

1. TITLE OF RULE FILING:

VERMONT PASSENGER TRAMWAY RULES

2. ADOPTING AGENCY:

Vermont Department of Labor

3. PRIMARY CONTACT PERSON:

(A PERSON WHO IS ABLE TO ANSWER QUESTIONS ABOUT THE CONTENT OF THE RULE).

Name: Dirk Anderson

Agency: Department of Labor

Mailing Address: P.O. Box 488, Montpelier, VT 05601

Telephone: 802-828-4391 Fax: 802-828-4046

E-Mail: dirk.anderson@vermont.gov

Web URL (*WHERE THE RULE WILL BE POSTED*):

<https://labor.vermont.gov/>

4. SECONDARY CONTACT PERSON:

(A SPECIFIC PERSON FROM WHOM COPIES OF FILINGS MAY BE REQUESTED OR WHO MAY ANSWER QUESTIONS ABOUT FORMS SUBMITTED FOR FILING IF DIFFERENT FROM THE PRIMARY CONTACT PERSON).

Name: Mike Nellis

Agency: Department of Labor

Mailing Address: P.O. Box 488, Montpelier, VT 05601

Telephone: 802-777-2242 Fax: 802-828-4046

E-Mail: mike.nellis@vermont.gov

5. RECORDS EXEMPTION INCLUDED WITHIN RULE:

(DOES THE RULE CONTAIN ANY PROVISION DESIGNATING INFORMATION AS CONFIDENTIAL; LIMITING ITS PUBLIC RELEASE; OR OTHERWISE, EXEMPTING IT FROM INSPECTION AND COPYING?) No

IF YES, CITE THE STATUTORY AUTHORITY FOR THE EXEMPTION:

PLEASE SUMMARIZE THE REASON FOR THE EXEMPTION:

6. LEGAL AUTHORITY / ENABLING LEGISLATION:

(THE SPECIFIC STATUTORY OR LEGAL CITATION FROM SESSION LAW INDICATING WHO THE ADOPTING ENTITY IS AND THUS WHO THE SIGNATORY SHOULD BE. THIS SHOULD BE A SPECIFIC CITATION NOT A CHAPTER CITATION).

31 V.S.A. § 704

7. EXPLANATION OF HOW THE RULE IS WITHIN THE AUTHORITY OF THE AGENCY:

31 V.S.A. § 703 places the Passenger Tramway Board within the Department of Labor, and appoints the Commissioner of Labor chair of the Board, ex officio. 31 V.S.A. § 704 then authorizes the Board to adopt rules ensuring the safe construction, maintenance and operation of passenger tramways.

8. CONCISE SUMMARY (150 WORDS OR LESS):

This is an amendment of an existing rule, which is being revisited primarily for the purpose of adopting by reference the most recent industry standard. This is the 2022 edition of the American National Standards Institute (ANSI) B77.1, the American National Standard for Passenger Ropeways - Aerial Tramways, Aerial Lifts, Surface Lifts, Tows and Conveyors Safety Requirements. The rule also includes a Vermont-specific Addendum, further supplementing the national standard.

9. EXPLANATION OF WHY THE RULE IS NECESSARY:

Nationwide, ski lifts are designed, engineered and manufactured in accordance with the most recent ANSI B77.1 standard. Adopting the newest standard is in furtherance of the policy set forth in 31 V.S.A. § 703, which is "making safe the operation of ski tows, ski lifts, and passenger tramways."

10. EXPLANATION OF HOW THE RULE IS NOT ARBITRARY AS DEFINED IN 3 V.S.A. § 801(b)(13)(A):

The rule adopts a nationally recognized standard specific to the construction, maintenance and operation of passenger tramways, in accordance with the requirements of Vermont's Ski Tramways Act, 31 V.S.A. 701 et seq. (1961).

11. LIST OF PEOPLE, ENTERPRISES AND GOVERNMENT ENTITIES AFFECTED BY THIS RULE:

Ski areas, the Vermont tourist industry more broadly, and the members of the general public who ride on ski lifts.

12. BRIEF SUMMARY OF ECONOMIC IMPACT (150 WORDS OR LESS):

There should be little economic impact to ski areas when it comes to new lift construction, since new lifts are designed and built to the 2022 ANSI standard whether Vermont adopts it or not. One area of potential economic impact has been identified in Annex F.1.4, which may

require additional fireproofing in some older lift machine rooms located in wooden structures.

13. A HEARING IS SCHEDULED .

IF A HEARING WILL NOT BE SCHEDULED, PLEASE EXPLAIN WHY.

14. HEARING INFORMATION

(THE FIRST HEARING SHALL BE NO SOONER THAN 30 DAYS FOLLOWING THE POSTING OF NOTICES ONLINE).

IF THIS FORM IS INSUFFICIENT TO LIST THE INFORMATION FOR EACH HEARING, PLEASE ATTACH A SEPARATE SHEET TO COMPLETE THE HEARING INFORMATION NEEDED FOR THE NOTICE OF RULEMAKING.

Date: 10/24/2023
Time: 01:00 PM
Street Address: 5 Green Mountain Drive, Montpelier VT
Zip Code: 05601
URL for Virtual: <https://labor.vermont.gov/>

Date:
Time: AM
Street Address:
Zip Code:
URL for Virtual:

Date:
Time: AM
Street Address:
Zip Code:
URL for Virtual:

Date:
Time: AM
Street Address:
Zip Code:
URL for Virtual:

15. DEADLINE FOR COMMENT (NO EARLIER THAN 7 DAYS FOLLOWING LAST HEARING): 11/1/2023

16. KEYWORDS (PLEASE PROVIDE AT LEAST 3 KEYWORDS OR PHRASES TO AID IN THE SEARCHABILITY OF THE RULE NOTICE ONLINE).

passenger tramway

ski lift

ski tow

chairlift

ski area

Adopting Page

Instructions:

This form must accompany each filing made during the rulemaking process:

Note: To satisfy the requirement for an annotated text, an agency must submit the entire rule in annotated form with proposed and final proposed filings. Filing an annotated paragraph or page of a larger rule is not sufficient. Annotation must clearly show the changes to the rule.

When possible, the agency shall file the annotated text, using the appropriate page or pages from the Code of Vermont Rules as a basis for the annotated version. New rules need not be accompanied by an annotated text.

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3. TYPE OF FILING (*PLEASE CHOOSE THE TYPE OF FILING FROM THE DROPDOWN MENU BASED ON THE DEFINITIONS PROVIDED BELOW*):

- **AMENDMENT** - Any change to an already existing rule, even if it is a complete rewrite of the rule, it is considered an amendment if the rule is replaced with other text.
- **NEW RULE** - A rule that did not previously exist even under a different name.
- **REPEAL** - The removal of a rule in its entirety, without replacing it with other text.

This filing is **AN AMENDMENT OF AN EXISTING RULE** .

4. LAST ADOPTED (*PLEASE PROVIDE THE SOS LOG#, TITLE AND EFFECTIVE DATE OF THE LAST ADOPTION FOR THE EXISTING RULE*):

SOS Log #13-022 August 13, 2013

Economic Impact Analysis

Instructions:

In completing the economic impact analysis, an agency analyzes and evaluates the anticipated costs and benefits to be expected from adoption of the rule; estimates the costs and benefits for each category of people enterprises and government entities affected by the rule; compares alternatives to adopting the rule; and explains their analysis concluding that rulemaking is the most appropriate method of achieving the regulatory purpose. If no impacts are anticipated, please specify “No impact anticipated” in the field.

Rules affecting or regulating schools or school districts must include cost implications to local school districts and taxpayers in the impact statement, a clear statement of associated costs, and consideration of alternatives to the rule to reduce or ameliorate costs to local school districts while still achieving the objectives of the rule (see 3 V.S.A. § 832b for details).

Rules affecting small businesses (excluding impacts incidental to the purchase and payment of goods and services by the State or an agency thereof), must include ways that a business can reduce the cost or burden of compliance or an explanation of why the agency determines that such evaluation isn’t appropriate, and an evaluation of creative, innovative or flexible methods of compliance that would not significantly impair the effectiveness of the rule or increase the risk to the health, safety, or welfare of the public or those affected by the rule.

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3. CATEGORY OF AFFECTED PARTIES:

LIST CATEGORIES OF PEOPLE, ENTERPRISES, AND GOVERNMENTAL ENTITIES POTENTIALLY AFFECTED BY THE ADOPTION OF THIS RULE AND THE ESTIMATED COSTS AND BENEFITS ANTICIPATED:

Ski lift owners, primarily ski area owners. There should be little economic impact to ski areas when it comes to new lift construction, since new lifts are designed and built to the 2022 ANSI standard whether Vermont adopts it or not, since lift manufacturers design and build lifts for a national market. One area of potential economic impact has been identified in

Annex F.1.4, which may require additional fireproofing in some older lift machine rooms located in wooden structures. Another category of affected parties are rope tow owners and operators, since the Vermont-specific addendum requires approval by a qualified engineer prior to public use of a new rope tow, whereas the ANSI standard does not.

4. IMPACT ON SCHOOLS:

INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON PUBLIC EDUCATION, PUBLIC SCHOOLS, LOCAL SCHOOL DISTRICTS AND/OR TAXPAYERS CLEARLY STATING ANY ASSOCIATED COSTS:

None. The few ski lifts owned and operated by educational institutions are either private schools or colleges.

5. ALTERNATIVES: CONSIDERATION OF ALTERNATIVES TO THE RULE TO REDUCE OR AMELIORATE COSTS TO LOCAL SCHOOL DISTRICTS WHILE STILL ACHIEVING THE OBJECTIVE OF THE RULE.

No impact.

6. IMPACT ON SMALL BUSINESSES:

INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON SMALL BUSINESSES (EXCLUDING IMPACTS INCIDENTAL TO THE PURCHASE AND PAYMENT OF GOODS AND SERVICES BY THE STATE OR AN AGENCY THEREOF):

The only small business impact identified was for a retail snowboard business that wished to install a small portable rope tow for its customers, but was unable to secure approval from a qualified engineer.

7. SMALL BUSINESS COMPLIANCE: EXPLAIN WAYS A BUSINESS CAN REDUCE THE COST/BURDEN OF COMPLIANCE OR AN EXPLANATION OF WHY THE AGENCY DETERMINES THAT SUCH EVALUATION ISN'T APPROPRIATE.

It would be inconsistent with the Board's mission to loosen safety requirements based on the size of the business.

8. COMPARISON:

COMPARE THE IMPACT OF THE RULE WITH THE ECONOMIC IMPACT OF OTHER ALTERNATIVES TO THE RULE, INCLUDING NO RULE ON THE SUBJECT OR A RULE HAVING SEPARATE REQUIREMENTS FOR SMALL BUSINESS:

As noted above, it would be inconsistent with the

Board's mission to loosen safety requirements based on the size of the business.

9. **SUFFICIENCY: DESCRIBE HOW THE ANALYSIS WAS CONDUCTED, IDENTIFYING RELEVANT INTERNAL AND/OR EXTERNAL SOURCES OF INFORMATION USED.**

Lift inspectors, engineers and ski industry officials familiar with the new ANSI standard were consulted on the relative economic impact of the rule.

Environmental Impact Analysis

Instructions:

In completing the environmental impact analysis, an agency analyzes and evaluates the anticipated environmental impacts (positive or negative) to be expected from adoption of the rule; compares alternatives to adopting the rule; explains the sufficiency of the environmental impact analysis. If no impacts are anticipated, please specify “No impact anticipated” in the field.

Examples of Environmental Impacts include but are not limited to:

- Impacts on the emission of greenhouse gases
- Impacts on the discharge of pollutants to water
- Impacts on the arability of land
- Impacts on the climate
- Impacts on the flow of water
- Impacts on recreation
- Or other environmental impacts

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3. GREENHOUSE GAS: *EXPLAIN HOW THE RULE IMPACTS THE EMISSION OF GREENHOUSE GASES (E.G. TRANSPORTATION OF PEOPLE OR GOODS; BUILDING INFRASTRUCTURE; LAND USE AND DEVELOPMENT, WASTE GENERATION, ETC.):*

The ANSI code adopted by the rule does not directly address the emission of greenhouse gases.

4. WATER: *EXPLAIN HOW THE RULE IMPACTS WATER (E.G. DISCHARGE / ELIMINATION OF POLLUTION INTO VERMONT WATERS, THE FLOW OF WATER IN THE STATE, WATER QUALITY ETC.):*

Annex F, (Fire hazard reduction, Combustion engine(s), and Fuel supply handling) contains various provisions designed to minimize and contain the leakage or spillage of fossil fuels.

5. **LAND:** *EXPLAIN HOW THE RULE IMPACTS LAND (E.G. IMPACTS ON FORESTRY, AGRICULTURE ETC.):*

The ANSI code adopted by the rule does not directly address the impact on land, as the scope of the code is limited to passenger safety. However, new lift construction requires Act 250 approval.

6. **RECREATION:** *EXPLAIN HOW THE RULE IMPACTS RECREATION IN THE STATE:*

The ANSI standard, Vermont addendum, and the enforcement thereof by the Department of Labor has a net positive effect on tourism by ensuring the general public that Vermont ski lifts are safe to use.

7. **CLIMATE:** *EXPLAIN HOW THE RULE IMPACTS THE CLIMATE IN THE STATE:*

The ANSI code adopted by the rule does not directly address the impact on climate, as the scope of the code is limited to passenger safety.

8. **OTHER:** *EXPLAIN HOW THE RULE IMPACT OTHER ASPECTS OF VERMONT'S ENVIRONMENT:*

The ANSI code adopted by the rule does not directly address the impact on other environmental factors.

9. **SUFFICIENCY:** *DESCRIBE HOW THE ANALYSIS WAS CONDUCTED, IDENTIFYING RELEVANT INTERNAL AND/OR EXTERNAL SOURCES OF INFORMATION USED.*

Lift inspectors, engineers and ski industry officials familiar with the new ANSI standard were consulted about the environmental impact of the code.

Public Input Maximization Plan

Instructions:

Agencies are encouraged to hold hearings as part of their strategy to maximize the involvement of the public in the development of rules. Please complete the form below by describing the agency's strategy for maximizing public input (what it did do, or will do to maximize the involvement of the public).

This form must accompany each filing made during the rulemaking process:

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3. PLEASE DESCRIBE THE AGENCY'S STRATEGY TO MAXIMIZE PUBLIC INVOLVEMENT IN THE DEVELOPMENT OF THE PROPOSED RULE, LISTING THE STEPS THAT HAVE BEEN OR WILL BE TAKEN TO COMPLY WITH THAT STRATEGY:

The development and approval of the new ANSI B77.1 standard was done by a consensus body of both government and private sector entities, along with observer members, representing over 90 different lift manufacturers, ski resorts, engineering firms, and jurisdictional state and federal governing bodies across the country.

4. BEYOND GENERAL ADVERTISEMENTS, PLEASE LIST THE PEOPLE AND ORGANIZATIONS THAT HAVE BEEN OR WILL BE INVOLVED IN THE DEVELOPMENT OF THE PROPOSED RULE:

See 3. above.

Incorporation by Reference

THIS FORM IS ONLY REQUIRED WHEN INCORPORATING MATERIALS BY REFERENCE. PLEASE REMOVE PRIOR TO DELIVERY IF IT DOES NOT APPLY TO THIS RULE FILING:

Instructions:

In completing the incorporation by reference statement, an agency describes any materials that are incorporated into the rule by reference and how to obtain copies.

This form is only required when a rule incorporates materials by referencing another source without reproducing the text within the rule itself (e.g., federal or national standards, or regulations).

Incorporated materials will be maintained and available for inspection by the Agency.

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3. DESCRIPTION (*DESCRIBE THE MATERIALS INCORPORATED BY REFERENCE*):

ANSI B77.1, 2022 Revision

4. FORMAL CITATION OF MATERIALS INCORPORATED BY REFERENCE:

ANSI B77.1, 2022 Revision: American National Standard for Passenger Ropeways - Aerial Tramways, Aerial Lifts, Surface Lifts, Tows and Conveyors Safety Requirements

5. OBTAINING COPIES: (*EXPLAIN WHERE THE PUBLIC MAY OBTAIN THE MATERIAL(S) IN WRITTEN OR ELECTRONIC FORM, AND AT WHAT COST*):

The ANSI B77.1 may be purchased from the National Ski Areas Association at <https://nsaa.org/>. The cost is \$400. The B77.1 standard can be reviewed at no cost by appointment at the Vermont Department of Labor's central office in Montpelier. Interested parties should contact the office of the Director at 802-828-4391.

6. **MODIFICATIONS** (*PLEASE EXPLAIN ANY MODIFICATION TO THE INCORPORATED MATERIALS E.G., WHETHER ONLY PART OF THE MATERIAL IS ADOPTED AND IF SO, WHICH PART(S) ARE MODIFIED*):

Modifications are contained in the Vermont Addendum, which is the subject of this rule filing.

Run Spell Check