



STATE OF WASHINGTON
DEPARTMENT OF LABOR AND INDUSTRIES
PO Box 44480 • Olympia Washington 98504-4480

To: Owners, Property Managers, Elevator Companies, Elevator Inspectors,

RE: Implementation of the CIVIL PENALTY FOR FAILING TO PERFORM SAFETY TESTS

As L&I elevator inspectors continue to find conveyances overdue for their annual and five year safety tests, the Department is concerned that failing to enforce the civil penalty for overdue safety tests will result in continued risk to public safety. A safety test is due on the 12th month or 60th month anniversary from which it was last performed. The Department allows a 30 day grace period.

The department and industry leaders developed a proposal to set a clear start date for enforcement of the \$500 civil penalty. This allows elevator companies time to get caught up on overdue tests and ensures owners recognize they must have the tests performed.

The proposal was shared with elevator company points of contact and discussed at the August 18, 2015 Elevator Safety Advisory Committee meeting. Based on the positive response, the following plan will be implemented effective immediately:

State wide reset of the safety test performance and scheduling plan to be compliant by 6/30/16

- Elevator companies, with owners' input, may update the MCP logs with NEW scheduled dates for safety test completion. The updates MUST be visibly highlighted and in contrasting color on the MCP category logs (yellow marker will work best). The updated date may not be set later than 6/30/2016.
 - If updates have been made, or new logs are in place between now and 6/30/2016, L&I inspectors will enforce the required test dates according to the **highlighted updated** safety test portion of the log instead of the actual last performed date on the data tag.
 - If a company/owner does not update the logs by 12/31/2015, L&I inspectors will issue the correction based on the actual last performed date of the test.
 - Until 6/30/2016, a correction for overdue safety test can be remedied by updating the MCP log to reflect the new date. No updating or highlighted updates allowed after 6/30/2016.

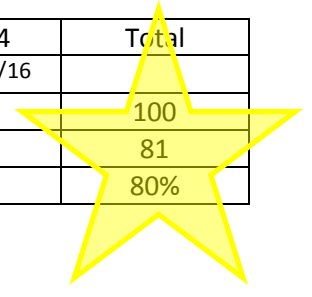
- Starting 1/1/16, L&I will begin enforcement of one \$500 civil penalty when an inspector finds that a safety test is overdue based on either the updated/highlighted date is past due or the original date is past due and no update was made to the MCP log.
- Starting 7/1/16, full enforcement of the \$500 civil penalties will begin. At that time, the Department will no longer allow modification/update to the MCP safety test dates and will instead revert back to the actual last performed date of test as signified by the safety test data tag.
- For an elevator company to be considered as pursuing compliance with the laws, rules, and codes; the companies must report safety test catch-up progress data on a quarterly basis starting on 3-31-16. The four reports should cover the following reporting periods:
 1. 7/1/15 to 09/30/15
 2. 10-01/15 to 12/31/15
 3. 1/1/16 to 3/31/16
 4. 4/1/16 6/30/16
- Companies that submit reports indicating less than an 80% catch-up rate by the end of the fourth quarter may be subject to statutory penalties, including license suspension.
- Companies that do not submit reports to the department and evidence indicates failure to perform safety tests is the result of a company's lack of compliance, the company may face statutory penalties to include license suspension.

This proposal provides a means to begin enforcement of the civil penalty where appropriate and provides a method to monitor the elevator companies' level of compliance and take action against companies who fall short (rather than continuing to penalize owners).

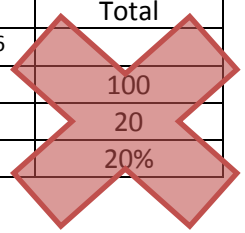
Please note the following examples of what will be accepted as a high level report. Note: if you're not achieving the target, you may be asked to produce a more detailed report.

Sample Quarterly Reports

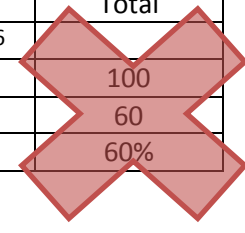
Quarter	Quarter 1	Quarter 2	Quarter 3	Quarter 4	Total
Dates	7/1/15 – 9/30/15	10/1/15 – 12/31/15	1/1/16 – 3/31/16	4/1/16 – 7/1/16	
Planned	25	25	25	25	100
Completed	1	5	25	50	81
Percentage	4%	20%	100%	200%	80%



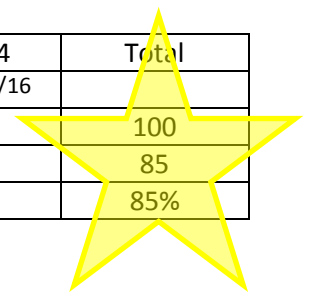
Quarter	Quarter 1	Quarter 2	Quarter 3	Quarter 4	Total
Dates	7/1/15 – 9/30/15	10/1/15 – 12/31/15	1/1/16 – 3/31/16	4/1/16 – 7/1/16	
Planned	25	25	25	25	100
Completed	5	5	5	5	20
Percentage	20%	20%	20%	20%	20%



Quarter	Quarter 1	Quarter 2	Quarter 3	Quarter 4	Total
Dates	7/1/15 – 9/30/15	10/1/15 – 12/31/15	1/1/16 – 3/31/16	4/1/16 – 7/1/16	
Planned	25	25	25	25	100
Completed	5	10	15	30	60
Percentage	20%	40%	60%	120%	60%



Quarter	Quarter 1	Quarter 2	Quarter 3	Quarter 4	Total
Dates	7/1/15 – 9/30/15	10/1/15 – 12/31/15	1/1/16 – 3/31/16	4/1/16 – 7/1/16	
Planned	25	25	25	25	100
Completed	15	30	15	25	85
Percentage	60%	120%	60%	100%	85%



Questions and Answers:

- 1) Will an inspector write a correction if my MCP safety test log is not updated with a highlighter?
 - a. Yes, and we're looking for a contrasting color, so if the original highlighter was yellow, we expect a different color, such as green or red.
- 2) Will an inspector write a correction if the new highlighted date is past due?
 - a. Yes, and if it is more than 30 days past due, starting 1/1/2016 you will receive a civil penalty of \$500.
- 3) If I place a new MCP log in place because I have a new elevator contractor or because of the New Year 2016, should my safety tests be highlighted in yellow?
 - a. Yes, if they are due between 7/1/15 and 6/30/16 and these dates are beyond the safety test data tag.
- 4) If I do not have a regular or contracted elevator company, can I as the owner highlight the log?
 - a. You may, but you should have confirmation from an elevator company that they will be there on the highlighted date.
- 5) If the inspector wrote a correction to perform the safety test, how long do I have to comply?
 - a. The test must be performed, or the log updated with a new date, within 90 days. Please note: the updated date cannot be set beyond 6/30/2016.
 - b. After 1/1/16, you may receive a civil penalty of \$500 and you have 90 days to comply.
- 6) What do I put on the inspection report if I have a correction indicating a past due safety test?
 - a. Perform the safety test or,
 - b. Indicate on the inspection report the month the MCP logs have been updated to with a yellow highlighter.
 - c. Submit the report to the department. Under no circumstance may you update the log beyond 6/30/2016
- 7) What if I need to update the log to a date beyond 6/30/2016
 - a. Any date beyond 6/30/2016 will not be allowed as the date will refer back to the actual safety test due date as indicated on the machine room documentation (safety test tag). You may be subject to a civil penalty of \$500 per month for each conveyance past due.
- 8) Will there be a cap to the civil penalties?
 - a. Yes, there will be a cap. Between now and 7/1/2016 the department will establish the rationale for how penalties will be applied and capped.
- 9) Will the City of Spokane or Seattle follow the same model?
 - a. No, they have their own plan.

- 10) Will elevator companies be subject to punitive damages if their customer's willfully refuse to pay for or allow the safety test to be performed?
 - a. No, this is the reason for requiring companies to produce a safety test catch-up progress report on a quarterly basis. The report should help us determine which owners are not cooperating.

- 11) I am an elevator company who is not having problems getting my safety tests performed on time. Do I need to produce a report?
 - a. No. Based on the inspectors' review of MCP logs, if your company doesn't consistently demonstrate a lack of compliance, we have no reason to review your report.
 - b. If your customer base is willfully not compliant with the safety test requirements, it would be in your company's best interest to have the logs because we will initially recognize the lack of compliance.

- 12) I am an elevator company who is having problems getting my safety tests performed on time. I do not plan to give the state the reports.
 - a. The state plans to be objective in responding to a company's lack of compliance with the safety tests. If the reports are not delivered, the state may consider your actions willful, which will jeopardize your ability to maintain an active elevator contractor license in the State of Washington.