



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Carrie Kuruc, Director

Business Impact Analysis

Agency Name: Department of Commerce

Regulation/Package Title: Ski Tramway Board Rules

Rule Number(s): 4101:14-1-01 (Amend); 4101:14-1-02 (Amend); 4101:14-1-03 (Amend); 4101:14-1-04 (Amend); 4101:14-1-05 (Amend); 4101:14-1-06 (No Change); 4101:14-1-07 (Amend); 4101:14-1-08 (Amend); 4101:14-1-09 (Amend)

Date: 8/8/19

Rule Type:

New

5-Year Review

Amended

Rescinded

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

Regulatory Intent

1. Please briefly describe the draft regulation in plain language.

Pursuant to section 4169.02(B) of the Revised Code, the rules set forth in Chapter 4101:14 of the Administrative Code establish the public safety standards for the construction, maintenance, mechanical operation, and inspection of passenger tramways used in ski area

operations in the state. The rule package contains nine rules that are being reviewed as part of the 5-year rule review process.

The main change to the rules is an update of the referenced national standard for passenger ropeways, American National Standard Institute (“ANSI”) B77.1, from the 2011 edition with the 2012 supplement to the 2017 edition. The remaining changes are non-substantive and are meant to correct typographical or grammatical errors, add clarity to existing language, or ensure consistency of language with the statutes being amplified. A rule-by-rule breakdown of the changes is attached as “BIA Attachment A.”

2. Please list the Ohio statute authorizing the Agency to adopt this regulation.

R.C. 4169.02(B).

3. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?

If yes, please briefly explain the source and substance of the federal requirement.

No.

4. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.

Not applicable.

5. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?

Pursuant to section 4169.02 of the Revised Code, the rules set forth in Chapter 4101:14 of the Administrative Code provide for the protection of public safety by requiring passenger tramways used by the public to be constructed, registered, maintained, operated, and inspected in conformity with established standards in the ski area business. The Ski Tramway Board adopts and incorporates the national standard for passenger ropeways, ANSI B77.1, which is widely recognized and used in the ski area industry.

6. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?

The rules are successful when passenger tramways in this state are being constructed, operated, and maintained in a safe manner and when the impacted parties are given clear guidelines that allow them to comply in an efficient and effective manner. The success of the rules will be measured by eliciting feedback from the public, stakeholders, and any interested parties regarding the clarity and impact of the rules, as well as by investigating and reviewing any reports of accidents involving a passenger tramway.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIPublicComments@governor.ohio.gov

Development of the Regulation

7. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.

Please see the “BIA Attachment C.”

8. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?

Stakeholders were notified of the proposed rules and provided with an opportunity to give input on the proposed changes. The Ohio Department of Commerce did not receive any stakeholder comments or input requesting changes to the proposed rule package.

9. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?

Section 4169.02(B) of the Revised Code requires the rules to be “in accordance with established standards in the business of ski area operation.” The Ski Tramway Board adopted and based its rules on the national ANSI B77.1 standard, which is widely recognized and used in the ski area industry. The ANSI B77.1 standard was developed by the Accredited Standards Committee B77 (“ASC Committee”) on Aerial Passenger Ropeways, which is composed of passenger tramway operators, users, authorities having jurisdiction/governments, designers, and manufacturers. The ASC Committee goes through a consensus process to develop and change the standard, and data-gathering and analysis are components of that process.

10. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn’t the Agency consider regulatory alternatives?

Section 4169.02(B) of the Revised Code requires the rules to be “in accordance with established standards in the business of ski area operation.” The Ski Tramway Board adopted and based its rules on the national ANSI B77.1 standard, which is widely recognized and used in the ski area industry. There are no “established standards in the business of ski area operation” for passenger tramways, other than ANSI B77.1, so no other regulations were considered.

11. Did the Agency specifically consider a performance-based regulation? Please explain. *Performance-based regulations define the required outcome, but don’t dictate the process the regulated stakeholders must use to achieve compliance.*

Section 4169.02(B) of the Revised Code requires the rules to be “in accordance with established standards in the business of ski area operation.” The Ski Tramway Board adopted

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIPublicComments@governor.ohio.gov

and based its rules on the national ANSI B77.1 standard, which is widely recognized and used in the ski area industry. There are no “established standards in the business of ski area operation” for passenger tramways, other than ANSI B77.1, so no other regulations were considered. That being said, ANSI B77.1 has some performance-based components in its requirements.

12. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?

Section 4169.02 of the Revised Code authorizes and requires the Ski Tramway Board to promulgate the rules in Chapter 4101:14 of the Administrative Code, and no other entity is required or permitted to adopt rules regarding passenger tramways in ski areas. The Ohio Department of Agriculture regulates some aerial passenger tramway-type rides in its Division of Amusement Ride Safety & Fairs, but section 1711.50(A) of the Revised Code states that its regulations do not apply to “passenger tramways as defined in section 4169.01 of the Revised Code.” Additionally, a thorough review of the Revised Code and Administrative Code was performed to ensure the proposed rules do not duplicate an existing Ohio regulation.

13. Please describe the Agency’s plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.

The Ohio Department of Commerce will ensure that all ski tramway operators, of which there are currently eight, have been notified of the changes to the rules. The Ohio Department of Commerce and the Ski Tramway Board are also available by telephone, mail, and e-mail to answer any questions from the industry and the public. Additionally, the Ohio Department of Commerce will ensure that any of its staff that perform inspections of ski tramways will be trained and current on all of the applicable statutes and regulations.

Adverse Impact to Business

14. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:

- a. Identify the scope of the impacted business community;**
- b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and**
- c. Quantify the expected adverse impact from the regulation.**
The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a “representative business.” Please include the source for your information/estimated impact.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIPublicComments@governor.ohio.gov

Please see the “BIA Attachment B.”

15. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?

All potential adverse impacts to the regulated business community are mandated by Chapter 4169 of the Revised Code, which requires operators of passenger tramways in ski areas to register and pay annual registration fees, set penalties for noncompliance, and require the operators to report information required by the Ski Tramway Board. The referenced statutes and rules promulgated thereunder reflect a determination by the Ohio General Assembly, as well as the Ski Tramway Board, that the need to protect public safety in ski areas justifies the resulting adverse impact to the regulated business community.

Regulatory Flexibility

16. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.

No, the regulations do not provide any exemptions or alternative means of compliance for small businesses for a couple reasons. First, the primary purpose of the regulations and authorizing statutes is to protect public safety, so, the standards are the same, regardless of the size of a business. Second, section 4169.02(B) of the Revised Code requires the rules to be “in accordance with established standards in the business of ski area operation[.]” The national standard adopted in the rules, ANSI B77.1, does not provide an exemption or alternative means of compliance for small businesses; nor does any other established standard in the ski industry. Accordingly, neither do these regulations. That being said, the annual registration fee for passenger tramway operators is per tramway and based on the size and complexity of the tramway, so, the practical effect of the fee structure, set forth in section 4169.03 of the Revised Code, is that generally, smaller ski areas will pay less in registration fees than bigger ski areas.

17. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?

Penalties for non-compliance are set by section 4169.99 of the Revised Code, not by regulation or the Ski Tramway Board. The Ohio Department of Commerce and the Ski Tramway Board have been and remain committed to working with all ski tramway operators to ensure that any potential first-time paperwork offenses are resolved without a negative consequence for the operators. Typically, the Ohio Department of Commerce notifies an operator of any paperwork mistakes or violations (regardless of whether it is the operator’s first paperwork error) and assists the operator in making any necessary corrections. All

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIPublicComments@governor.ohio.gov

reasonable efforts are made to provide operators with the opportunity to remedy non-compliances before fines or penalties are considered.

18. What resources are available to assist small businesses with compliance of the regulation?

The Ohio Department of Commerce and the Ski Tramway Board prioritize customer service, and both are easily accessible by e-mail, mail, and telephone to answer questions or to assist ski area operators in achieving compliance.



SKI TRAMWAY BOARD

BIA ATTACHMENT A

4101:14-1-01, Introduction (Amend) – This rule establishes the safety requirements for passenger tramways in Ohio ski areas and adopts the nationally recognized standard for passenger ropeways, American National Standard Institute (“ANSI”) B77.1. This rule also sets forth where the public may submit questions about the Ski Tramway Board and its related statutes and rules. An amendment is being proposed to update the version of the national standard referenced in the rule, ANSI B77.1, to the 2017 edition, changing it from the 2011 edition with the 2012 supplement. The amendment also proposes to clarify that the use of “board” in Chapter 4101:14 of the Administrative Code refers to the Ski Tramway Board, explicitly acknowledge that the annexes of ANSI B77.1 are included in the standard being incorporated, correct typographical and grammatical errors, and re-word existing rule language for clarity.

4101:14-1-02, Scope of rules and regulations (Amend) – This rule establishes the scope of the rules in Chapter 4101:14 of the Administrative Code. An amendment is being proposed to update the version of the national standard referenced in the rule, ANSI B77.1, to the 2017 edition, changing it from the 2011 edition with the 2012 supplement.

4101:14-1-03, New installations and modifications of existing passenger tramways (Amend) – This rule sets forth the design and safety requirements for installations and modifications of passenger tramways. An amendment is being proposed to update the version of the national standard referenced in the rule, ANSI B77.1, to the 2017 edition, changing it from the 2011 edition with the 2012 supplement. The amendment also proposes to correct typographical errors.

4101:14-1-04, Acceptance tests (Amend) – This rule sets forth the inspection and test requirements for new passenger tramway installations and modified existing passenger tramways. This rule also sets forth the load test report retention requirements for aerial passenger tramways or chair lifts. An amendment is being proposed to update the version of the national standard referenced in the rule, ANSI B77.1, to the 2017 edition, changing it from the 2011 edition with the 2012 supplement.

4101:14-1-05, Registration and inspections (Amend) – This rule sets forth the registration and inspection requirements for passenger tramways, as well as establishes the penalties for non-compliance. An amendment is being proposed to update the version of the national standard referenced in the rule, ANSI B77.1, to the 2017 edition, changing it from the 2011 edition with the 2012 supplement. The amendment also proposes to correct typographical and grammatical errors, re-word existing rule language for clarity, and re-word existing rule language to make it consistent with the language of the statutes being amplified.

4101:14-1-06, Fees (No change) – This rule sets forth the fee requirements for the registration or annual renewal of registration for passenger tramways. No changes are proposed for this rule.

4101:14-1-07, Mechanical operation and maintenance (Amend) – This rule sets forth the operation and maintenance requirements for passenger tramways. An amendment is being

proposed to update the version of the national standard referenced in the rule, ANSI B77.1, to the 2017 edition, changing it from the 2011 edition with the 2012 supplement. The amendment also proposes to correct typographical and grammatical errors and re-word existing rule language for clarity.

4101:14-1-08, Rule for giving public notice (Amend) – This rule sets forth the public notice requirements and processes for when the Ski Tramway Board proposes to adopt, amend, or rescind a rule or for when it holds a public meeting. An amendment is being proposed to correct typographical and grammatical errors and to re-word existing rule language for clarity.

4101:14-1-09, Notice in the event of a serious accident (Amend) – This rule sets forth the notice and reporting requirements for passenger tramway operators when a serious accident has occurred. An amendment is being proposed to update the version of the national standard referenced in the rule, ANSI B77.1, to the 2017 edition, changing it from the 2011 edition with the 2012 supplement. The amendment also proposes to correct typographical and grammatical errors and re-word existing rule language for clarity.

**Ohio Dept. of Commerce, Ski Tramway Board
BIA Attachment B**

<i>Rule</i>	<i>Scope of the impacted business community</i>	<i>Nature of adverse impact</i>	<i>Quantify the expected adverse impact</i>
4101:14-1-01 Introduction.	Passenger tramway operators and ski area operators	No adverse impact, as described in section 107.52 of the Revised Code, is expected from this rule or the proposed changes.	
4101:14-1-02 Scope of rules and regulations.	Passenger tramway operators and ski area operators	This rule has been changed to update the safety standard that passenger tramway operators are required to meet when installing or modifying an existing passenger tramway from the 2011 version of the ANSI B77.1 standard with the 2012 supplement to the 2017 version of the ANSI B77.1 standard. Regulated parties will have to obtain the updated 2017 ANSI B77.1 standard, which is available for purchase online for \$200.00. Sections 4169.02 and 4169.99 of the Revised Code provide for a civil penalty for a party that does not comply with this rule.	
4101:14-1-03 New installations and modifications of existing passenger tramways.	Passenger tramway operators, ski area operators, and passenger tramway manufacturers	<p>The existing rule requires a statement of compliance to be sent to the Board by the passenger tramway manufacturer upon request or by the ski area operator when an existing passenger tramway is reinstalled. This requirement is unchanged in the proposed amended rule.</p> <p>This rule has been changed to update the safety standard that passenger tramway operators are required to meet when installing or modifying an existing passenger tramway from the 2011 version of the ANSI B77.1 standard with the 2012 supplement to the 2017 version of the ANSI B77.1 standard. Regulated parties will have to obtain the updated 2017 ANSI B77.1 standard, which is available for purchase online for \$200.00.</p> <p>Sections 4169.02 and 4169.99 of the Revised Code provide for a civil penalty for a party that does not comply with this rule.</p>	
4101:14-1-04 Acceptance tests.	Passenger tramway operators and ski area operators	The existing rule requires all new passenger tramway installations and modifications of existing passenger tramways to be inspected and tested before being put into operation. The existing rule also requires the ski area operator to retain load test reports for aerial passenger tramways or chair lifts. These requirements are unchanged in the proposed amended rule.	

**Ohio Dept. of Commerce, Ski Tramway Board
BIA Attachment B**

		<p>This rule has been changed to update the referenced safety standard from the 2011 version of the ANSI B77.1 standard with the 2012 supplement to the 2017 version of the ANSI B77.1 standard. The inspections and tests mandated by this rule must include items from that standard. Regulated parties will have to obtain the updated 2017 ANSI B77.1 standard, which is available for purchase online for \$200.00.</p> <p>Sections 4169.02 and 4169.99 of the Revised Code provide for a civil penalty for a party that does not comply with this rule.</p>
4101:14-1-05 Registration and inspections.	Passenger tramway operators and ski area operators	<p>The existing rule requires all ski area operators to submit an application for registration of a passenger tramway and the fee set forth in section 4169.03 of the Revised Code, submit a schedule of tramway inspection for each passenger tramway, and submit a copy of the required inspection reports. The existing rule also restates the penalties for non-compliance, which are established and set forth in Chapter 4169 of the Revised Code. These requirements are unchanged in the proposed amended rule.</p> <p>This rule has been changed to update the referenced safety standard from the 2011 version of the ANSI B77.1 standard with the 2012 supplement to the 2017 version of the ANSI B77.1 standard. The inspections and tests mandated by this rule must include items from that standard. Regulated parties will have to obtain the updated 2017 ANSI B77.1 standard, which is available for purchase online for \$200.00.</p> <p>Sections 4169.02 and 4169.99 of the Revised Code provide for a civil penalty for a party that does not comply with this rule.</p>
4101:14-1-06 Fees.	Passenger tramway operators and ski area operators	<p>The existing rule requires all ski area operators to submit a fee required by section 4169.03 of the Revised Code with the registration or annual renewal of registration for each passenger tramway. Sections 4169.02 and 4169.99 of the Revised Code provide for a civil penalty for a party that does not comply with this rule. There are no changes being proposed to this rule.</p>
4101:14-1-07 Mechanical operation and maintenance.	Passenger tramway operators and ski area operators	<p>The existing rule requires all passenger tramways to be operated in compliance with and to maintain the records required by the ANSI B77.1 standard.</p>

**Ohio Dept. of Commerce, Ski Tramway Board
BIA Attachment B**

		<p>These requirements are unchanged in the proposed amended rule.</p> <p>This rule has been changed to update the referenced safety standard from the 2011 version of the ANSI B77.1 standard with the 2012 supplement to the 2017 version of the ANSI B77.1 standard. Regulated parties will have to obtain the updated 2017 ANSI B77.1 standard, which is available for purchase online for \$200.00.</p> <p>Sections 4169.02 and 4169.99 of the Revised Code provide for a civil penalty for a party that does not comply with this rule.</p>
<p>4101:14-1-08 Rule for giving public notice.</p>	<p>Passenger tramway operators and ski area operators</p>	<p>No adverse impact, as described in section 107.52 of the Revised Code, is expected from this rule or the proposed changes.</p>
<p>4101:14-1-09 Notice in the event of a serious accident.</p>	<p>Passenger tramway operators and ski area operators</p>	<p>The existing rule requires all passenger tramway operators to make reports to the Ski Tramway Board of any “reportable tramway incident,” as defined by the rule. This requirement is unchanged in the proposed amended rule.</p> <p>This rule has been changed to update the referenced safety standard from the 2011 version of the ANSI B77.1 standard with the 2012 supplement to the 2017 version of the ANSI B77.1 standard. The reports required under this rule include information defined under the ANSI B77.1 standard, so regulated parties will have to obtain the updated 2017 version, which is available for purchase online for \$200.00.</p> <p>Sections 4169.02 and 4169.99 of the Revised Code provide for a civil penalty for a party that does not comply with this rule.</p>

BIA Attachment C

Ski Tramway Stakeholder List

Mad River
Greg Fisher, General Manager
Gfisher@skimadriver.com

Boston Mills/Brandywine
Josh Boyd, President
joshboyd@peakresorts.com

Snow Trails
Scott Crislip
scott@snowtrails.com