

# ***Wisconsin Administrative Code***

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## **DEPARTMENT OF COMMERCE**

### **Chapter Comm 33**

### **PASSENGER ROPEWAYS**

**DEPARTMENT OF COMMERCE  
201 West Washington Avenue  
Madison, Wisconsin 53703  
608-266-3151**

## INTRODUCTION

### Purpose and Structure

The Legislature, by s. 35.93 and ch. 227, Stats., directed the publication of the rules of executive agencies having rule-making authority in a loose-leaf, continual revision system known as the Wisconsin Administrative Code. The Code is kept current by means of new and replacement pages. The pages are issued monthly, together with notices of hearings, notices of proposed rules, notices of emergency rules, instructions for insertion of new material, and other information relating to administrative rules and the administrative rulemaking process. This service is called the Wisconsin Administrative Register, and comes to the subscriber near the middle and at the end of each month. Code pages are issued to subscribers only with the end of the month Register. The editing and publishing of the Register and Code is done by the Revisor of Statutes Bureau, Suite 800, 131 W. Wilson St., Madison, Wisconsin, 53703. E-mail-gary.poulson@legis.state.wi.us Telephone (608-266-7275).

### Availability

The complete code and the upkeep service are distributed to the county law libraries; to the libraries of the University of Wisconsin Law School and Marquette University Law School; to the State Historical Society; to the Legislative Reference Bureau and to the State Law Library, and to certain designated public libraries throughout the state.

The sale and distribution of the printed Register, Code and of its parts is handled by Department of Administration, Document Sales, P.O. Box 7840, Madison, Wisconsin 53707. (608-266-3358 information) (1-800-362-7253 or 608-264-9419 charge card orders).

The entire Code and Registers from January, 1996, can be found on the WisLaw<sup>®</sup> CD-ROM. End-user license and subscription order forms are available from Document Sales and Distribution.

The Code and Register can also be found on the internet at [www.legis.state.wi.us/rsb](http://www.legis.state.wi.us/rsb)

### Arrangement and Table of Contents

The Code is arranged in the complete set alphabetically by agency. Certain descriptors such as "Department" and "Wisconsin" are ignored for arrangement purposes. Several agencies further subdivide their rules either by program e.g. Department of Commerce - Plumbing or by division within the agency e.g. Department of Health & Family Services - Health, chs. HFS 110-. These Codes are arranged in numerical order within the appropriate alphabetical arrangement for the agency.

Each agency adopts a prefix to identify their rules. For example, the Department of Natural Resources uses "NR" before each chapter number.

Each Code with more than one chapter will have a table of chapters. After the title of each chapter will be the page numbers on which the chapter begins. Each chapter will have a table of sections.

### History Notes

Each page of the Code as it was originally filed and printed pursuant to the 1955 legislation, had a date line "1-2-56". A rule which is revised or created subsequent to the original printing date is followed by a history note indicating the date and number of the Register in which it was published and the date on which the revision or creation of the rule became effective. Additions to a section's history note will be shown in bold face when those affected code sections are first released. The absence of a history note at the end of a section indicates that the rule has remained unchanged since the original printing in 1956. The date line at the bottom of the page indicates the month in which the page was released, but does not necessarily mean a substantive change has occurred on that page. Some common abbreviations used in the history notes are: cr. - created, am. - amend, r. - repeal, recr. - recreate, renum. - renumber, eff. - effective and emerg. - emergency.

In some instances an *entire* chapter has been repealed and recreated or renumbered subsequent to the original printing date. When this occurs a note has been placed at the beginning of the chapter after the table of sections to contain this information. A separate history note appears after each section indicating the date when the revision or creation became effective.

Beginning July 2001, history notes will indicate the Clearinghouse Rule number associated with a rule revision. The Clearinghouse Rule number is assigned by the Legislative Council Rules Clearinghouse to a proposed rule near the start of the rulemaking process. This number is portrayed in a history note as, for example, the following: **CR 01-041**. The first 2 numbers indicate the year the rule proposal was initiated and the last 3 numbers refer to a sequential numbering of proposals as the rule proposals are received by the Legislative Council during the course of the year.

### Emergency Rules

The Legislature has granted state agencies the authority to enact rules without using the normal rule-making process by publishing those rules in the official state newspaper. To justify the use of the emergency rule process, an agency must find that the preservation of the public peace, health, safety or welfare will be jeopardized without the emergency rule. Readers should review the current Wisconsin Administrative Register to see if a particular published rule is also affected by an emergency rule. Most emergency rules are eventually adopted as permanent rules and published in the Code.

### Index

The index for the complete Wisconsin Administrative Code will be found in the last volume of the complete set. It will be recompiled, reprinted and distributed at least 3 times a year. Some Codes have a separate index prepared by the agency involved. Agency prepared indexes tend to be more comprehensive than the general index prepared by the Revisor of Statutes. See the Uniform Dwelling Code (chs. Comm 20-25) and the Building and Heating Code (chs. Comm 50-64) as examples.

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## Chapter Comm 33

### PASSENGER ROPEWAYS

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**Note:** Chapter Ind 46 as it existed on June 30, 1984 was repealed and a new chapter ILHR 33 was created effective July 1, 1984; Chapter ILHR 33 as it existed on April 30, 1994 was repealed and a new chapter ILHR 33 was created effective May 1, 1994; Chapter ILHR 33 was renumbered chapter Comm 33 under s. 13.93 (2m) (b) 1., Stats., Register, May, 1998, No. 509; **Chapter Comm 33 was repealed and recreated, Register August 2001 No. 548.**

#### Subchapter I – Administration and Enforcement

**Comm 33.01 Purpose.** Pursuant to ss. 101.02 (1) and 101.17, Stats., the purpose of this chapter is to protect the health, safety and welfare of employees and frequenters in places of employment and public buildings utilizing passenger ropeways.

**Note:** See s. 101.01, Stats., for the definitions of "place of employment" and "public building".

**Note:** See ANSI B77.1 as adopted in s. Comm 33.17 for the definition of "passenger ropeway".

**History:** CR 00-132: cr. Register August 2001 No. 548, eff. 9-1-01.

**Comm 33.02 Scope.** This chapter establishes minimum standards for the design, construction, installation, operation, maintenance and inspection of passenger ropeways.

**History:** CR 00-132: cr. Register August 2001 No. 548, eff. 9-1-01.

**Comm 33.03 Application. (1) NEW INSTALLATIONS.** This chapter applies to all passenger ropeways installed or constructed on or after September 1, 2001.

**(2) ALTERATIONS.** This chapter applies to all alterations of and additions to passenger ropeways which affect the passenger ropeway's design, structural strength or operation or which replace any piece of major equipment on the passenger ropeway. This chapter does not apply to minor repairs necessary for a passenger ropeway's maintenance.

**(3) EXISTING INSTALLATIONS.** The applicable operation and maintenance requirements of this chapter apply to passenger ropeways installed or constructed prior to September 1, 2001.

**History:** CR 00-132: cr. Register August 2001 No. 548, eff. 9-1-01.

**Comm 33.05 Petition for variance.** The department shall consider and may grant a variance to a nonstatutory provision of this chapter in accordance with ch. Comm 3. The petition for variance shall include, where applicable, a position statement from the fire department having jurisdiction.

**Note:** Chapter Comm 3 requires the submittal of a petition for variance form (SBD-9890) and a fee, and that an equivalency is established in the petition for variance that meets the intent of the rule being petitioned. Chapter Comm 3 also requires the department to process regular petitions within 30 business days and priority petitions within 10 business days.

**Note:** Form SBD-9890 is available at no charge from the department at the Safety and Buildings Division, P.O. Box 2509, Madison WI 53701-2509, telephone 608/266-1818 or TTY 608/264-8777.

**History:** CR 00-132: cr. Register August 2001 No. 548, eff. 9-1-01.

**Comm 33.06 Fees.** Fees for the plan examination, permit to operate, load test and inspection of passenger ropeways shall be submitted to the department as specified in ch. Comm 2.

**History:** CR 00-132: cr. Register August 2001 No. 548, eff. 9-1-01.

**Comm 33.07 Penalties.** Penalties for violations of this chapter shall be assessed in accordance with s. 101.02 (12) and (13) (a), Stats.

**Note:** Section 101.02 (12), Stats., indicates that every day during which any person, persons, corporation or any officer, agent or employee thereof, fails to observe and comply with an order of the department will constitute a separate and distinct violation of such order.

**Note:** Section 101.02 (13) (a), Stats., indicates that if any employer, employee, owner, or other person violates ss. 101.01 to 101.25, Stats., or fails or refuses to perform any duty lawfully enjoined, within the time prescribed by the department, for which no penalty has been specifically provided, or fails, neglects or refuses to obey any lawful order given or made by the department, or any judgment or decree made by any court in connection with ss. 101.01 to 101.25, Stats., for each such violation, failure or refusal, such employer, employee, owner or other person shall forfeit and pay into the state treasury a sum not less than \$10 or more than \$100 for each such offense.

**History:** CR 00-132: cr. Register August 2001 No. 548, eff. 9-1-01.

**Comm 33.08 Appeals. (1) APPEAL OF DEPARTMENT ORDER.** Pursuant to s. 101.02 (6) (e), Stats., any person who owns or occupies a property that is affected by an order of the department may petition the department for a hearing on the reasonableness of the order.

**(2) APPEAL OF LOCAL ORDER.** Pursuant to s. 101.02 (7) (b), Stats., any person affected by a local order that is in conflict with an order of the department may petition the department for a hearing on the local order.

**(3) PETITION OF ADMINISTRATIVE RULE.** Pursuant to s. 227.12, Stats., any municipality, corporation or any 5 or more persons having an interest in an administrative rule may petition the department requesting the adoption, amendment or repeal of the rule.

**History:** CR 00-132: cr. Register August 2001 No. 548, eff. 9-1-01.

#### Subchapter II – General Requirements

**Comm 33.10 Department review. (1) PLANS AND SPECIFICATIONS. (a)** Before commencing the construction, installation or relocation of or addition to a passenger ropeway, plans and specifications for the proposed passenger ropeway shall be submitted to the department for review and approval.

**Note:** Plans and specifications are to be submitted to the department at the Safety and Buildings Division, Bureau of Integrated Services, 401 Pilot Court, Suite C, Waukesha, Wisconsin 53188.

**(b)** At least 3 clear, legible and permanent copies of the plans and one copy of the specifications shall be submitted to the department.

**Note:** Original drawings are not considered a substitute for permanent copies.

**(c)** Plans shall include all of the following applicable information:

1. Name of the owner and the location of the passenger ropeway.
2. Name and address of the passenger ropeway's designer.
3. Site plan and profile map showing location of towers, power units, counterweights and pits.
4. Clearances of towers, path and counterweights.

5. Details of tower construction mountings, foundations and supports, sheave assemblies and carriages.

(d) The specifications shall be coordinated with the plans and describe the quality of the materials.

(e) All plans submitted for review shall be accompanied by sufficient data and information for the department to determine if the design of the passenger ropeway, the capacity of the equipment, and the performance of the passenger ropeway will conform to the requirements of this chapter.

**(2) PLAN APPROVAL.** (a) If the department determines that the plans and the specifications for the proposed passenger ropeway substantially conform to the requirements of this chapter, a written conditional approval shall be granted. All conditions not in compliance with this chapter, which are identified in the conditional approval, shall be corrected before or during construction or installation. A conditional approval issued under this subsection shall not impose any responsibility or liability upon the department for the design or construction of the passenger ropeway.

(b) If the department determines that the plans or the specifications for the proposed passenger ropeway do not substantially conform to the requirements of this chapter, the application for conditional approval shall be denied in writing.

**(3) EVIDENCE OF PLAN APPROVAL.** At least one set of plans bearing the department's stamp of conditional approval and a copy of the specifications for the passenger ropeway shall be kept at the passenger ropeway site. The plans and specifications shall be open to inspection by the department or a third party independent inspector.

**(4) REVOCATION OF APPROVAL.** The department may revoke any approval, issued under this chapter, for any false statements or misrepresentation of facts on which the approval was based.

**(5) PLAN REVIEW PROCESSING TIME.** The department shall review and make a determination on an application for plan review within 15 business days of receiving the required information and fees.

History: CR 00-132: cr. Register August 2001 No. 548, eff. 9-1-01.

**Comm 33.11 Ropeway alterations.** Complete information regarding an alteration which affects the design, structural strength or operation of a passenger ropeway or which replaces any piece of major equipment of a passenger ropeway shall be kept at the passenger ropeway site. The information shall be open to inspection by the department or a third party independent inspector.

Note: Examples of alterations include the ropeway modifications listed in ANSI B77.1 section 1.2.4.4.

History: CR 00-132: cr. Register August 2001 No. 548, eff. 9-1-01.

**Comm 33.12 Inspections and tests. (1) ACCEPTANCE INSPECTIONS.** (a) The acceptance inspections specified in the ANSI B77.1 standard adopted in s. Comm 33.17 shall be performed by the department.

(b) Notice shall be given to the department at least 5 business days prior to the time the passenger ropeway will be ready for inspection.

(c) If the inspection is not completed within 10 business days after the passenger ropeway is ready for inspection, the department shall issue a temporary permit to operate until an inspection is completed and the passenger ropeway is approved or disapproved.

**(2) PERIODIC INSPECTIONS.** (a) All passenger ropeways, including existing passenger ropeways installed or constructed prior to September 1, 2001, shall be inspected at least once every 12 months by the department or a third party independent inspector. The inspections shall ascertain whether the passenger ropeways meet the requirements of this chapter and, for existing passenger ropeways, the appropriate requirements in effect prior to September 1, 2001.

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 ch. ILHR 33 and this chapter.

(b) By October 1 of each year, the passenger ropeway owner shall notify the department in writing if the next required periodic inspection is to be performed by a third party independent inspector. If the notification is not made by October 1, the department may perform the next required periodic inspection and charge the owner the applicable fee specified in ch. Comm 2.

Note: The department can be notified at the Safety and Buildings Division, P.O. Box 7302, Madison, WI 53707-7302.

(c) Where the inspection required under par. (a) is performed by a third party independent inspector, the inspection report shall be filed with the department at least 10 business days prior to the expiration date on the permit to operate. If the report is not filed within the required time frame, the department may perform the next required periodic inspection and charge the owner the applicable fee specified in ch. Comm 2.

**(3) LOAD TESTS.** The acceptance tests specified in the ANSI B77.1 standard adopted in s. Comm 33.17 shall be witnessed by the department.

**(4) ADDITIONAL DATA.** When requested, additional data pertaining to the design, construction, materials or equipment of a passenger ropeway shall be submitted to the department for approval or to substantiate compliance with this chapter.

History: CR 00-132: cr. Register August 2001 No. 548, eff. 9-1-01.

**Comm 33.13 Permit to operate. (1) RESPONSIBILITY.** No passenger ropeway may be operated without a valid permit to operate. The owner of a passenger ropeway shall be responsible for obtaining and maintaining a valid permit to operate. The permit to operate shall be kept on the premise.

**(2) ISSUANCE.** After each initial or periodic inspection, a permit to operate shall be issued by the department upon determination that the passenger ropeway meets the applicable requirements of this chapter. The department shall issue a permit to operate within 10 business days from receipt of an inspection report showing compliance with this chapter.

**(3) EXPIRATION.** The permit to operate shall be valid for no longer than 12 months. The expiration date shall be printed on the permit to operate.

History: CR 00-132: cr. Register August 2001 No. 548, eff. 9-1-01.

**Comm 33.14 Owner's responsibility.** No owner may construct or alter any passenger ropeway or portion of a passenger ropeway, or permit any passenger ropeway to be constructed or altered except in compliance with this chapter. Compliance with this chapter does not relieve the owner from compliance with other administrative rules or statutes.

History: CR 00-132: cr. Register August 2001 No. 548, eff. 9-1-01.

**Comm 33.15 Accident reporting.** An accident resulting in bodily injury as a result of a passenger ropeway malfunction and that requires more than first aid treatment shall be reported to the department within 2 business days of the injury. Fatalities as a result of a passenger ropeway malfunction shall be reported within 24 hours of occurrence.

Note: Accidents are to be reported to the department at the Safety and Buildings Division, Field Operations Bureau, P.O. Box 2538, Madison, Wisconsin 53701-2538. Forms for reporting accidents may be obtained from the department at the same address.

Note: The department can be contacted at 608/266-2780 during normal business hours. The State Division of Emergency Management can be contacted at 800/943-0003 during nonbusiness hours.

History: CR 00-132: cr. Register August 2001 No. 548, eff. 9-1-01.

**Comm 33.16 Construction and operation.** All passenger ropeways shall be designed, constructed, installed, maintained and operated in accordance with the ANSI B77.1 standard incorporated by reference in s. Comm 33.17, subject to those changes, additions and omissions specified in subch. III.

History: CR 00-132: cr. Register August 2001 No. 548, eff. 9-1-01.

**Comm 33.17 Incorporation of standards by reference.** The American National Standard for Passenger Ropeways – Aerial Tramways, Aerial Lifts, Surface Lifts, Tows and Conveyors – Safety Requirements, ANSI B77.1–1999, 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, 15 Inverness Way, Englewood, CO 80112, telephone 800/624–3974, or from the National Ski Areas Association, 133 South Van Gordon Street, Suite 300, Lakewood, CO 80228.

**Note:** Copies of standards incorporated by reference are on file in the offices of the department, the secretary of state, and the revisor of statutes.

**History:** CR 00–132: cr. Register August 2001 No. 548, eff. 9–1–01.

### **Subchapter III – Changes or Additions to or Omissions from Adopted Standards**

**Comm 33.20 Changes or additions to or omissions from ANSI B77.1.** Changes or additions to or omissions from the ANSI B77.1 standard are specified in this subchapter and are rules of the department and are not requirements of the ANSI B77.1 standard.

**Note:** The referenced B77.1 rule number, located in brackets, follows the Comm designation and section title and precedes the text of the rule.

**History:** CR 00–132: cr. Register August 2001 No. 548, eff. 9–1–01.

**Comm 33.21 Scope and purpose [B77.1 1.1, 1.2 and 1.3].** The requirements of B77.1 section 1.1 – Scope, section 1.2 – Purpose, and section 1.3 – Reference to Other Codes and Standards are not included as part of this chapter.

**History:** CR 00–132: cr. Register August 2001 No. 548, eff. 9–1–01.

**Comm 33.22 Definitions [B77.1 1.4]. (1) ADDITIONS.** The following are department definitions in addition to the definitions in B77.1 section 1.4:

- (a) “Department” means the department of commerce.
- (b) “Evacuation” means an emergency unloading procedure to remove passengers at other than designated unloading areas.
- (c) “Path” means that area of a surface lift system or rope tow system traversed by a user which extends between the loading area and the point beyond the stop gate for the unloading area where a passenger would disembark if the stop gate was actuated.

**(2) SUBSTITUTIONS.** The following department definitions are substitutions for the respective definitions in B77.1 section 1.4:

- (a) “Approved” means acceptable to the department.
- (b) “Authority having jurisdiction” means the department.

**History:** CR 00–132: cr. Register August 2001 No. 548, eff. 9–1–01.

