

Report From Agency

STATE OF WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

IN THE MATTER OF RULE-MAKING : REPORT TO THE LEGISLATURE
PROCEEDINGS BEFORE THE : ON CLEARINGHOUSE RULE 12-008
DEPARTMENT OF SAFETY : (S. 227.19 (3), Stats.)
AND PROFESSIONAL SERVICES :

I. THE PROPOSED RULE:

The proposed rule, including the analysis and text, is attached.

II. REFERENCES TO APPLICABLE FORMS:

The proposed rule does not require new forms.

III. FISCAL ESTIMATE AND EIA:

The Fiscal Estimate and EIA are attached.

IV. DETAILED STATEMENT EXPLAINING THE BASIS AND PURPOSE OF THE PROPOSED RULE, INCLUDING HOW THE PROPOSED RULE ADVANCES RELEVANT STATUTORY GOALS OR PURPOSES:

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, 2011 being the current edition. The technical provisions of chapter SPS 333 are out of date and no longer reflect current national standards.

These proposed rules, which were developed with input from ski hill owners and operators, reference and adopt the current national standard regarding passenger ropeways set forth in the 2011 edition of ANSI B77.1, add provisions regarding time periods for periodic inspections of passenger ropeways, and revise procedures for independent third-party inspectors when conducting required periodic inspections. The changes implemented by the proposed rules improve the safety of ski lifts and tows operated in the state in accordance with s. 101.17, Stats, which requires that mechanical devices and equipment be installed and used in a safe manner.

V. NOTICE OF PUBLIC HEARING:

The Department held a public hearing on February 28, 2012. Written comments were accepted until March 2, 2012. Robert Walz of Portage, WI attended the public hearing for informational purposes only. No other interested persons from the public attended the public hearing or presented testimony. No interested persons provided written comments regarding the proposed rule.

BOARD’S RESPONSE TO PUBLIC COMMENTS:

The Department made no changes to the proposed rule in response to public comments, because no interested persons provided testimony at the public hearing and written comments were received.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

Comment 2. d. In s. SPS 333.03 (5), what is the department’s intention regarding the reservation of rights provided in the paragraph? In particular, the department should consider whether such a reservation conflicts with the definition of “rule” in s. 227.01 (13), Stats.

Response: The language under s. SPS 333.03 (5) is employed by the Department here and in other codes where a technical standard or a national model code is adopted and referenced as the base document. In these cases, the organization responsible for developing and publishing the technical standard or a national code may occasionally issue interpretations as how specific provisions of their document may apply or not. The purpose of the Department rule is to make people aware that the Department serves as the final or ultimate authority for how any specific provision in one of the referenced documents may apply or not.

Comment 2. h. The effective date of the proposed rule should be fully included in a numbered SECTION of the rule. The use of the word “substitute” should be avoided in relation to the effective dates. Instead, the department should specify a separate effective dates date for certain portions of the rule, as desired.

Response: Per your comment the effective date of the proposed rule has been placed in numbered SECTION 14 of the rule. The term “substitute” in s. SPS 333. 24 will not be removed. Under the cited ANSI 77.1 provisions, various specific dates have been referenced. The Department believes that utilization of the term “substitute” is appropriate in light of the format of the ANSI provisions and will avoid confusion as to their application.

All of the other recommendations in the clearinghouse report were accepted and incorporated into the final draft of the proposed rule.

VII. REPORT FROM THE SBRRB AND FINAL REGULATORY FLEXIBILITY ANALYSIS:

As of yet, the Department has not received the SBRRB report indicating its determination as to whether the proposed rules will have a significant economic impact on a substantial number of small businesses pursuant to s. 227.14 (2g), Stats. In order to comply with s. 227.19 (3) (e), the Department has attached the Final Regulatory Flexibility Analysis.