2011)

-delete & replace- section 10.1.2.1 Periodic tests shall be performed by a person holding a valid Vermont elevator or lift mechanic's license

-add- A18.1 Equipment installed prior to 1984 would have to meet A17.1-1984 Part 20.

THE NATIONAL SAFETY STANDARD FOR THE QUALIFICATIONS OF ELEVATOR INSPECTORS (ASME QEI-1-2013)

Section 6: Reference Documents:

The following documents have been adopted by the department under other rules or are documents that may be used as reference by the board. A person who holds a license under these rules should be aware of these documents and consult them as needed.

National Fire Alarm Code (NFPA 72) as adopted under the Vermont Fire & Building Safety Code

National Electrical Code (NFPA 70) as adopted under the Vermont Electrical Safety Rules

International Building Code (IBC) as adopted under the Vermont Fire & Building Safety Code

Guide for Inspection of Elevators, Escalators and Moving Walks (ASME A17.2- 2012)

Vermont Access Rules, including the provisions from the Americans with Disabilities Act

Accessibility Guidelines, as adopted by the Vermont Access Board.

Section 7: Registration of Conveyances:

(a) The owner or lessee of a conveyance shall register any new or existing conveyance with the department. The registration shall include the type, rated load and speed, manufacturer, location, purpose, date of installation and any additional information the Board may require.

[Note: A registration form is available on the department's website at firesafety.vermont.gov under the Elevator section.]

(b) The department may, after notice and hearing, assess an administrative penalty of no more than \$1,000.00 against a building owner or lessee who fails to register a conveyance as required by these rules.

(c) The Vermont conveyance number shall be marked on each conveyance electrical disconnect.

Section 8: Permit for Installation or Alteration:

(a) No conveyance shall be erected, constructed, installed or altered in a public building unless a permit has been obtained from the department before work is commenced.

Before a material alteration is begun, the conveyance shall conform to rules adopted by the board regulating the alteration.

(b) Each application for a permit shall be accompanied by a fee of \$25.00, and copies of specifications and accurately-scaled and fully-dimensioned plans that clearly indicate location of the elevator in the building; the location of the machinery room and the equipment to be installed, relocated or altered; all structural supporting members, including foundations; and a specification of all materials to be used and all loads to be supported or conveyed. The plans and specifications shall be sufficiently complete to illustrate all details of construction and design.

(c) The Department may refuse to issue a permit if the license holder has other on-going elevator work for which a permit application has not been filed, or if the Department is owed fees.

(d) A permit may be revoked for any of the following reasons:

(1) A false statement or a misrepresentation of a material fact in the application, plans or specifications on which the permit was based.

(2) Failure of the permittee to perform work in accordance with the conditions of the permit, the provisions of the application, plans or specifications or the standards required by these rules.

(3) Failure of the permit holder to comply with any order issued pursuant to 21 V.S.A. Section 154.

(e) Work shall commence within six months after the date of issuance of a permit, or within a shorter period of time as the Commissioner may specify in the permit.

(f) A permit shall expire if work is suspended or abandoned for more than 60 days after work has begun, or a shorter period of time as the Commissioner may specify in the permit. For good cause shown, the Commissioner may extend this period.

(g) A copy of the permit shall be kept at the construction site at all times while work is in progress.

Section 9: Conveyance Inspection:

(a) **New conveyance** - Shall not be placed in operation until it has been inspected by an elevator inspector and a certificate of operation has been issued. An existing conveyance shall be inspected annually by an elevator inspector.

(b) **Conflict of Interest** - No person shall conduct an annual inspection on a conveyance they installed, or have worked on, unless another inspection company has validated compliance with the conveyance since installation or repair.

(c) **Failure to Repair** - Conveyances with other than minor violations shall have 90 days to take corrective action or conveyance will be placed out of service until such time violations have been corrected and re-inspected.

(d) **Periodic Test Form** – shall be completed by elevator mechanic during scheduled maintenance. An official elevator test form shall be completed, signed, dated and posted in machine room.

Section 9.1: Inspection Reporting:

An elevator inspector shall file a written inspection report with the department within 14 days of completion of each inspection indicated all violations identified with code citations.

Section 9.2: Certificate of Operation:

(a) When an elevator inspector has determined a new or existing conveyance is in substantial compliance with these rules, the elevator inspector shall issue a certificate of operation.

(b) When an elevator inspector has determined an existing conveyance is not in complete compliance with these rules but is safe for temporary operation, the elevator inspector shall issue a conditional certificate of operation. A conditional certificate of operation shall not be valid for more than 90 days without approval by the Division, or the Board.

(c) When an elevator inspector has determined that non-compliance with these rules involves a distinct hazard to life, the elevator inspector shall not issue a certificate of operation. The distinct hazard(s) shall be immediately corrected, or the elevator inspector shall notify the department and disconnect the conveyance from operation.

(d) The certificate of operation or conditional certificate of operation shall be in a form provided by the department.

(e) A proof of inspection sticker shall be affixed to the certificate of operation, or conditional certificate of operation, by an elevator inspector after the inspection of the conveyance has been completed as authorization of that inspection.

(f) The certificate of operation shall be clearly displayed on or in each conveyance.

Section 9.3: Fees:

(a) An elevator inspector may charge a fee for an inspection required under these rules. The fee shall include the \$25 fee paid to the department for each authorized certificate of operation and shall not exceed:

- (1) for electric traction elevators and escalators - \$250,
- (2) for hydraulic elevators greater than 3 stops - \$225,
- (3) for hydraulic elevators with 2 or 3 stops - \$200,
- (4) for limited use/limited application elevators - \$175,
- (5) for platform lifts - \$150,
- (6) for residential elevators and stairway chairlifts - \$100.

(b) An elevator inspector shall submit \$25 to the department for each proof of inspection fee sticker.

Section 10: Variance, Exemption and Reconsideration:

(a) The Board may grant a variance approving a different solution to compliance with the intent of this code. In considering a request for a variance, the board may take into consideration the impact to the historic character of the conveyance and/or the building.

(b) In order for a variance or exemption request to be reviewed the owner or designated representative shall submit:

- (1) Evidence that the proposed or existing conveyance is not in compliance with these rules.
- (2) Evidence, letters, statements, test results, construction documents, or other supporting information as required to justify the request.
- (3) Evidence that strict compliance with these rules would entail practical difficulty, unnecessary hardship or is otherwise found unwarranted.
- (4) Evidence that any such variance or exemption provides an equal or greater level of public safety.

(c) The determination on the variance or exemption request shall be made in writing to the applicant and shall advise the applicant of the reconsideration process as contained in Section (d). This determination shall be made no later than 30 days after the Board meeting at which the variance or exemption request is heard.

- (d) The Board may reconsider an interpretation or decision made pursuant to this section. To request reconsideration the owner shall submit a written request to the Board including:
- (1) Evidence the proposed or existing conveyance is not in compliance with this Code.
 - (2) Evidence, letters, statements, test results, construction documents or other supporting information as required to justify the request.
 - (3) Evidence that the true intent of these rules has been incorrectly interpreted, or the provisions of these rules do not fully apply; or the decision is unreasonable or arbitrary as it applies to alternatives or new materials.
- (e) The request for reconsideration shall be submitted no later than 30 days after receiving the variance or exemption determination.
- (f) A request for variance, exemption, or reconsideration shall not relieve a person from complying with these rules, permit or occupancy requirements, unless the Board expressly authorizes an extension of compliance period pending review of the request.

Section 11: Incident Reporting:

The owner, leaseholder or license holder shall immediately report any conveyance accident or incident involving personal injury to the department.

Section 12: SEVERABILITY CLAUSE:

In the event any part or provision of these rules is held to be illegal, this shall not have the effect of making void or illegal any of the other parts or provisions of these rules.

Section 13: EFFECTIVE DATE:

These rules shall take effect **July 1, 2014**.

Annex 1 – Title 21 V.S.A. Chapter 3, Elevator Safety

§ 141. Purpose; definitions:

- (a) The purpose of this subchapter is to assure that elevators and other automated conveyances are correctly and safely installed and operated within the state by authorizing and enforcing rules for the design, installation, operation and maintenance of automated people conveyances, and by licensing mechanics and inspectors who work on these conveyances.
- (b) For the purposes of this subchapter:
- (1) "Board" means the elevator safety review board.
 - (2) "Certificate of operation" means a document issued by the department indicating that a conveyance has passed the required safety inspection, and the conveyance may be operated for a year from the date the certificate is issued.
 - (3) "Commissioner" means the commissioner of public safety or the commissioner's designee.
 - (4) "Conditional certificate of operation" means a document issued by the department that permits a conveyance that is not in compliance with rules adopted under this subchapter, but, after inspection, has been deemed safe for temporary operation to operate for up to 30 days (180 days effective July 1, 2008) or until the conveyance is in compliance, whichever occurs earlier.
 - (5) "Conveyance" means an electrically-driven mechanical device that moves people or materials vertically, and includes elevators, escalators, platform lifts and stairway chairlifts.
 - (6) "Department" means the department of public safety.
 - (7) "Elevator inspector" means an individual who is licensed by the commissioner to perform safety inspections of newly installed and existing conveyances.
 - (8) "Elevator mechanic" means an individual who is licensed by the commissioner to erect, construct, install, alter, service, repair and maintain conveyances.
 - (9) "Public building" has the same meaning as that term is defined in section 2730 of Title 20.
 - (10) "Lift mechanic" means an individual who is licensed by the commissioner to erect, construct, install, alter, service, repair and maintain platform lifts and stairway chairlifts.

§ 142. Conveyances regulated:

(a) This subchapter regulates the design, construction, operation, inspection, testing, maintenance, alteration, and repair of the following conveyances and associated parts that are installed in or on a public building:

(1) Hoisting and lowering mechanisms equipped with a car or platform that moves between two or more landings, including:

- (A) Elevators.
- (B) Platform lifts and stairway chairlifts.
- (C) Power-driven stairways.
- (D) Escalators.

(2) Hoisting and lowering mechanisms equipped with a car that serves two or more landings and is designed to carry material, not people, but not including dumbwaiters.

(b) This subchapter does not cover the conveyances that are regulated by the Vermont tramway board or by the rules of the Vermont occupational and safety administration, or by the Federal Mine Safety and Health Act, 30 U.S.C.A. § 801 et seq.

§ 143. License required:

No person shall erect, construct, wire, alter, replace, or maintain any conveyance located in any public building in this state unless the person is licensed as an elevator mechanic, except that person who is licensed as a lift mechanic may erect, construct, wire, alter, replace, or maintain any conveyance located in any public building. An apprentice or helper may perform any of the activities described in this section only when a mechanic licensed under this chapter is physically present and is immediately available to direct and supervise that apprentice or helper.

§ 144. Elevator safety review board; members; duties:

(a) The elevator safety review board is established within the department, and shall consist of seven members, one of whom shall be the commissioner or the commissioner's designee, one of whom shall be the commissioner of labor or the commissioner of labor's designee, and five members to be appointed by the governor as follows: one representative from a major elevator manufacturing company; one representative from an elevator servicing company; an owner or manager of a multistoried building, in which a conveyance is installed; an elevator inspector; and an individual who actually installs, maintains and repairs conveyances. The members appointed by the governor shall be appointed for staggered terms of three years, and shall be entitled to compensation and expenses as provided in 32 V.S.A. § 1010.

(b) The board shall:

(1) Adopt rules regarding the following:

- (A) Safety standards for the operation, maintenance, servicing, construction, alteration, installation, and inspection of conveyances covered by this subchapter. At a minimum, the board shall adopt rules that include the Safety Code for Elevators and Escalators, ASME A17.1; the Safety Code for Existing Elevators and Escalators, ASME A17.3; the Safety Standards for Platform Lifts and Stairway Chairlifts, ASME A18.1; and Standard for the Qualification of Elevator Inspectors, ASME QEI-1. The board shall amend the rules to include any changes or amendments to these standards within six months after the effective date of the standard changes. The board may adopt rules to modify these standards as the board deems necessary.
- (B) Any other rule necessary to implement this subchapter.

(2) Grant variances, provided the variance provides an equal or greater level of public safety. The decision of the board in regard to an application for a variance shall be final.

(c) The board may:

- (1) Adopt rules for temporary elevator mechanic licenses in the event of an emergency.
- (2) Contract with a national testing service to develop and administer licensing examinations.

§ 145. Elevator mechanic license and lift mechanic license:

An individual shall submit to the commissioner a written application for an elevator mechanic or a lift mechanic license on a form provided by the board, accompanied by the required fee. A license shall be granted to an applicant who demonstrates to the satisfaction of the board that the applicant meets the qualifications established by the board. An individual who holds an elevator mechanic license may work on platform lifts and stairway chairlifts without a lift mechanic license. An individual who holds only a lift mechanic license may not work on elevators without an elevator mechanic license.

§ 146. Elevator inspector license:

An individual shall submit to the commissioner a written application for an elevator inspector license on a form provided by the board, accompanied by the required fee. A license shall be granted to an applicant who demonstrates to the satisfaction of the board that the applicant meets the qualifications established by the board.

§ 147. Examination not required:

A license for elevator mechanic or inspector shall be issued to an applicant, upon application and payment of the required fee, or to an individual who holds a comparable valid license or certification from a state that has equal or more stringent requirements.

§ 148. Issuance and renewal of licenses; fees:

(a) A license issued by the board shall be valid for two years. The board may renew a license, provided the applicant submits a written application for renewal accompanied by the required fee prior to expiration of the license.

(b) Applicants for license renewal shall provide evidence, satisfactory to the board, of completion of eight hours of instruction approved by the board, designed to ensure the continued qualifications of the applicant.

(c) License and renewal fees are as follows:

- (1) Elevator mechanic license: \$75.00
- (2) Elevator inspector license: \$150.00
- (3) Lift mechanic license: \$50.00

§ 149. Civil penalties; suspension; revocation of license:

After notice and hearing, the board may suspend or revoke a license and assess administrative penalties pursuant to section 156 of this title for any of the following reasons:

- (1) Fraud or deceit in obtaining the license.
- (2) Failure to notify the department and the owner or lessee of a conveyance of noncompliance of the conveyance with the standards adopted under this subchapter.
- (3) Violation of any provisions of this subchapter.

§ 150. Registration of conveyances:

(a) The owner or lessee of a conveyance shall register the conveyance with the department, pursuant to rules adopted by the board. The registration shall include the type, rated load and speed, manufacturer, location, purpose, date of installation, and any additional information the board may require.

(b) The commissioner may, after notice and hearing, assess an administrative penalty of no more than \$1,000.00 against a building owner or lessee who fails to register a conveyance as required by this subchapter.

§ 151. Permits:

(a) No conveyance shall be erected, constructed, installed or altered in a public building unless a permit has been obtained from the department before work is commenced. Before a material alteration, as defined by rule, is begun, the conveyance shall conform to rules adopted by the board regulating the alteration. A copy of the permit shall be kept at the construction site at all times while work is in progress.

(b) Each application for a permit shall be accompanied by a fee of \$25.00, and copies of specifications and accurately-scaled and fully-dimensioned plans that clearly indicate location of the elevator in the building; the location of the machinery room and the equipment to be installed, relocated or altered; all structural supporting members, including foundations; and a specification of all materials to be used and all loads to be supported or conveyed. The plans and specifications shall be sufficiently complete to illustrate all details of construction and design.

(c) A permit may be revoked for any of the following reasons:

- (1) A false statement or a misrepresentation of a material fact in the application, plans, or specifications on which the permit was based.
- (2) Failure of the permittee to perform work in accordance with the conditions of the permit, the provisions of the application, plans or specifications, or with the standards required by this subchapter.
- (3) Failure of the permit holder to comply with any order issued pursuant to Section 154 of this title.

(d) Work shall commence within six months after the date of issuance of a permit, or within a shorter period of time as the commissioner may specify in the permit.

(e) A permit shall expire if work is suspended or abandoned for more than 60 days after work has begun, or a shorter period of time as the commissioner may specify in the permit. For good cause shown, the commissioner may extend this period.

§ 152. New installations; annual inspections and registrations:

(a) A new conveyance shall not be placed in operation until it has been inspected by an elevator inspector other than the installer and a certificate of operation has been issued.

(b) Every conveyance subject to this subchapter shall be inspected annually by an elevator inspector who may charge a fee for the service as established by the board by rule. Rules adopted by the board under this subsection shall take into account the degree of difficulty required by the inspection, the frequency of use of the conveyance, and the mode of operation of the conveyance, such as cable, traction, hydraulic, light use, or platform lift. The inspector shall notify the department if a conveyance is found to be in violation of this subchapter or any rule adopted under this subchapter.

(c) An elevator inspector shall issue a certificate of operation after the inspector has inspected a new or existing conveyance, and has determined that the conveyance is in compliance with this subchapter. A certificate of operation shall be renewed annually. An owner of a conveyance shall ensure that the required inspections and tests are performed at intervals that comply with rules adopted by the board. Certificates of operation shall be clearly displayed on or in each conveyance.

(d) The department may issue a conditional certificate of operation for a conveyance that is not in complete compliance, provided the conveyance has been inspected and determined to be safe for temporary operation. This conditional certificate of operation shall permit a conveyance to operate for no more than 180 days or until the conveyance is in compliance, whichever occurs first.

(e) The inspector shall submit \$25.00 of the fee charged for each inspection to the department for each certificate of operation issued under this subchapter.

(f) As established by the board by rule, an inspector may charge a fee not to exceed \$250.00 for each inspection, and this fee shall be subject to the provisions of subchapter 6 of chapter 7 of Title 32.

§ 153. Insurance requirements; license:

A licensed elevator inspector shall submit to the department an insurance policy, or certified copy issued by an insurance company authorized to do business in Vermont, that provides general liability coverage in an amount to be determined, by rule.

§ 154. Enforcement:

(a) The commissioner may contract with elevator inspectors to perform random on-site inspections and tests on existing conveyances, conduct periodic inspections and tests to ensure satisfactory performance by licensed individuals, and develop public awareness programs.

(b) If the commissioner finds a violation of this subchapter, the commissioner may:

(1) Order the owner of the premises or the owner's agent and the individuals performing the work to correct or remove the violation.

(2) Suspend or retract the permit.

(3) Order the owner, a public utility or a private party furnishing electricity to the installation not to connect or disconnect electrical energy from the conveyance until the violation is corrected.

§ 155. Liability:

This subchapter shall not be construed to relieve any person that owns, operates, controls, maintains, erects, constructs, installs, alters, inspects, tests or repairs any elevator or other conveyance covered by this subchapter from liability for damages to persons or property caused by any defect in any conveyance.

§ 156. Penalty:

(a) Any owner or lessee who violates any of the provisions of this subchapter shall be fined not more than \$1,500.00 for each occurrence.

(b) The commissioner may, after notice and hearing, assess an administrative penalty of not more than \$1,000.00 for each violation of this subchapter.

(c) Any person who erects, constructs, wires, alters, replaces, or maintains any conveyance located in any public building in this state without being licensed as required by this subchapter, or who employs an unlicensed person to perform this work, shall be fined not more than \$1,000.00 for each offense.

§ 157. Elevator safety fund; creation:

The elevator safety fund is created for the purpose of funding the elevator safety inspection and licensing program. All revenues from fees collected for licensing elevator mechanics and inspectors, and issuing permits and certificates of operation, shall be deposited in the fund. The commissioner, pursuant to an appropriation from the fund, shall request disbursements from the fund by the commissioner of finance and management. The fund shall be maintained by the state treasurer and shall be managed in accordance with the provisions of subchapter 5 of chapter 7 of Title 32.

Annex II - Disciplinary Proceedings

II.1: INITIATING A COMPLAINT AGAINST A LICENSEE:

(a) Form of complaint filing. A person may register a complaint against a mechanic or inspector licensed by the Elevator Board by filing a written complaint with the Division of Fire Safety, 1311 US Route 302 – Berlin, 600, Barre, VT 05641-2351. The written complaint must set forth, at a minimum, the nature, date and place of the alleged violations. The Board may also initiate a license review procedure on its own motion by filing a complaint with the department.

(b) Verification. Upon receipt of a complaint, the department will verify the Vermont license number of the person against whom the complaint is lodged. If the person is unlicensed and the complaint alleges criminal conduct, the department will refer the complaint to the office of the Criminal Division of the Attorney General's Office. If the person is a licensee of the Board, the department will docket the complaint and open an investigation file under the name and license number of the person.

(c) Investigating Panel. An investigating panel consisting of an investigator designated by the department and an Assistant Attorney General will be formed upon the docketing of a complaint. The Assistant Attorney General assigned to the case will head the panel and supervise the investigation of the complaint.

II.2: INITIATING THE INVESTIGATION:

(a) Notice to the Licensee. The department will send written notice of the initiation of an investigation to the licensee against whom the complaint has been filed. The notice shall include a copy of the complaint and a copy of the statute and these rules. The notice will inform the licensee that inquiries or materials regarding the investigation should be addressed to the investigating panel at the address of the department.

(b) Notice to the Board. The department will send written notice to the Board and the complainant indicating that an investigation has been instituted regarding a licensing complaint.

(c) The inspector assigned to investigate the complaint shall inspect the work which is the subject of the complaint and interview the complainant. The inspector may also meet and interview the licensee at the direction of the Assistant Attorney General assigned to the matter.

II.3: RECOMMENDED ACTION:

(a) At the conclusion of the investigation the Assistant Attorney General assigned to the matter shall make a recommendation as to whether formal proceedings should commence against the licensee.

(b) If formal disciplinary proceedings are recommended, the Assistant Attorney General shall submit a complaint describing the alleged violations, and the rules or statutes violated, with the recommendation.

(c) If the licensee is willing to admit to the charges the Assistant Attorney General may explore the possibility of a stipulated settlement. A stipulated settlement must be approved by the Board.

(d) If no disciplinary action is recommended the case will be closed and the complainant and the licensee will be notified that no further action will be taken at this time. The matter may be reopened if new evidence is presented.

II.4: FORMAL HEARING BY THE BOARD:

(a) Notice and Place of Hearing. Upon the filing of a notice of charges by the investigating panel, the Board will commence the hearing process by serving the notice of charges and a notice of the hearing upon the licensee. Notice will be served personally or by certified mail, return receipt requested. Copies will be sent to the members of the investigating panel and the complainant. The hearing will be scheduled at least 20 days after service.

(b) Failure to Appear. If the licensee fails to appear after proper notice has been given, the Board shall hold the hearing and make a decision on the charges.

(c) A quorum of the Board shall be a majority of its members.

(d) Conduct of Hearing; Receipt of Evidence; Argument. The Board may admit any evidence it deems of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. All persons shall testify under oath or affirmation. The licensee or his attorney may examine or cross examine witnesses, inspect documents, and explain or rebut any evidence presented to the Board. The Assistant Attorney General, investigator, and licensee may present oral and written argument in addition to evidence, which also shall be made part of the record. Where a licensee is not represented by counsel the Board shall advise the licensee and aid in the examining and cross examining of witnesses as effectively as possible compatible with the impartial discharge of its duties as a body of impartial review.

(e) Authority of the Chair. The chair shall administer oaths to witnesses, rule on questions of evidence and upon the service of subpoenas and other notices, and do whatever is necessary and proper to conduct the hearing in a judicious, fair and expeditious manner.

(f) Disqualification of a Board Member. A member of the Board shall voluntarily disqualify him or herself and withdraw from any hearing in which the member cannot act in a fair and impartial manner, or where the member has an interest in the proceedings. Any party to a hearing may request disqualification of a Board member by filing an affidavit stating with particularity the grounds for disqualification. If the Board member does not disqualify himself or herself in response to the motion, the chair of the Board shall decide the issue of disqualification. A hearing shall be held if requested by the moving party or if deemed necessary by the chair. All materials pertinent to a matter of disqualification shall be made part of the record. If a Board member is disqualified, thereby negating the quorum, the chair shall appoint a hearing officer to decide the matter in the same manner as if the Board were presiding.

(g) Judgment of the Board. The Board will issue a decision within a reasonable time following the conclusion of the hearing. The decision must be in writing and be signed by the members of the Board. The decision shall set forth findings of fact, conclusions of fact and law, and the judgment. If a decision of the Board is not unanimous, the decision of the majority will control. The minority may file a dissenting opinion. The Board promptly shall mail or deliver a copy of its decision to the licensee, the investigating panel and, if appropriate, to the complainant. An order attached to the judgment will go into effect after the end of the 30 day appeal period, if no appeal is filed.

(h) Appeal From a Decision of the Board. A licensee aggrieved by a judgment of the Board may appeal that judgment to the Supreme Court. The Board may grant, or the court may order, a stay of the Board's order upon application of the licensee.

(i) Transcripts. A contested case hearing shall be recorded but not transcribed unless a transcript is requested by an interested person. Transcripts will be available for cost. The Board will provide an estimate of transcription cost before filling an order for transcript.