

**STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
BUREAU OF COMMERCIAL SERVICES – LICENSING DIVISION**

Teleconference Locations:

2nd Floor, Conference Room A
2501 Woodlake Circle, Okemos, Michigan 48864-5955

AND

1504 West Washington Street, Suite B, Marquette, Michigan 49855

**SKI AREA SAFETY BOARD
BOARD MEETING MINUTES**

October 5, 2007, 1:00 p.m.

In accordance with the Open Meetings Act, 1976 PA 267, as amended, the Ski Area Safety Board met in Regular Session on October 5, 2007 at the Department of Labor & Economic Growth, Bureau of Commercial Services, 2nd Floor, Conference Room A, 2501 Woodlake Circle, Okemos, Michigan, 48864; and by teleconference at the Department of Labor & Economic Growth, Bureau of Commercial Services, 1504 West Washington, Suite B, Marquette, Michigan, 49855.

CALL TO ORDER

The meeting was called to order by Chairperson Call at 1:05 p.m.

Present:	Michael S. Call	Chairperson
	William C. Topham	Vice-Chairperson
	James P. Kiefer	Member
	Vernon S. Barber	Member
	Richard D. Starkey	Member
	A. James Vander Spoel	Member
Absent:	Joel Woods	Member
Staff:	Jean M. Boven	Director of Licensing
	Ann Millben	Licensing Administrator
	Diane M. Otis	Assistant Administrator
	Rita Burnett	Secretary
	D. Mark Doman, P.E.	Inspection Manager
	Gilbert Townsend	Inspector
	Amy A. Shell	Policy Analyst
Visitors:	Jim Bartlett	Nub's Nob Ski Area

ADDITIONS TO OR DELETIONS FROM AGENDA

None.

APPROVAL OF MINUTES FROM MEETING HELD JUNE 13, 2007

MOTION: After discussion, Mr. Kiefer moved to approve the minutes from the June 13, 2007 meeting. Mr. Starkey seconded and the motion passed unanimously.

PUBLIC COMMENT

None.

STAFF REPORTS

Enforcement

Mr. Doman discussed the new ANSI B77.1-2006 standard, noting that this would be the first ski season it would be in effect, as it became effective in Michigan on May 1, 2007. He stated that Crystal Mountain, Boyne Mountain and Copper Peak were already in operation and complying with the new standard. The two major issues with the new standard are regarding signage and new lifts.

When the board had previously discussed adopting the new standard, they agreed that the signage would have a financial impact, especially to the small ski areas. The board members wanted to be certain that the Department would be flexible when enforcing it. The board and the Department had agreed to accept a program to get the signage completed within a reasonable period of time. Despite the discussions of the board and the Department with the industry, including a large meeting the previous year, some ski operators were complaining about needing to comply with the new standard. At this point Mr. Doman noted that he only had one alternate plan on file. It is from Mt. Brighton, but added that they were more impacted than most, as they have the most lifts. They were buying and installing signage for their lifts used most often and deferring the lesser used lifts until next year. Mr. Doman stated that other ski areas were in various stages of compliance, with signs already in, being ordered or being installed. He noted that when a new standard is introduced there are always various interpretations of it.

Mr. Doman stated that in this season there would be many load tests, about 30% more than usual. He added that there will be only one new chairlift operating this year. This will be at Mt. Ripley in the Upper Peninsula. It is an aerial lift called "Copper Hoist," which is a steep, short, double-Riblet/Superior/Ellis combination, primarily with parts from Big Bear in California, but rebuilt and refurbished in the Superior Tramway shops and installed as a new lift. It had its ropes spliced last week and the load test is expected in late October.

Mr. Doman discussed a new lift at Al Quaal ski area, which is a Multi-SkiLift wire rope tow. It is about to be received, so installation would begin soon. Norway Mountain is in the process of installing two relocated wire rope tows, a Stadelli and an O'Connor, which came from Wisconsin. He added that the only new lift in the Lower Peninsula will be at Spring Hill Camps, who had purchased a wire rope tow from Traverse City in 2004, but decided this year to replace it with a conveyor.

As far as modified lifts, there was a new variable frequency drive going in at Mt. Holly. In conjunction with Al Quaal, Mr. Doman considered it interesting to note that a lift was being removed, which was one of the two oldest lifts in the state. It would be replaced by a wire rope tow for a tubing operation. There is still one rope tow operating that was built in 1938.

Mr. Doman also brought to the board's attention that Mt. Brighton was not going to operate their "Orange Chair" lift. They have thirty months to operate it again or they will have to bring it up to the current standard, which is the B77.1-2006, and they are likely to remove it. They rarely used it and didn't use it at all last year.

Mr. Doman also discussed Porcupine Mountain's double chair lift, which will not be operating this year. It is a 1967 Miner-Denver, modified in 1984 to use Riblet rope clips, and had several other changes implemented at that time to control chair swing in particular. In 1991 CTEC changed the drive, but the Riblet clips were kept. Some damage has occurred since then, however, and the return bullwheel has parts that are breaking up. The State of Michigan owns this lift, but Mt. Bohemia operates it, and there has been controversy over who is responsible to pay for repairs to the lift. The State of Michigan did allocate money to repair it eventually, but too late to have it repaired for this year. The Bohemia group has noted that operating this area is not profitable, just as it was not profitable for the State, and now there are some local people who have spoken with Mr. Doman about taking over the operation of the area as a private entity. He has responded that it is a large responsibility for a private non-profit group to undertake. He noted that Mt. Holliday in Traverse City is the only other group that he is aware of that is successfully operating that way, and they do have employees of the organization, not just volunteers. He added to board members that he will be monitoring that situation carefully.

Mr. Doman stated that Sugarloaf would not be opening as there are still conflicts there. He also mentioned that the Boyne group is buying areas all over the country and even in Canada, so board member Joel Woods is applying for Professional Engineering licenses in other jurisdictions.

Mr. Doman discussed the new ANSI B77 standard and the interpretations that the Department has been making regarding the sections that have been de-grandfathered. He noted that the Department is requiring what is in the specific sections, but not what is referenced in the sub-sections. If there are questions or complaints, he will address those directly. Board members questioned the section regarding the auxiliary power unit moving a line with all carriers loaded at a speed of not less than 100 feet per minute. Mr. Doman replied that if it was close to 100 feet per minute and the lift could be evacuated in less than an hour, that would be sufficient. He considered that the 100 feet per minute standard was aimed at very long lifts, which Michigan does not have. Board members agreed that this common-sense approach was acceptable.

Ms. Shell asked if Mr. Doman was of the opinion that there should be a rule change to incorporate this policy. He did not think that was necessary, as it was an interpretation of the rule. She asked whether the Department would be enforcing Sub-section 4.2.4.1, Emergency Shutdown Circuit. Mr. Doman responded that it was necessary to have an emergency shutdown circuit, and the emergency stop circuit has to stop the evacuation engine, but it does not have to have all of the functions that are described in that subsection, as some are newly defined provisions that only new lifts in Michigan would have. One of the items, the rope speed monitoring, would have a major impact on all lifts in Michigan, which was not anticipated when the new standard was adopted.

Mr. Doman offered to discuss the safety aspects of his interpretation with the ANSI Committee for their comments, as it would be such a significant undertaking to retrofit the emergency shutdown circuits with all of the items in that subsection in all the existing lifts in Michigan. Mr. Call, the other member of the ANSI committee, noted that his recollection of the discussions was that those provisions were only intended to be necessary on new lifts. Mr. Doman agreed and noted that he only mentioned it because the final wording was vague enough to be interpreted to mean that all lifts must be retrofit with these items. He wanted everyone to be clear as to how he was interpreting it.

Mr. Doman discussed the lift at Copper Peak, which is issued a permit as an amusement ride, but must also follow the ANSI B77 standard. The Carnival-Amusement Safety board members are not as familiar with ANSI B77 as is this board. Because it is also a ski lift, Mr. Doman asked if this board wished to comment on the situation. In this case the evacuation system depends on the integrity of another drive component, an electric motor, to drive the ropeway. If the electric motor should have a bearing failure, the lift could not be evacuated with the evacuation engine. This is explicitly prohibited in the ANSI B77 standard.

Mr. Doman noted that there are other jurisdictions that have made exceptions for a similar situation. He had even designed a similar system where there were tracks to slide the electric motor away and slide in a drive shaft in its place, so that it could be driven with something other than the electric motor. There was also the possibility that perhaps they could roll the lift back under controlled circumstances to evacuate it. He was hesitant to consider that as an option and was looking to the Ski Area board members for suggestions, as they have experience with lifts.

Mr. Kiefer questioned the lift being licensed under the Carnival-Amusement Act and Mr. Doman responded that the placement was arbitrary and it could be moved over to the Ski Area Safety board, in that it transported people in the same way as a ski lift, and the definition of "skier" includes people with or without skis. He noted that he was also comfortable discussing it with this board in an advisory capacity only. He confirmed that it was the only lift in the state in this situation, but that the Binder Park Zoo in Battle Creek was also discussing putting in an aerial lift.

Mr. Vander Spoel noted that it is the integrity of the motor and the integrity of the hydraulic pump that drives the lift under auxiliary power. If Copper Peak was required to upgrade, he asked whether they should have to move it so that there would be a direct input to the gear box versus through both other items. Mr. Doman agreed that technically the drive cannot depend on the integrity of another component, as used in the other systems, but added that what he had described earlier had been adopted and approved by other jurisdictions and he was comfortable with that situation.

Mr. Vander Spoel considered that to satisfy the requirements it couldn't depend on any other component and needed another input into the gear box. If the electric motor failed and the hydraulic line was lost, the auxiliary wouldn't operate to pull the load or move the lift. Mr. Doman agreed that if the gear reducer packs up on one of the others, the lift can't be evacuated. Mr. Vander Spoel noted that his concern was that there were several components in the drive path before the gear box. Mr. Doman considered that the evacuation engine could drive a separate pump than drives the motor. Mr. Vander Spoel noted that there some that have a separate hydraulic system for the auxiliary.

Mr. Doman agreed that newer lifts have that system. He added that Copper Peak was hoping to devise a method of rolling the lift back and using the steep hill and gravity to evacuate people. Mr. Doman was unaware of any other lift doing that and was uneasy about that method, but it might work. He reiterated his original question as to whether the Ski Area Safety board wanted to deal with this question. Mr. Call responded that he had only heard of this problem and was not willing to decide anything at this meeting.

Mr. Doman stated that Copper Peak was putting together a plan and would be submitting it to Mr. Doman for his consideration. He would like to bring their plan to this board at the spring meeting for this board's comments. If their plan involves rolling the lift back under controlled circumstances, he would like to have this board's help in determining whether it could be done safely. Except for one winter event, this lift would be operating in the summer.

Mr. Doman stated that he would do more research before the spring meeting as to whether other jurisdictions allow controlled roll backs for evacuation purposes or not. He noted that what is generally used are the redundant mechanisms to drive the lifts forward. Also he would be investigating what is done in Europe, where lifts move in both directions, but he was not clear as to whether they move backwards with people on them.

Mr. Vander Spoel asked whether Mr. Doman was using the B77 standard to inspect this lift even though it is licensed under the Carnival-Amusement Act. Mr. Doman replied that B77 was cited in the rules for both the Ski Area Safety Act and the Carnival-Amusement Safety Act. He considered that this lift falls under the ski area side for ropeway expertise, as the ski areas operate ropeways every day, but this is the only ropeway operated on the carnival-amusement side. As another of these lifts would be opening, he perceived that he would need to explain all the lift issues to the carnival-amusement board, who has no experience with them, or he could solicit advice from this board. He considered that he could get more valuable advice from the board who handles these issues every day.

Mr. Doman segued into private ropeways and noted that there were some people near Benton Harbor considering a private ropeway. He told them he would bring it before this board for discussion. The owner of the condo then decided not to build one so it is a moot point right now, but in the process of considering this one, he discovered that there is another one in the same area going to and from a private home. It is a private lift on private property. Other jurisdictions attempted to get involved with private lifts, but became embroiled in the details and then decided against it. Colorado even amended their law to exempt themselves from responsibility for private ropeways. He was happy to leave private ropeways out of consideration by Michigan.

Ms. Millben asked whether the owners of the private ropeway were using it in connection with skiing. Mr. Doman replied that his interpretation of the Ski Area Safety Act did not require the lift to be at a ski area to be under the Department's jurisdiction. He was not planning to address the private ropeway unless the board wanted him to, but it related to the other one also, because it involves ropeway expertise, which this board has. He was concerned that ski areas may be impacted by the proximity. Mr. Townsend asked whether the private ropeway was used by people other than the owners of the home. Mr. Doman did not think so, in this particular case. Mr. Starkey noted that if it was used by the public for any reason, it would need to be regulated. Mr. Doman responded if it was owned by a condo, it would be considered public in Colorado. When they amended their law, that was the distinction they made.

Mr. Townsend noted that if the residents of the private home invited friends or a neighbor over to use the lift, then the lift would not be for private use only any longer. Even though they would not be charging money for its use, it would then be used by the public. He noted that there had been problems in the past with people who purchased carnival rides and put them in their back yard. If the neighbors came over to use it, it was not for private use. He was concerned about how clearly the law is defined as to who uses the device. He noted that family-owned devices in the past had been discontinued because of the liability problem. Insurance companies refused to cover them and they disappeared. Ms. Boven suggested that Mr. Doman ask the Attorney General's Office for an opinion on how the law affects this issue. Mr. Doman agreed and also agreed to let the board members know what transpires regarding private ropeways.

Mr. Doman discussed whether a ski area needed a construction engineer's certification for the lifts. He noted that other jurisdictions have forms that are used by engineers to certify the design and construction of lifts and the Department may use that system in the future.

Snowmobile Safety Regulation

Mr. Call noted that at the last meeting the board had formed a subcommittee to respond to the Vachon family's suggested legislation. That committee had two meetings, one of which was recently with the legislative aides from State Rep. Knollenberg, Senator Pappageorge and Senator McMannis. The committee consisted of Mr. Call, Mr. Woods and Mr. Vander Spoel from the board, along with Jim Bartlett, Bruce Firestone and Tim Myer. Mr. Kiefer was an alternate on the committee.

Language was decided upon that the ski industry could comply with and was presented to the legislative aides at the last committee meeting. The committee members were advised that the Vachon family may still want the legislators to pursue legislation regardless of the outcome of the committee's recommendation to the board. Mr. Call had not heard anything further from the legislative aides. It was the consensus of the committee that they would request that the Department pursue rule making with the language that the committee wrote. The draft language had been distributed to the board for their review and was being recommended from the committee to the board with the intent that the board formally request that the Department begin the rule making process.

Mr. Kiefer asked if the Department had heard from the legislative aides. Ms. Boven responded that they had not, and added that the legislative representatives did not disagree with the Department moving forward with these rules.

MOTION: Mr. Kiefer moved that the board recommend that the Department move forward with the rule making process, using the draft language proposed by the committee, dated September 14, 2007. Mr. Topham seconded and the motion passed unanimously.

Mr. Barber asked what the timeline would be for this legislation to be effective. Ms. Shell replied that it would take close to a year for the new rules to be implemented. Even if there was pressure for it to move more quickly, it would take at least six to eight months. It would not be something that could be implemented for this coming ski season. Mr. Barber considered that moving ahead with the process now would indicate good intentions on the part of the board and also to allow the information to get to the ski areas before the adoption of it for the next season. Mr. Call agreed that it was a good idea to have the information to the ski areas in time for them to comply with the new rules.

Ms. Shell stated that there would probably be a public hearing sometime after January, so there would be opportunity for more input from the ski areas. Mr. Doman added that all of the ski areas are currently very concerned about snowmobile safety and the board members and Department staff can take the information to the ski area operators to alert them as to what has been proposed and what will be required of them for the next ski season.

Mr. Call asked Ms. Shell if she was concerned that there would be any problems as they moved through the process. She replied in the negative. Mr. Starkey noted that Mrs. Vachon and her attorney were very adamant that they wanted new rules in effect for this coming ski season. Mr. Call responded that the Vachon family was now aware of the timeline necessary for new legislation to be enacted.

Mr. Townsend questioned how the inspectors would implement the new rules. He had reviewed the draft very quickly and noted some areas of concern for the inspectors, such as specific speeds. Mr. Call replied that the committee had to work with the draft legislation from the Vachon family, which proposed a speed limit of 10 mph. Because of factors such as the inability of a snowmobile to abide by that on a ski slope and the difficulty of how to enforce a speed limit, the language that the committee put in did not specify a speed, but only said safe for conditions.

Mr. Townsend asked about the provision regarding an audible device. As a fireman for twenty-five years, he considered that a more effective response could occur without a siren, in that a siren often creates panic, excitement, and more problems. He noted that at the state fair they used to have an ambulance with a siren come through the middle, but determined that it drew crowds of people to the problem area and stopped using the siren. Because of the siren, the ambulance appeared to be speeding when it wasn't, and they received letters from angry local officials about the speed of the ambulance through the fairs and carnivals. He added that there are also specific motor vehicle requirements when using lights and a siren.

Mr. Call replied that the committee's draft language was vague, only calling for an audible alarm capable of 85 decibels. It does not require the alarm to be used at any particular time or place, but instead places the responsibility for when to use that type of equipment with the ski area. The language requires the ski areas to address the issues by having a written policy in place for handling motorized vehicle traffic on the ski slope. They did not feel that they could be specific, but asked for a reasonable policy for safe use of snowmobiles on ski slopes. It's not possible to guess at all the specific things that could happen at a ski area or all the exceptions that may happen to the very specific things that the Vachon family wanted to see. The family were focused on what happened to their son, but there are all types of other things that could happen that would have been affected by the language in their draft proposal.

Mr. Doman considered that the primary objective is to have an upgraded set of rules moving towards what the Vachon family wants that are still reasonable for ski areas to comply with. He stated that the vast majority of ski areas now have a program for snowmobile use and that the inspectors' role will be to review the plans with the ski areas, making sure that they have the program and the equipment necessary. It is a similar situation to other required programs, like the evacuation procedures. Another item that was in both draft proposals is the requirement to report snowmobile-related accidents. Whether the ski area would be shut down would depend on the circumstances at the time. Ms. Millben stated that it is a natural extension of creating a regulation to state what the penalty would be for violating it. That may come up in the public hearing.

Mr. Starkey considered that the committee left it open to each ski area as to whether to use the alarm or just to use lights or both, and in what circumstances. It could be a very confusing and unpleasant skiing experience to have alarms going on and off all day. Sometimes more accidents happen in the confusion. Each ski area should have their own policy as to when to use them. Mr. Topham agreed with Mr. Townsend's comments that common sense needs to be used when determining whether to use an alarm or not. Mr. Vander Spoel added that insurance companies will also dictate that ski areas follow the new rules and that will also determine compliance.

Mr. Call stated that there would be at least one public hearing giving the ski areas an opportunity to comment on the proposed rules. He noted that although the committee had spent a lot of time on them, he was sure they had not thought of every contingency, and there may be things brought up in the public hearings that they had not considered. Mr. Doman noted that Mr. Pettyjohn brought up some items that morning that affect only the very small ski areas, so there are still things to be discussed, but he considered that even though they are very small, they still need a snowmobile safety policy.

Mr. Starkey and Mr. Topham extended their thanks to the subcommittee who worked on the proposed language, including the Department staff.

ITEMS FOR CONSIDERATION FROM BOARD MEMBERS

None.

ELECTION OF OFFICERS

MOTION: Mr. Kiefer moved to retain the current slate of officers.
Mr. Starkey seconded and the motion passed unanimously.

NEXT MEETING DATE

The next meeting of the Ski Area Safety board will be on April 25, 2008 at 1:00 pm.

ADJOURNMENT

MOTION: Mr. Starkey moved to adjourn the meeting. Mr. Topham
seconded and the motion passed unanimously.

They're being no further business to be brought before the board at this time, the
meeting was adjourned at 2:10 p.m.

_____/s/_____
Michael S. Call, Chairperson

_____5/9/2008_____
Date

_____/s/_____
Ann Millben, Licensing Administrator

_____5/9/2008_____
Date