



State of Wisconsin \ Department of Safety and Professional Services

HEARING DRAFT of PROPOSED RULES

Rule No.:

Chapter SPS 333

Relating to:

Passenger Ropeways

The Wisconsin Department of Safety and Professional Services adopts an order to amend SPS 333.03 (1); to renumber SPS 333.15; to renumber and amend SPS 333.17; to repeal and recreate SPS 333.12 (2), and to create SPS 333.03 (3) (b), (4) and (5), SPS 333.14 Note, SPS 333.15 (2), SPS 333.17 (2) and (3), SPS 333.23 and SPS 333.24 relating to passenger ropeways and affecting small business.

Analysis of Rule

1. Statutes Interpreted

Statutes Interpreted: s. 101.17, Stats.

2. Statutory Authority

Statutory Authority: ss. 101.02 (1) and 101.17, Stats.

3. Related Statute or Rule

none

4. Explanation of Agency Authority

Under the authority of s. 101.17, Stats., the Department of Safety and Professional Services has oversight of various mechanical devices and equipment, which includes ski lifts and tows, in order to protect public safety. The Department fulfills this responsibility by promulgating the Passenger Ropeways Code, under chapter SPS 333.

5. Summary of Proposed Rules

The current rules of ch. SPS 333 require passenger ropeways to be designed, constructed, installed, maintained and operated in accordance with the 1999 edition of ANSI B77.1 standard Passenger Ropeways – Aerial Tramways, Aerial Lifts, Surface Lifts, Tows and Conveyors – Safety Requirements. The proposed rules will reference and adopt the 2011 edition of the ANSI B77.1 standard.

6. Summary of, and Comparison with, Existing or Proposed Federal Regulations

There are no existing or proposed federal regulations that address the specific issues of this rule.

7. Comparison with Rules in Adjacent States

An Internet search of the ski lift regulations for the states of Illinois, Iowa, Michigan and Minnesota indicated the following:

- Illinois adopts and references the 2006 edition of the ANSI 77.1 standard.

- Iowa does not have any specific state standards for the design, construction, installation, maintenance or operation for passenger ropeways.
- Michigan adopts and references the 2006 edition of the ANSI 77.1 standard.
- Minnesota does not have any specific state standards for the design, construction, installation, maintenance or operation for passenger ropeways.

8. Summary of Factual Data and Analytical Methodologies

The department reviewed and compared provisions of the currently adopted 1999 edition ANSI B77.1 standard to the 2006 and 2011 editions. The latest editions of the ANSI standard make a few specific design provisions retroactive for existing ropeway systems. Most of the retroactive design requirements were established under the 2006 edition of the ANSI standard and addressed communications, evacuation power, rollback devices, cable catchers, and deropement switches. The 2011 ANSI edition retroactively requires bullwheel brakes for existing fixed grip aerial lift systems. Operation and maintenance provisions relating to signage are required to be more pictorial in nature with the 2006 ANSI edition compared to the 1999 edition.

9. Effect on Small Business including an Analysis and Supporting Documents Used to Determine the Effect or in Preparation of Economic Impact Report.

The rules were developed with input from an advisory council that includes representatives of ski hill owners and operators. There are 50 existing ski/tubing facilities in the state operating approximately 200 passenger ropeway systems.

Two-thirds of the ski hill operations, involving about 130 passenger ropeway systems, are insured and inspected annually by third-party inspectors either employed or contracted by national insurance companies covering ski hill operations. It is the understanding of the department that the insurance company inspections are based upon the latest edition of the ANSI B77.1 standard.

The advisory council and the department believe that most of the existing passenger ropeway systems in the state currently comply with the retroactive design provisions of the latest ANSI B77.1 standards. If an existing passenger ropeway system would need to comply with the various retroactive requirements, the cost would depend upon the retroactive provisions involved and other variables including the type of passenger ropeway system, system manufacturer, the length of the system and the capacity of the system. Estimates, as provided by advisory council members, associated with the components of the various retroactive provisions are:

- communications, battery backup phone systems - \$200.
- rollback devices and bullwheel brakes:
 - rollback detection device - \$2,800.
 - automatic emergency hydraulic release system - \$1,500.
 - electronics - \$1,000.

Some ski areas may need to replace signage to conform to the latest ANSI standard requirements. The typical cost of a sign is about \$40. Signs are subject to weathering and most ski areas account for replacement in their operating budgets.

The department does not believe that the proposed rules will affect a significant number of existing ski hill operations.

Members of the advisory council are:

- Jim Engel, WI Ski Industries Association (WSIA)
- Sam Geise, Insurance Industry
- Hans Hauschild, WSIA
- Jim Hubing, National Ski Patrol System
- Don McKay, WSIA
- Gren Rudd, Ski Industry At Large
- Rick Schmitz, WSIA
- Dennis Schulz, Ski Industry At Large
- Chris Stoddard, Ski Industry At Large
- Rob Walz, WSIA

10. Agency Contact.

James Quast, Program Manager, jim.quast@wisconsin.gov, (608) 266-9292

11. Public Hearing Comments.

The hearing record on this proposed rulemaking will remain open until March 2, 2012. Written comments on the proposed may be submitted to James Quast, at the Department of Safety and Professional Services, P.O. Box 2689, Madison, WI 53701-2689, or Email at jim.quast@wisconsin.gov.

SECTION 1. SPS 333.03 (1) is amended to read:

SPS 333.03 (1) NEW INSTALLATIONS. This chapter applies to all passenger ropeways installed or constructed on or after ~~September 1, 2001~~ November 1, 2012.

SECTION 2. SPS 333.03 (3) is renumbered SPS 333.03 (3) (a) and as renumbered is amended to read:

SPS 333.03 (3) EXISTING ALTERATIONS. (a) The applicable operation and maintenance requirements of this apply to passenger ropeways installed or constructed prior to ~~September 1, 2001~~ November 1, 2012.

SECTION 3. SPS 333.03 (3) (b), (4) and (5) are created to read:

SPS 333.03 (3) (b) Unless otherwise specifically stated in this chapter, existing passenger ropeway installations and their components shall be maintained to conform to the passenger ropeway code that applied when the installations or components were installed or altered.

(4) STANDARDS. (a) Where any rule written by the department differs from a requirement within a document referenced in this chapter, the rule written by the department shall govern.

(b) Where a provision of this chapter prescribes a general requirement and another provision of this chapter prescribes a specific or more detailed requirement regarding the same subject, the specific or more detailed requirement shall govern, except as provided in par. (a).

(c) Where different sections of this chapter specify conflicting requirements, the most restrictive requirement, as determined by the department, shall govern, except as provided in pars. (a) and (b).

(5) INTERPRETATIONS. Under s. 101.02 (1), Stats., the department reserves the right to interpret the requirements in this chapter and in all adopted codes and standards.

Note: Section 101.02 (1) of the Statutes reads as follows: "The department shall adopt reasonable and proper rules and regulations relative to the exercise of its powers and authorities and proper rules to govern its proceedings and to regulate the mode and manner of all investigations and hearings."

SECTION 4. SPS 333.12 (2) is repealed and recreated to read:

SPS 333.12 (2) (a) 1. All passenger ropeways, including existing passenger ropeways installed or constructed prior to November 1, 2012, shall be inspected at least once every 12 months by the department or a third-party independent inspector.

2. The inspection shall ascertain whether a permit to operate may be issued for each passenger ropeway.

3. Depending upon the type of passenger ropeway, the inspection shall cover at least the aspects of a general inspection as applicable under ANSI B77.1 sections 3.3.4.1, 4.3.4.1, 5.3.4.1, 6.3.4, or 7.3.4.

Note: Prior to July 1, 1984, administrative rules for aerial tramways, aerial lifts, surface lifts and rope tows were specified in ch. Ind 46. Since July 1, 1984, the rules have been specified in chs. ILHR 33, Comm 33 and this chapter.

(b) 1. By October 1 of each year, the owner of a passenger ropeway shall notify the department in writing if the next required periodic inspection is to be performed by a third party independent inspector.

2. If the notification is not made by October 1, the department may conduct the required period inspection and charge the owner the applicable fee specified under ch. SPS 302.

(c) 1. A third-party independent inspector conducting a periodic inspection under par. (a) shall be employed by or contracted by an insurance company providing liability coverage for the passenger ropeway.

2. If a third party independent inspector is unable to obtain compliance with this chapter, the inspector shall notify the department.

3. All correspondence and documentation that is sent by the owner of a ropeway to a third party independent inspector addressing cited violations of this chapter shall also be sent by the owner to the department.

(d) 1. a. Except as provided subpar. b., reports of periodic inspections shall be submitted to the department within 30 days from the date of inspection.

b. A report of a periodic inspection shall be submitted to the department within 10 days from the date of inspection if the inspector does not recommend issuing the permit to operate for the ropeway.

2. A copy of the inspection shall be provided to the owner or their agent of the ropeway.

3. A periodic inspection shall be reported on form SBD-10633 or other approved form.

SECTION 5. SPS 333.14 Note is created to read:

SPS 333.14 Note: The department and other state agencies may have additional rules that affect the design, construction, maintenance and use of passenger ropeways, including chs. SPS 310, Flammable and Combustible Liquids; SPS 314, Fire Prevention; SPS 316, Electrical; SPS and 340, Gas Systems. The department's Safety and Buildings Division administers all of these listed codes except ch. SPS 310, which is administered by the department's Environmental and Regulatory Services Division.

SECTION 6. SPS 333.15 is renumbered SPS 333.15 (1).

SECTION 7. SPS 333.15 (2) is created to read:

SPS 333.15 (2) The owner of the passenger ropeway which malfunction resulting in bodily injury may not remove or disturb the ropeway or any its components or permit any such removal or disturbance prior to receiving authorization from the department, except for the purpose of reducing further bodily harm or property damage.

SECTION 8. SPS 333.17 is renumbered SPS 333.17 (1) and is amended to read:

SPS 333.17 Incorporation of standards by reference. (1) The American National Standard for Passenger Ropeways – Aerial Tramways, Aerial Lifts, Surface Lifts, Tows and Conveyors – Safety Requirements, ANSI B77.1–1999 B77.1–2011, subject to the changes, additions and omissions specified in subch. III, is hereby incorporated by reference into this chapter.

Note: Copies of the ANSI B77.1 standard can be purchased from Global Engineering Documents, Customer Support A105 M/S A1108, 15 Inverness Way, Englewood, CO 80112, telephone 800/624-3974 877/413-5184, or from the National Ski Areas Association, 133 South Van Gordon Street, Suite 300, Lakewood, CO 80228, telephone 303/987-1111.

Note: Copies of standards incorporated by reference are on file in the offices of the department and the legislative reference bureau.

SECTION 9. SPS 333.17 (2) and (3) are created to read:

SPS 333.17 (2) Any codes or standards referenced in the standards adopted in sub. (1) shall apply to the prescribed extent of each such reference, except as modified by this chapter.

(3) Any alternate standard that is equivalent to or more stringent than a standard incorporated by reference or otherwise referenced under this chapter may be used in lieu of the incorporated or referenced standard if the alternate standard is accepted in writing by the department.

SECTION 10. SPS 333.23 is created to read:

SPS 333.23 Electrical. Substitute the following wording for the requirements in B77.1 sections 2.2.1.1, 3.2.1.1, 4.2.1.1, 5.2.1.1, 6.2.1.1 and 7.2.1.1: Electrical systems shall comply with ch. SPS 316.

Note: Chapter SPS 316 references and adopts the National Electrical Code, NFPA 70. The latest edition of the National Electrical Code adopted under chapter SPS 316 is 2008.

SECTION 11. SPS 333.24 is created to read:

SPS 333.24 Applicable effective date. Substitute November 1, 2013 as the effective for all of the design requirements listed in B77.1 sections 3.3.1.1, 4.3.1.1, 5.3.1.1, and 6.3.1.1.

END

EFFECTIVE DATE

Pursuant to s. 227.22 (2) (b), Stats., these rules shall take effect on November 1, 2012.



P.O. Box 7970
Madison, Wisconsin 53707
(608) 266-1816
TDD: Contact Through Relay

Scott Walker, Governor
Dave Ross, Secretary

Bruce Hoesly, Code Editor
Legislative Reference Bureau
Suite 200
1 East Main Street
Madison, Wisconsin 53703

**TRANSMITTAL OF WRITTEN NOTICE
OF HEARING AND LEGISLATIVE COUNCIL REVIEW**

RULE NO.: Chapter SPS 333

RELATING TO: Passenger Ropeways

AGENCY UNIT RESPONSIBLE: Division of Board Services

PUBLIC HEARING REQUIRED: YES NO

CONTACT PERSON: James Quast TITLE: Program Manager

TELEPHONE: (608) 266-9292 EMAIL: jim.quast@WI.gov

Pursuant to sections 227.14 (4m) and 227.17, Stats., agencies are required to transmit a written notice of submittal of proposed rules to the Legislative Council and a written notice of hearing to the Legislative Reference Bureau, for publication in the *Administrative Register*.

This rule is not subject to s. 227.135 (2), as affected by 2011 Wis. Act 21. The statement of scope for this rule was published in Register 619, on July 31, 2007, and was sent to LRB before the effective date of 2011 Wis. Act 21.

On the date on this letter the department is submitting proposed rules to the Legislative Council and is submitting the following material to you:

1. Notice of Public Hearing or 30-Day Notice of Proposed Rulemaking.
2. Fiscal Estimate and Economic Impact.
3. Initial Regulatory Flexibility Analysis.
4. Draft of Proposed Rules.

STATE OF WISCONSIN
DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

**NOTICE OF
PUBLIC HEARING**

NOTICE IS HEREBY GIVEN that pursuant to ss. 101.02 (1) and 101.17, Stats., the Department of Safety and Professional Services will hold a public hearing on proposed rules under chapter SPS 333 relating to Passenger Ropeways.

The public hearing will be held as follows:

Date and Time:

Tuesday, February 28, 2012
10:00 a.m.

Location:

1400 E. Washington Ave
Room 121C
Madison, WI

Interested persons are invited to appear at the hearing and present comments on the proposed rules. Persons making oral presentations are requested to submit their comments in writing. Persons submitting comments will not receive individual responses. The hearing record on this proposed rulemaking will remain open until March 2, 2012 to permit submittal of written comments from persons who are unable to attend the hearing or who wish to supplement testimony offered at the hearing. Written comments should be submitted to James Quast, at the Department of Safety and Professional Services, P.O. Box 2689, Madison, WI 53701-2689, or Email at jim.quast@wisconsin.gov.

This hearing is held in an accessible facility. If you have special needs or circumstances that may make communication or accessibility difficult at the hearing, please call (608) 266-8741 or (608) 264-8777 (TTY) at least 10 days before the hearing date. Accommodations such as interpreters, English translators, or materials in audio tape format will, to the fullest extent possible, be made available upon a request from a person with a disability.

The proposed rules and an analysis of the proposed rules are available on the Internet at the Safety and Buildings Division Web site at <http://dsps.wi.gov/sb/SB-HomePage.html>. Paper copies may be obtained without cost from Shancethea Leatherwood, at the Department of Safety and Professional Services, Board Services Division, P.O. Box 8935, Madison, WI 53708, or Email shancethea.leatherwood@wisconsin.gov, or at telephone (608) 261-4438 or TDD Relay dial 711 in Wisconsin or (800) 947-3529. Copies will also be available at the public hearing.

The small business regulatory coordinator for the Department of Safety and Professional Services is Greg Gasper, who may be contacted at telephone (608) 266-8608, or Email at greg.gasper@wisconsin.gov.

ADMINISTRATIVE RULES FISCAL ESTIMATE AND ECONOMIC IMPACT ANALYSIS

Type of Estimate and Analysis

Original Updated Corrected

Administrative Rule Chapter, Title and Number

Chapter SPS 333

Subject

Passenger Ropeways

Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

Chapter 20, Stats. Appropriations Affected

Fiscal Effect of Implementing the Rule

No Fiscal Effect
 Indeterminate

Increase Existing Revenues
 Decrease Existing Revenues

Increase Costs
 Could Absorb Within Agency's Budget
 Decrease Costs

The Rule Will Impact the Following (Check All That Apply)

State's Economy

Local Government Units

Specific Businesses/Sectors

Public Utility Rate Payers

Would Implementation and Compliance Costs Be Greater Than \$20 million?

Yes No

Policy Problem Addressed by the Rule

Under the authority of s. 101.17, Stats., the Department of Safety and Professional Services has oversight of various mechanical devices and equipment, which includes ski lifts and tows, in order to protect public safety. The current rules of chapter SPS 333 require passenger ropeways to be designed, constructed, installed, maintained and operated in accordance with the 1999 edition of ANSI B77.1 standard Passenger Ropeways – Aerial Tramways, Aerial Lifts, Surface Lifts, Tows and Conveyors – Safety Requirements. The code was last updated in 2001. Since that time the ANSI standard has been revised twice, the 2011 being the current edition. The technical provisions of chapter SPS 333 are out of date and no longer reflect current national standards.

Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

The rules were developed with input from an advisory council that includes representatives of ski hill owners and operators. There are 50 existing ski/tubing facilities in the state operating approximately 200 passenger ropeway systems. Of the 50 existing facilities, a handful are municipally owned and usually involve a single ropeway system. Over the last 5 years, an average of 3 systems has been added or replaced existing systems across the state.

Two-thirds of the ski hill operations, involving about 130 passenger ropeway systems, are insured and inspected annually by third-party inspectors either employed or contracted by national insurance companies covering ski hill operations. It is the understanding of the department that the insurance company inspections are based upon the latest edition of the ANSI B77.1 standard.

The advisory council and the department believe that most of the existing passenger ropeway systems in the state currently comply with the retroactive design provisions of the latest ANSI B77.1 standards. If an existing passenger ropeway system would need to comply with the various retroactive requirements, the cost would depend upon the retroactive provisions involved and other variables including the type of passenger ropeway system, system manufacturer, the length of the system and the capacity of the system. Estimates, as provided by advisory council members, associated with the components of the various retroactive provisions are:

- communications, battery backup phone systems - \$200
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 - rollback detection device - \$2,800
 - automatic emergency hydraulic release system - \$1,500
 - electronics - \$1,000

Some ski areas may need to replace signage to conform to the latest ANSI standard requirements. The typical cost of a sign is about \$40. Signs are subject to weathering and most ski areas account for replacement in their operating budgets.

The department does not believe that the proposed rules will affect a significant number of existing ski hill operations.

Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

The proposed rules referencing and adopting the 2011 edition of the ANSI B77.1 standard would provide a degree of protection for the safety of the people using passenger ropeways equivalent to that established by a national consensus model (standard). The latest ANSI standard is also used by manufacturers to design and construct passenger ropeways. Leaving the code to reference an out-of-date standard would potentially increase the risk to public safety by setting lower design, operational and maintenance thresholds in comparison to published engineering practices.

Long Range Implications of Implementing the Rule

No long range implications of implementing the rule are anticipated..

Compare With Approaches Being Used by Federal Government

There are no existing or proposed federal regulations that address the specific issues of this rule.

Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

An Internet search of the ski lift regulations for the states of Illinois, Iowa, Michigan and Minnesota indicated the following:

- Illinois adopts and references the 2006 edition of the ANSI 77.1 standard.
- Iowa does not have specific state standards for the design, construction, installation, maintenance or operation for passenger ropeways.
- Michigan adopts and references the 2006 edition of the ANSI 77.1 standard.
- Minnesota does not have any specific state standards for the design, construction, installation, maintenance or operation for passenger ropeways.

Name and Phone Number of Contact Person

James Quast, program manager, (608) 266-9292

INITIAL REGULATORY FLEXIBILITY ANALYSIS

Department of Safety and Professional Services

RULE NO.: Chapter SPS 333

RELATING TO: Passenger Ropeways

1. Types of small businesses that will be affected by the rules.

Businesses affected by the rules include those operations offering downhill skiing, snow boarding and/or tubing where access to the slopes and hills is provided by mechanical means, such as chair lift, surface lifts, rope tows or conveyor systems.

2. Reporting, bookkeeping and other procedures required for compliance with the rules.

No new or addition bookkeeping or other administrative procedures are required for compliance.

3. Types of professional skills necessary for compliance with the rules.

No new or addition professional skills are required for compliance.

NOTICE of ENVIRONMENTAL ANALYSIS

Department of Safety and Professional Services

Rule No.: Chapter SPS 333

Relating to: Passenger Ropeways

Notice is hereby given that the Department has considered the environmental impact of the proposed rules. In accordance with chapter Comm 1, the proposed rules are a Type III action. A Type III action normally does not have the potential to cause significant environmental effects and normally does not involve unresolved conflicts in the use of available resources. The Department has reviewed these rules and finds no reason to believe that any unusual conditions exist. At this time, the Department has issued this notice to serve as a finding of no significant impact.