

COMMUNITY AFFAIRS

DIVISION OF CODES AND STANDARDS

Ski Lift Safety

Adoption of ANSI B77.1 - 2011

Proposed Readoption: N.J.A.C. 5:12

Proposed Repeals and New Rules: N.J.A.C. 5:12-1.4 and 4.2

Proposed Repeal: N.J.A.C. 5:12-6

Authorized By: Charles A. Richman, Commissioner, Department of Community Affairs.

Authority: N.J.S.A. 34:4A-4 and Reorganization Plan 002-1998.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2016-125.

Submit written comments by October 14, 2016, to:

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The agency proposal follows:

Summary

Pursuant to N.J.S.A. 52:14B-5.1 and Executive Order No. 66 (1978), N.J.A.C. 5:12, the rules for ski lifts, are scheduled to expire on September 21, 2016. As the Department of

Community Affairs (Department) submitted this notice of readoption prior to the expiration date, that date is extended 180 days to March 20, 2017, pursuant to N.J.S.A. 52:14B-5.1.c(2). The Department has reviewed this chapter and finds that it continues to be necessary and appropriate for the purpose for which it was adopted, which is the establishment of standards for ski lifts and aerial tramways, including requirements for registration, insurance, the submittal of plans for new ski lifts or aerial tramways or alterations to existing ski lifts or aerial tramways, the adoption of technical standards by reference and procedures to be followed in the event of accidents or mechanical issues and procedures for evacuations.

The proposed repeals and new rules would update the standard that is used for the inspection of ski lifts. The applicable standard is ANSI B77.1 entitled “American National Standard for Passenger Ropeways - Aerial Tramways, Aerial Lifts, Surface Lifts, Tows and Conveyors-Safety Requirements.” The rules currently reference the 1999 version of the standard; the change would update the version to the 2011 edition, together with the 2012 supplement thereto identified as ANSI B77.1a-2012. The standard has undergone significant rearrangement between the 1999 and 2011 versions, and therefore, references to the standard that are used in the rules need to be updated.

The proposed repeal and replacement of N.J.A.C. 5:12-1.4 would list the adoption of the standard rather than referring to N.J.A.C. 5:12-6.

The proposed repeal and replacement of N.J.A.C. 5:12-4.2 would list the changes that are needed to the standard to make it appropriate for use in New Jersey. At N.J.A.C. 5:12-4.2(c)1, a proposed change is made so that when a complete application has been submitted within six

months after the effective date of the adoption of a new standard, that application could be reviewed under the previous edition of the standard.

At N.J.A.C. 5:12-4.2(c)2 through 6, proposed changes are made to the standard to establish compliance dates for various requirements. The new edition of the standard contains new provisions that require the upgrade of selected features of various types of ropeways. The upgrades include the requirement for communication systems, requirements for an evacuation power system, requirements for rollback devices, requirements for cable catchers, and requirements for deropement switches. The proposed changes establish the date when existing ropeways have to provide these additional safety features.

Subchapter 6 is proposed for repeal since the information concerning the availability of the referenced standard has been relocated to N.J.A.C. 5:12-1.4 and it is generally understood that the documents can be viewed and are available at the Department's offices. Therefore, it is unnecessary to include this in the rule.

As the Department has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The rules proposed for readoption continuing the regulation of ski lifts would have the clear social benefit of providing for public safety at New Jersey's ski areas. Readoption of these rules will enable the Department to continue to protect the safety of members of the public who use ski lifts, tows, and tramways. The rules benefit both the public and the operators by setting forth minimum standards for safe operation. Failure to readopt the rules would eliminate the standards needed to provide this protection.

The proposed repeals and new rules would keep New Jersey's ski lift standards current by adopting the latest version of the ANSI standard. Doing so helps to ensure that the equipment used in the State provides an adequate level of safety for the ski lift riding public.

Economic Impact

The rules proposed for readoption would have no discernable economic impact, as New Jersey's ski areas already have been operating under these rules. The rules proposed for readoption impose compliance costs that are necessary to ensure the safe design and operation of all ski tows, lifts, and tramways, including design, maintenance, and reporting expenses. The existing rules impose, for each passenger tramway, an annual registration fee of \$150.00 and a plan review fee of \$250.00. Liability insurance in the amount of \$1,000,000 per occurrence is required for each facility, as is a surety bond in the amount of \$1,000,000. The inspection program is necessary in order to maintain public confidence in the safety of ski lifts, tows, and tramways, and it, thus, has a positive economic effect on the industry. Compliance with applicable code requirements reduces both the likelihood of accidents and consequent liability.

While the proposed repeals and new rules would result in requirements that were not part of the previously adopted edition of the ANSI B77.1 standard (1999), the costs associated with the requirements of the newer edition of the standard have already been incurred by the operating or approved ski areas in New Jersey. Therefore, as a practical matter, the repeals and new rules will have no economic impact on the ski lifts operating or ready to operate in New Jersey. There may be costs associated with maintaining ski lifts in compliance with the newer edition of the

standard, but these ongoing costs of doing business are costs that these businesses have already assumed.

Federal Standards Statement

A Federal standards analysis is not required because the proposed repeals and new rules are not being proposed under the authority of, or in order to implement, comply with, or participate in, any program established under Federal law or under a State statute that incorporates or refers to Federal law, standards, or requirements.

Jobs Impact

The Department does not anticipate that the proposed repeals and new rules would result in either the creation or the loss of jobs.

Agriculture Industry Impact

The Department does not anticipate that the proposed repeals and new rules would have any impact on the agriculture industry.

Regulatory Flexibility Analysis

Although the ski lift operators qualify as small businesses as defined in the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., as these rules address public safety, there is no basis for differential treatment of small businesses. The proposed repeals and new rules would not impose any new recordkeeping or reporting requirements or require professional services that would not otherwise be required. The rules would require that ski lifts comply with the latest adopted industry standard. The rules proposed for readoption would continue requirements that have already been in place, including recordkeeping and reporting requirements. Compliance requirements imposed by the rules are discussed in the Summary and

Economic Impact statements above. Again, because these rules address public safety, there is no basis for differential treatment of small businesses.

Housing Affordability Impact Analysis

The proposed repeals and new rules concern ski lifts. They do not impact in any way the cost of housing or the affordability of housing.

Smart Growth Development Impact Analysis

Adoption of the proposed repeals and new rules would not have any consequences on the achievement of smart growth or the implementation of the State Development and Redevelopment Plan. Inasmuch as the repeals and new rules only concern ski lifts, there is an extreme unlikelihood that they would evoke a change in housing production within Planning Areas 1 and 2, or within designated centers, under the State Development and Redevelopment Plan.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 5:12.

Full text of the rules proposed for repeal may be found in the New Jersey Administrative Code at N.J.A.C. 5:12-1.4, 4.2, and 6.

Full text of the proposed new rules follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 1. GENERAL PROVISIONS

5:12-1.4 Referenced publications

(a) The following publications contain provisions, which through incorporation by reference in the text of this chapter, constitute requirements of this chapter. In the event a provision in any of the following publications conflicts with a provision of this chapter, this chapter shall govern.

1. The following publications are available from the American National Standards Institute, 11 West 42nd Street, New York, New York 10036:

i. ANSI B77.1 – 2011 and ANSI B77.1a-2012, “American National Standard for Passenger Ropeways – Aerial Tramways, Aerial Lifts, Surface Lifts, Tows and Conveyors – Safety Requirements.”

SUBCHAPTER 4. [PASSENGER TRAMWAYS] DESIGN, CONSTRUCTION, AND OPERATION

5:12-4.2 Adoption as amended of ANSI B77.1 – 2011 and ANSI B77.1a-2012

(a) The “American National Standard for Passenger Ropeways – Aerial Tramways, Aerial Lifts, Surface Lifts, Tows and Conveyors – Safety Requirements,” designated by the American National Standards Institute (ANSI) as B 77.1 – 2011 and B77.1a-2012, is incorporated herein by reference, as amended and supplemented, and made part of this subchapter and shall be enforced as part of this subchapter.

(b) Notwithstanding any provisions stated in the standard, where specific provisions of the standard conflict with the provisions expressly set forth in this chapter, the provisions set forth in this chapter shall govern.

(c) The following sections of the standard are modified as follows:

1. Section 1, General Requirements, shall be amended as follows:

i. Section 1.2.4.1, the words “design review completed by” shall be deleted and the words “all required design review documents, per N.J.A.C. 5:12, submitted to” shall be inserted in their place. Also, the words “the effective date of this standard” shall be deleted and the date “(six months after the effective date of this amendment)” shall be inserted in their place. Also, add the following sentence at the end of the first paragraph: “However, design review documents submitted to the authority having jurisdiction between (the effective date of this amendment) and (six months after the effective date of this amendment), when not in compliance with requirements of this edition, shall comply with requirements of the code in force immediately preceding (the effective date of this amendment).”

ii. Section 1.2.4.3, the words “design review completed by” shall be deleted and the words “required design review documents, per N.J.A.C. 5:12, submitted to” shall be inserted in their place. Also, the words “the effective date of this standard” shall be deleted and the date “(six months after the effective date of this amendment)” shall be inserted in their place.

2. Section 2, Aerial Tramways, shall be amended as follows:

i. Section 2.3.1.1, the date “Nov.1, 2007” shall be deleted and the date “(twelve months after the effective date of this amendment)” shall be inserted. Also, the date “Nov.1, 2008” shall be deleted and the date “(twenty-four months after the effective date of this amendment)” shall be inserted.

ii. Section 2.3.4.4, the words “with initial testing being completed prior to (twelve months after the effective date of this amendment)” shall be added to the end of the first sentence.

3. Section 3, Detachable grip aerial lifts, shall be amended as follows:

i. Section 3.3.1.1, the date “Nov.1, 2007” shall be deleted and the date “(twelve months after the effective date of this amendment)” shall be inserted. Also, in four places the date “Nov.1, 2008” shall be deleted and the date “(twenty-four months after the effective date of this amendment)” shall be inserted.

ii. Section 3.3.4.4, the words “with initial testing being completed prior to (twelve months after the effective date of this amendment)” shall be added to the end of the first sentence.

4. Section 4, Fixed grip aerial lifts, shall be amended as follows:

i. Section 4.3.1.1, the date “Nov.1, 2007” shall be deleted and the date “(twelve months after the effective date of this amendment)” shall be inserted. Also, in four places the date “Nov.1, 2008” shall be deleted and the date “(twenty-four months after the effective date of this amendment)” shall be inserted.

ii. Section 4.3.4.4, the words “with initial testing being completed prior to (twelve months after the effective date of this amendment)” shall be added to the end of the first sentence.

5. Section 5, Surface lifts, shall be amended as follows:

i. Section 5.3.1.1, the date “Nov.1, 2007” shall be deleted and the date “(twelve months after the effective date of this amendment)” shall be inserted. Also, in three places the date “Nov.1, 2008” shall be deleted and the date “(twenty-four months after the effective date of this amendment)” shall be inserted.

6. Section 6, Tows, shall be amended as follows:

i. Section 6.3.1.1, the date “Nov.1, 2007” shall be deleted and the date “(twelve months after the effective date of this amendment)” shall be inserted. Also, the date “Nov.1, 2008” shall be deleted and the date “(twenty-four months after the effective date of this amendment)” shall be inserted.