

STATE OF WISCONSIN
DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

IN THE MATTER OF RULEMAKING : NOTICE OF TIME PERIOD
PROCEEDINGS BEFORE THE : FOR COMMENTS FOR THE
DEPARTMENT OF SAFETY AND : ECONOMIC IMPACT ANALYSIS
PROFESSIONAL SERVICES :

NOTICE IS HEREBY GIVEN of the time period for public comment on the economic impact of this proposed rule of the Department of Safety and Professional Services relating to Passenger Ropeways, including how this proposed rule may affect businesses, local government units and individuals. The comments will be considered when the Department of Safety and Professional Services prepares the Economic Impact Analysis pursuant to § 227.137. Written comments may be submitted to:

Jake Pelegrin, Administrative Rules Coordinator
Division of Policy Development
Department of Safety and Professional Services
PO Box 8366
Madison, WI 53708-8935
DSPSAdminRules@wisconsin.gov

The deadline for submitting economic impact comments is October 14, 2024.

PROPOSED ORDER

An order of the Department of Safety and Professional Services to **repeal** SPS 333.10 (1) (b) and Note, and SPS 333.11; to **amend** SPS 333.10 (1) (a), SPS 333.10 (1) (c) 5., SPS 333.15 (1), SPS 333.15 (2) (Note), SPS 333.17 (1), and SPS 333.24; and to **create** SPS 333.10 (1) (a) Note 2, SPS 333.155 and SPS 333.22 (2) (c) relating to Passenger Ropeways.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: Sections 101.02 (1) (b) and 101.12 (1), (1) (c) and (1) (e), Stats.

Statutory authority: Sections 101.02 (1) (b), (15) (h) to (j), 101.12 (1), (1) (c) and (1) (e), 101.17 (1), and 227.11 (2) (a), Stats.

Explanation of agency authority:

Section 101.02 (1) (b), Stats., states that “[t]he 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, subject to par. (c).”

Section 101.02 (15) (h), Stats., states that “[t]he department shall investigate, ascertain, declare and prescribe what safety devices, safeguards or other means or methods of protection are best adapted to render the employees of every employment and place of employment and frequenters of every place of employment safe, and to protect their welfare as required by law or lawful orders.”

Section 101.02 (15) (i), Stats., states that “[t]he department shall ascertain and fix such reasonable standards and shall prescribe, modify and enforce such reasonable orders for the adoption of safety devices, safeguards and other means or methods of protection to be as nearly uniform as possible, as may be necessary to carry out all laws and lawful orders relative to the protection of the life, health, safety and welfare of employees in employments and places of employment or frequenters of places of employment.”

Section 101.02 (15) (j), Stats., states that “[t]he department shall ascertain, fix and order such reasonable standards or rules for constructing, altering, adding to, repairing, and maintaining public buildings and places of employment in order to render them safe.”

Section 101.12 (1), Stats., states that “[e]xcept for plans that are reviewed by the department of health services under s. 50.02 (2) (b), 50.025, 50.36 (2), or 50.92 (3m), the department shall require the submission of essential drawings, calculations and specifications for public buildings, public structures and places of employment including the following components:[...]

(c) Elevators, escalators, lifts, as defined in § 167.33(1) (f), and power dumbwaiters. ...

(e) Amusement and thrill rides equipment.”

Section 101.17 (1), Stats., states: “[g]eneral prohibition. No machine, mechanical device, or steam boiler shall be installed or used in this state which does not fully comply with the requirements of the laws of this state enacted for the safety of employees and frequenters in places of employment and public buildings and with the orders of the department adopted and published in conformity with this subchapter. Any person violating this subsection shall be subject to the forfeitures provided in s. 101.02 (12) and (13).”

Section 227.11 (2) (a), Stats., provides that “[e]ach agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute, but a rule is not valid if the rule exceeds the bounds of correct interpretation.”

Related statute or rule: N/A

Plain language analysis:

The objective of the rule is to update Wisconsin Administrative Code ch. SPS 333, Passenger Ropeways, to reflect current national standards and to update administrative and enforcement aspects of the program. The rule adopts by reference the 2022 edition of the ANSI B77.1 (“American National Standard for Passenger Ropeways – Aerial Tramways, Aerial Lifts, Surface Lifts, Tows and Conveyors – Safety Requirements”) standard.

This rule project adds a requirement that any major modifications to a passenger ropeway shall have plans reviewed and approved by the Department. Additionally, all plans submitted under s. SPS 333.10 (1) for any passenger ropeway other than tows and conveyors need to include a description of the soil and the allowable soil pressure. The rule also requires mechanical malfunctions, which is defined, to be reported to the Department.

Summary of, and comparison with, existing or proposed federal regulation:

None.

Summary of public comments received on statement of scope and a description of how and to what extent those comments and feedback were taken into account in drafting the proposed rule: N/A

Comparison with rules in adjacent states:

Illinois: Rules of the Illinois Department of Labor adopt the 2006 edition of the ANSI B77.1 standard and govern ski lifts, aerial tramways, and rope tows [56 Ill. Adm. Code 6000.15 and 6000.290].

Iowa: Iowa does not have any specific state standards for the design, construction, installation, maintenance or operation for passenger ropeways (ski lifts). They do adopt ANSI B77.1 standards for tramways and amusement rides, but their code specifically excludes coverage of tramways used as ski lifts [875 IAC 61.1 (10), 62.4 (1) b and c, and 62.6].

Michigan: Michigan statutes and rules of the Michigan Department of Licensing and Regulatory Affairs adopt the 2017 edition of the ANSI B77.1 standard and govern ski area safety [MCL 408.321 to 408.344], [Mich Admin Code, R 408.62 to R 408.94].

Minnesota: Minnesota has no specific state statutes or codes that govern passenger ropeways.

Summary of factual data and analytical methodologies:

The proposed rules were developed in consultation with the Passenger Ropeways Advisory Council by reviewing ANSI B77.1 from 2011 to present, the current ch. SPS 333, and consultation with department staff, the committee, and other stakeholders. Standards incorporated by reference in the proposed rule have been submitted to the Attorney General and approved pursuant to s. 227.21 (2), Stats.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:

The proposed rules will be posted for a period of 14 days to solicit public comment on economic impact, including how the proposed rules may affect businesses, local government units, and individuals.

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis will be attached upon completion.

Effect on small business:

These proposed rules may have an economic impact on small businesses, as defined in s. 227.114 (1), Stats., and will be submitted to the Small Business Regulatory Review Board for a determination on whether the rules will have a significant economic impact on a substantial number of small businesses. The Department's Regulatory Review Coordinator may be contacted by email at Jennifer.Garrett@wisconsin.gov, or by calling (608) 266-2112.

Agency contact person:

Jake Pelegrin, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-267-0989; email at DSPSAdminRules@wisconsin.gov.

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to Jake Pelegrin, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received on or before the public hearing, held on a date to be determined, to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. SPS 333.10 (1) (a) is amended to read:

SPS 333.10 (1) (a) Before commencing the construction, installation or relocation of, ~~or addition to,~~ or major modification of a passenger ropeway, plans and specifications for the proposed passenger ropeway shall be submitted to the department for review and approval. One-for-one replacements are not considered a major modification.

Note: Plans and specifications are to be submitted to the Department's Division of Industry Services, Bureau of Field Services, ~~P.O. Box 7302, Madison, WI 53707-7302~~ at <https://esla.wi.gov/PortalCommunityLogin>.

SECTION 2. SPS 333.10 (1) (a) Note 2 is created:

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

SECTION 3. SPS 333.10 (1) (b) and Note are repealed.

SECTION 4. SPS 333.10 (1) (c) 5. is amended to read:

SPS 333.10 (1) (c) 5. Details of tower construction mountings, foundations and supports, sheave assemblies and carriages. Except for passenger ropeways governed under ANSI B77.1 chs. 6 and 7, foundation drawing shall include a description of the soil and allowable soil pressure.

SECTION 5. SPS 333.11 is repealed.

SECTION 6. SPS 333.15 (1) is amended to read:

SPS 333.15 (1) 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 by phone or email as soon as reasonably possible and within no more than 48 hours of occurrence. Fatalities as a result of a passenger ropeway malfunction shall be reported within 24 hours of occurrence.

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

Note: Accidents are to be reported to the Department's Division of Industry Services, ~~P.O. Box 7302, Madison, WI 53707-7302.~~ Forms for reporting accidents may be obtained at the Division's Web site at ~~<http://dsps.wi.gov/programs/industry-services>~~ <https://dsps.wi.gov/Documents/Programs/SkiLifts/SBD211s.pdf>. The Division can be contacted by email at dspsbsafetyandhealthtech@wisconsin.gov or by telephone at 608/266-3151 or 877/617-1565 or 411 (Telecommunications Relay) during normal business hours. The State Division of Emergency Management can be contacted at 800/943-0003 during non-business hours.

SECTION 8. SPS 333.155 is created to read:

SPS 333.155 Malfunction Reporting. The owner of a passenger ropeway that experiences an evacuation, deropement, or an unseated passenger which is not a direct result of loading or unloading the ropeway shall report the incident by phone or email as soon as reasonably possible and within no more than 48 hours of occurrence. The requirements of this section do not apply to surface lifts, tows, or conveyors.

Note: Malfunctions are to be reported to the Department's Division of Industry Services. Forms for reporting malfunctions may be obtained at the Division's Web site at [link to be determined]. The Division can be contacted by email at dspsbsafetyandhealthtech@wisconsin.gov or by telephone at 608/266-3151 or 877/617-1565 or 411 (Telecommunications Relay) during normal business hours. The State Division of Emergency Management can be contacted at 800/943-0003 during non-business hours.

SECTION 9. SPS 333.17 (1) is amended to read:

SPS 333.17 (1) The American National Standard for Passenger Ropeways – Aerial Tramways, Aerial Lifts, Surface Lifts, Tows and Conveyors – Safety Requirements,

ANSI ~~B77.1-2011~~ B77.1-2022, subject to the changes, additions and omissions specified in subch. III, is hereby incorporated by reference into this chapter.

SECTION 10. SPS 333.22 (2) (c) is created to read:

SPS 333.22 (2) (c) “Qualified engineer” means an engineer who is registered under ch. 443, Stats., as a professional engineer.

SECTION 11. SPS 333.24 is amended to read:

SPS 333.24 Applicable effective date. Substitute November 1, 2013, as the effective date for ~~all of the design requirements for communications, evacuation power unit, rollback device, cable catcher, and deropement switch~~ listed in B77.1 sections 3.3.1.1, 4.3.1.1, 5.3.1.1, and 6.3.1.1. Substitute [date to be determined] as the effective date for the design requirements for combustion engine protective devices listed in B77.1 sections 3.3.1.1, 4.3.1.1, 5.3.1.1, and 6.3.1.1.

SECTION 12. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)
