



State of Wisconsin \ Department of Commerce

# RULES in FINAL DRAFT FORM

**Rule No.:** Chapter Comm 34

**Relating to:** Amusement Rides and Attractions

**Clearinghouse Rule No.:** 02-127

The Department of Commerce proposes an order to repeal ss. Comm 34.01 (1) and (2), Comm 34.17, Comm 34.18 (2) (d), and ch. Comm 34 Appendix;

to amend ch. Comm 34 title, ss. Comm 34.001, Comm 34.002 (1), Comm 34.003, Comm 34.01 (3), (5), (9), (11), (12), (14) and (15)(intro.), Comm 34.04 (1), Comm 34.04 (4), (title) and (6), Comm 34.05 (4) (a) Note and (c), Comm 34.08 (2), Comm 34.16 (2), Comm 34.19, Comm 34.23 (1), (2) (a) and (b), and (4), Comm 34.24 (1), (3) (a) 2., (4) (e), (5) (a) Note and (b), and (7) (b) 2. and (c) 2., Comm 34.25 (1) and (4), Comm 34.26 (2) (b) and (3), Comm 34.27, Comm 34.285 (1), Comm 34.29 (1) and (2), Comm 34.30, Comm 34.31 (4), Comm 34.32 (1) (a), Comm 34.33, Comm 34.34 (1), Comm 34.34 (2) (a), Comm 34.37, Comm 34.38 (1) and (3), Comm 34.39, Comm 34.41, Comm 34.43, Comm 34.55 (2), and Comm 34.56 (5);

to repeal and re-create ss. Comm 34.04 (2) (c) Note, Comm 34.10, and Comm 34.11;

and to create ss. Comm 34.34 (1M), Comm 34.45 (4) (f), relating to amusement rides and attractions.

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### **Analysis of Proposed Rules**

Statutory Authority: ss. 101.02 (15) (h) to (j), 101.12 (1) (e), 101.17, and 101.19 (1) (b)

Statutes Interpreted: ss. 101.02 (15) (h) to (j), 101.12 (1) (e), 101.17, and 101.19 (1) (b)

The Division of Safety and Buildings within the Department of Commerce is responsible for protecting the health, safety and welfare of the public by establishing reasonable and effective safety standards for the construction, repair and maintenance of public buildings and places of employment. Chapter Comm 34 contains minimum safety standards for the design, construction, installation, operation and inspection of amusement rides and attractions.

The proposed rules consist of a revision of chapter Comm 34 in order to bring the chapter up-to-date with current administrative procedures and nationally recognized designs and practices. The application of chapter Comm 34 is being revised by deleting the reference to employees and by clarifying that the chapter covers amusement rides that are open to the public. The proposed rules also delete all references to amusement attractions and amusement structures. The Department does not inspect amusement attractions, and the new Commercial Building Code covers all types of structures.

The proposed rules revise the registration requirements by clarifying that class 3 rides are not registered, only class 1 and 2 rides are registered. The load-testing requirements for class 3 rides and modified rides are being deleted, retaining the requirement for an engineering analysis or non-destructive tests. The requirement for prevention of automatic restart after power failure is being revised by applying the rule to all rides with passenger-carrying devices, regardless of the date of construction.

The proposed rules include new requirements for the design and construction of fences, with a 3-year compliance time. These new requirements follow nationally recognized standards for amusement ride fences. The current rules for go-karts and similar rider-controlled vehicles are being revised by adding a requirement that vehicles cannot be operated with more than one

person per seat. The bungee jumping rules are being amended by clarifying that catapulting is allowed where there is no overhead obstruction which a person may impact.

The proposed rules have been developed with the assistance of the Amusement Ride Code Advisory Council. The members of that citizen advisory council are as follows:

<u>Name</u>	<u>Representing</u>
Robert Dillenburg	Wisconsin Association of Fairs
Steve Elliott	Amusement Industry Manufacturers & Suppliers
Bill Fischer	Green Bay Parks and Recreation
Darrell Klompaker	Little A-Merrick-A
David Larkee	Outdoor Amusement Business Association
Gilbert Toslek, Jr.	Wisconsin State AFL-CIO
Charles Waterman	Outdoor Amusement Business Association

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SECTION 1. Chapter Comm 34 title is amended to read:

**Chapter Comm 34**  
**AMUSEMENT RIDES AND ATTRACTIONS**

SECTION 2. Comm 34.001 is amended to read:

**Comm 34.001 Purpose.** The purpose of this chapter is to set forth minimum standards for the design, construction, operation, repair, inspection, assembly, disassembly and use of amusement rides, ~~amusement attractions and amusement structures~~ at carnivals, fairs and other places of amusement for the safety of ~~employees and~~ frequenters.

**Note:** The federal Architectural and Transportation Barriers Compliance Board (Access Board) has issued accessibility guidelines for the construction or alteration of amusement rides. The guidelines are available at Title 36 CFR Part 1191 Appendix A, by calling the Access Board order line at 202/272-0080 (TTY 202/272-0082) and requesting publication S-43, or on the Internet at [www.access-board.gov/recreation/final.htm](http://www.access-board.gov/recreation/final.htm).

SECTION 3. Comm 34.002 (1) is amended to read:

**Comm 34.002 (1) APPLICATION.** The provisions of this chapter apply to amusement rides, ~~amusement attractions and amusement structures~~ open to the public and located at permanent sites or moved from site to site.

SECTION 4. Comm 34.003 is amended to read:

**Comm 34.003 Retroactivity.** Except as otherwise specified in this chapter, the provisions of this chapter shall apply to all new and existing amusement rides ~~and attractions in existence on March 1, 1992 and to those amusement rides and attractions constructed on and after March 1, 1992.~~

SECTION 5. Comm 34.01 (1) and (2) are repealed.

SECTION 6. Comm 34.01 (3), (5), (9), (11), (12), (14) and (15) (intro.) are amended to read:

(3) "Amusement ride" means a device or animal that carries, transports or supports passengers in unusual, entertaining or thrilling modes of motion and any vehicle providing entertainment or transportation in conjunction with an amusement ride ~~or an amusement attraction~~, including, but not limited to, rider-powered and power-driven thrill rides, mild rides and ride-throughs, walk-throughs, air pillows, giant slides, and animal rides. Vehicles include parking lot trams, old fire engines, stage coaches and trains. "Amusement ride" does not include aircraft under the jurisdiction of the federal aviation administration, railroad trains under the jurisdiction of the federal railroad administration or boats used on navigable waters.

(5) "Authorized persons" are persons experienced and instructed in the work to be performed on an amusement ride ~~or attraction~~ and who have been given the responsibility to perform their duties by the owner or operator of an amusement ride ~~or attraction~~.

(9) "Frequenter" means every person, other than an employee, who may go in or be in a place of employment, public building, ~~amusement attraction~~ or amusement ride under circumstances which render such person other than a trespasser.

(11) "Owner" means the person holding legal title to the amusement ride ~~or attraction~~, or his or her designated representative, lessee or agent.

(12) "Passenger space" means the area, seat, tub, chair, car, cage or other device in which the customer sits, stands, walks or otherwise occupies while frequenting an amusement ride ~~or attraction~~.

(14) "Properly maintained" means assembling, disassembling, transporting, operating, lubricating, greasing, oiling, testing and repairing amusement rides ~~and attractions~~ in accordance with recognized safe practice.

(15) (intro.) "Recognized safe practice" means that the materials and methods used to assemble, disassemble, operate, transport, maintain, repair and modify amusement rides ~~and attractions~~ are:

SECTION 7. Comm 34.04 (1) is amended to read:

**Comm 34.04 (1) GENERAL.** All class 1 and class 2 amusement rides shall be registered with the department annually. The fees as specified in ch. Comm 2 shall be paid and the amusement rides shall be registered prior to being opened to the public. All registrations, regardless of date of issuance, shall expire on December 31 of each year.

SECTION 8. Comm 34.04 (2) (c) Note is repealed and re-created to read:

**Comm 34.04 (2) (c) Note:** Amusement ride registration forms SBD-5292 and SBD-7620 are available at no charge from the department at the Safety and Buildings Division, Field Operations Bureau, P.O. Box 7302, Madison, WI 53707-7302, telephone (608) 266-2780.

SECTION 9. Comm 34.04 (4), (title) and (6) are amended to read:

**Comm 34.04 (4) (title)** CLASS 3 AND MODIFIED AMUSEMENT RIDES. ~~Amusement Class 3 and modified amusement rides modified since the last registration~~ shall not be ~~operated~~ opened to the public until the department has been provided with information to determine the proper maintenance and class of the rides, and the owner or operator has obtained a new registration certificate.

(6) POSTING OF CERTIFICATE. The registration certificate shall be posted on the amusement ride so that the certificate is visible to the public. The certificate shall not be altered or defaced.

SECTION 10. Comm 34.05 (4) (a) Note and (c) are amended to read:

**Comm 34.05 (4) (a) Note:** Application form SBD-118 is available at no charge from the department at the Safety and Buildings Division, Field Operations Bureau, P.O. Box 7969 7302, Madison, Wisconsin 53707-7302, telephone (608) 266-2780, and on the Internet at [www.commerce.state.wi.us/SB/SB-DivForms.html](http://www.commerce.state.wi.us/SB/SB-DivForms.html).

(c) *Denial of approval.* If the department determines that the plans or the ~~application~~ specifications do not substantially conform to the provisions of this chapter, the application for conditional approval shall be denied in writing.

SECTION 11. Comm 34.08 (2) is amended to read:

**Comm 34.08 (2)** Every amusement ride ~~and attraction~~ shall be ~~subjected~~ subject to an inspection at least once per year conducted by the department or its authorized representative.

SECTION 12. Comm 34.10 and 34.11 are repealed and re-created to read:

**Comm 34.10 Appeals. (1) APPEAL OF DEPARTMENT ORDER.** Pursuant to s. 101.02 (6)(e), Stats., any person who owns or occupies a property that is affected by an order of the department may petition the department for a hearing on the reasonableness of the order.

(2) APPEAL OF LOCAL ORDER. Pursuant to s. 101.02 (7)(b), Stats., any person affected by a local order that is in conflict with an order of the department may petition the department for a hearing on the local order.

(3) PETITION OF ADMINISTRATIVE RULE. Pursuant to s. 227.12, Stats., any municipality, corporation or any 5 or more persons having an interest in an administrative rule may petition the department requesting the adoption, amendment or repeal of the rule.

**Comm 34.11 Petition for variance.** The department shall consider and may grant a variance to a nonstatutory provision of this chapter in accordance with ch. Comm 3. The petition for variance shall include, where applicable, a position statement from the fire department having jurisdiction.

**Note:** Chapter Comm 3 requires the submittal of a petition for variance form (SBD-9890) and a fee, and that an equivalency is established in the petition for variance that meets the intent of the rule being petitioned. Chapter Comm 3 also requires the department to process regular petitions within 30 business days and priority petitions within 10 business days.

**Note:** Form SBD-9890 is available at no charge from the department at the Safety and Buildings Division, Field Operations Bureau, P.O. Box 7302, Madison WI 53707-7302, telephone 608/266-2780, and on the Internet at [www.commerce.state.wi.us/SB/SB-DivForms.html](http://www.commerce.state.wi.us/SB/SB-DivForms.html).

SECTION 13. Comm 34.16 (2) is amended to read:

**Comm 34.16 (2) TEST PERIOD.** (a) *Classes 1 and 2.* When required in accordance with recognized safe practice, nondestructive tests of all class 1 and class 2 amusement rides shall be performed every 3 years or 3,000 hours of operation, whichever comes first, or at testing intervals ~~recommended~~ required by the manufacturer. The time interval shall be based upon the date of the previous test report.

(b) *Class 3 and modified.* An engineering analysis acceptable to the department shall be submitted before a class 3 or modified ride may be ~~operated~~ opened to the public. If an engineering analysis cannot be obtained, then nondestructive tests of load-bearing parts and welds ~~and load testing results~~ shall be submitted. After the ride is accepted under these requirements, the ride shall be classified as a class 1 or 2 ride.

SECTION 14. Comm 34.17 is repealed.

SECTION 15. Comm 34.18 (2) (d) is repealed.

SECTION 16. Comm 34.19 is amended to read:

**Comm 34.19 Design and construction.** Amusement rides ~~and attractions~~ shall be so designed and constructed that the maximum loads do not stress any part beyond recognized safe practice.

SECTION 17. Comm 34.23 (1), (2) (a) and (b), and (4) are amended to read:

**Comm 34.23 (1) GENERAL.** Amusement rides, ~~attractions and structures~~ shall be supported and restrained to maintain stability during operation and in emergencies.

**(2) PERMANENT FOUNDATION.** (a) Permanent foundations for amusement rides, ~~attractions and structures~~ shall comply with chs. Comm 61 to 65.

(b) The foundations shall support the amusement ride, ~~attractions and structure~~ in accordance with recognized safe practice.

**(4) RESTRAINT.** Amusement rides, ~~attractions and structures~~ shall be staked, bolted, guyed, wind braced or otherwise restrained in accordance with recognized safe practice to prevent horizontal movement, such as rotating off blocking during an emergency stop or tipping over.

SECTION 18. Comm 34.24 (1), (3) (a) 2., (4) (e), (5) (a) Note and (b), and (7) (b) 2. and (c) 2. are amended to read:

**Comm 34.24 (1) HAZARDS.** Access to, egress from and passage through amusement rides, ~~amusement attractions and structures~~ shall be free of hazards.

(3) (a) 2. Guardrails shall be provided between passenger-carrying devices and persons waiting on the platform or entranceway of a class 2 ~~or 3~~ ride.

(4) (e) Gaps between a fixed and a movable surface for walking or between 2 movable surfaces for walking shall not exceed 3 inches. The gaps shall be minimized by extending one surface under or over the other provided the extensions do not adversely affect the operation of the amusement ride ~~or attraction~~ or create a greater tripping hazard.

(5) (a) **Note:** This rule is intended to apply to all areas of amusement rides ~~and attractions~~ where the frequenters walk or stand or are capable of standing during operation of the amusement ride ~~or attraction~~.

(b) The department may accept lesser headroom clearances when the low overhead is part of the amusement ride ~~or attraction~~; however, protection against head injuries shall be provided.

(7) (b) 2. If the amusement ride ~~or attraction~~ has a ramp with a slope of 1:4 and a width greater than 24 inches, the department may grant an exception if an equivalent degree of safety is provided.

(c) 2. If the amusement ride ~~or attraction~~ has a ramp slope steeper than 1:4, the department may grant an exception if an equivalent degree of safety is provided.

SECTION 19. Comm 34.25 (1) and (4) are amended to read:

**Comm 34.25 (1) GENERAL.** All hazardous parts, such as but not limited to pinch points, shear points and in-going nips, of amusement rides ~~and attractions~~ shall be enclosed, barricaded or otherwise arranged to effectively prevent injury in accordance with recognized safe practice.

(4) **WHEELS AND LEVERS.** Wheels and levers used by frequenters in the control of the action of the amusement ride ~~or attraction~~ shall be designed and maintained to prevent pinches, strains, abrasions and body actions that could result in injuries. Wheels and levers shall be padded. Wheels shall have a solid center in lieu of spokes.

SECTION 20. Comm 34.26 (2) (b) and (3) are amended to read:

**Comm 34.26 (2) (b)** Class 2 ~~and 3~~ amusement rides that have loading or unloading areas which cannot be clearly seen by the operator shall be equipped with mirrors or other devices which provide the operator with full visibility of all such areas, or shall be operated only when an authorized attendant is stationed so that all loading and unloading areas are visible to the attendant.

(3) **SPECIAL PROCEDURES.** When an attendant is required, communication with the operator shall be made when it is safe to start the amusement ride ~~or attraction~~. A control



interlock, such as a kill switch, shall be provided for the attendant to stop the amusement ride or attraction in case of an emergency.

SECTION 21. Comm 34.27 is amended to read:

**Comm 34.27 Identification.** (1) GENERAL. Unique identification of each amusement ride and attraction and each passenger-carrying device, and operational information to facilitate the department's inspection, shall be provided to the department as required under this section.

(2) (title) RIDE AND ATTRACTION IDENTIFICATION. (a) Information required in this section shall be clear, legible and permanent, such as die-stamped on the frame or included on a permanent plate securely attached to the amusement ride or attraction.

(b) Amusement rides and attractions shall be identified by their original name, model number and serial number. In the absence of such information, the owners shall provide unique identification of their own choice sufficient to properly identify the amusement ride or attraction.

(c) The maximum number of passengers and speed of operation, as specified by the manufacturer, shall be provided. When the manufacturer's specification is not known, the owner shall provide the values from an analysis or other means approved by the department. The department may accept capacity and speed proven by 7 years of acceptable field service of the amusement ride or attraction or similar amusement rides or attractions.

(d) When available, the manufacturer's name and address shall be provided.

(3) PASSENGER-CARRYING DEVICE IDENTIFICATION. Each passenger-carrying device on an amusement ride or attraction shall be identified by a permanent number or manufacturer's decal, at least one inch in height and located in a conspicuous place. Permanent ink markers are not acceptable.

SECTION 22. Comm 34.285 (1) is amended to read:

**Comm 34.285 (1) SAFETY BAR OR BELT.** Each carrier of a lift system used in conjunction with an amusement ride or attraction shall be equipped with a safety bar or belt that will not open under forward pressure.

SECTION 23. Comm 34.29 (1) and (2) are amended to read:

**Comm 34.29 (1) STABILITY.** Amusement rides, attractions and structures shall not be located or erected where water, unstable soil or similar conditions could cause movement or tip-over.

(2) ELECTRIC POWER LINES. Amusement rides, attractions and structures, and the machinery used to erect them shall be located to provide at least 10 feet of clearance from any uninsulated overhead electric power line energized to more than 50 volts, but less than or equal

to 50,000 volts. For lines energized to more than 50,000 volts, the minimum clearance shall be increased 0.4 inch for each 1,000 volts over 50,000.

SECTION 24. Comm 34.30 is amended to read:

**Comm 34.30 Assembly and disassembly.** The assembly and disassembly of an amusement ride, ~~attraction or structure~~ shall be done by or under the supervision of an authorized person. Unauthorized persons shall not be permitted in the work area.

SECTION 25. Comm 34.31 (4) is amended to read:

**Comm 34.31 (4) AUTOMATIC RESTART PROHIBITED.** All amusement rides ~~and attractions constructed after March 1, 1986,~~ with passenger-carrying devices shall be equipped and maintained with devices to prevent automatic restart after power failure, including, but not limited to, magnetic starters, magnetic switches and pneumatic clutches.

SECTION 26. Comm 34.32 (1) (a) is amended to read:

**Comm 34.32 (1) (a)** The installation of electric and communication conductors and equipment in conjunction with amusement rides ~~and attractions~~ shall comply with the provisions of ch. Comm 16.

SECTION 27. Comm 34.33 is amended to read:

**Comm 34.33 Lighting of exits and passageways.** Access to and exits from amusement rides, ~~attractions and structures~~ shall, while in operation or occupied, be provided with illumination by natural or artificial means of not less than 5 footcandles measured at all walking surface levels.

SECTION 28. Comm 34.34 (1) is amended to read:

**Comm 34.34 (1) GENERAL.** Amusement rides ~~and attractions~~ shall be fenced, barricaded or otherwise arranged in accordance with recognized safe practice so that frequenters are effectively prevented from entering hazardous areas.

SECTION 29. Comm 34.34 (1M) is created to read:

**Comm 34.34 (1M) FENCES.** When fences are provided in accordance with sub. (1), they shall be constructed to meet all of the following requirements.

(a) Fences shall be a height of at least 42 inches above the surface on which the spectators or riders stand.

(b) Fences shall be constructed in such a fashion so as to reject a 4-inch ball at all openings, including between the bottom of the fence and the surface upon which it rests.

(c) Fences shall be designed, constructed and erected to inhibit overturning by spectators or riders.

(d) Where used, gates shall open away from the ride unless equipped with a positive latching device.

(e) Gates shall be designed such that if opened during the amusement ride cycle, the gate will not contact the amusement ride or cause a hazard to riders.

(f) Fences and gates shall be constructed to inhibit spectator contact with the ride, or rider contact with fences or gates, or both.

**Note:** Horizontal members in a fence or gate may be used to improve construction or efficiency, but should be minimized to reduce the ease of climbing.

SECTION 30. Comm 34.34 (2) (a) is amended to read:

**Comm 34.34 (2) (a)** Loading and unloading areas which are an integral part of the amusement rides ~~and attractions~~ shall be separated from moving parts by barriers or guardrails.

SECTION 31. Comm 34.37 is amended to read:

**Comm 34.37 Cleanliness. (1) REFUSE CONTAINERS.** Refuse containers shall be provided in and around all amusement rides, ~~attractions and structures~~. Accumulations of trash or refuse shall be removed within 24 hours.

**(2) SANITARY CONDITIONS.** All parts of amusement rides, ~~attractions and structures~~ used by frequenters shall be maintained in a clean and sanitary condition.

SECTION 32. Comm 34.38 (1) and (3) are amended to read:

**Comm 34.38 (1) GENERAL.** (a) Amusement rides, ~~attractions and structures~~ shall be maintained, repaired and modified in accordance with recognized safe practice.

(b) Improperly maintained, repaired or modified amusement rides shall not be allowed to ~~operate~~ open to the public until tests as specified in ~~ss. s.~~ Comm 34.16 ~~and 34.17~~ are conducted and the results accepted by the department.

**(3) MODIFICATION.** Modifications required by the manufacturer to improve amusement ride ~~and attraction~~ safety shall be made.

SECTION 33. Comm 34.39 is amended to read:

**Comm 34.39 Welding.** Welding of structural members and other critical parts of amusement rides ~~and attractions~~ shall comply with the requirements of chs. Comm 61 to 65.

SECTION 34. Comm 34.41 is amended to read:

**Comm 34.41 Accident reporting.** Injuries to frequenters caused by amusement rides ~~or attractions~~ that require more than first aid treatment shall be reported by the owner to the department on form SBD-211 within 2 business days of the injury. A copy of the owner's report to the insurance carrier may be submitted in place of form SBD-211 if the report includes ~~suggestions for prevention of similar accidents~~ the same information as the form. Fatalities caused by amusement rides shall be reported to the department or the state division of emergency management within 24 hours of occurrence.

**Note:** ~~See Appendix for a reprint of Form SBD-211 — Amusement Ride Accident Report.~~ Accidents are to be reported to the department at the Safety and Buildings Division, Field Operations Bureau, P.O. Box 7302, Madison, WI 53707-7302. Form SBD-211 may be obtained from the department at the same address.

**Note:** The department can be contacted at 608/266-2780 during normal business hours. The State Division of Emergency ~~Government~~ Management can be contacted at ~~608/266-3232~~ 800/943-0003 during non-business hours.

SECTION 35. Comm 34.43 is amended to read:

**Comm 34.43 Responsibility of sponsors.** Any person, group or business contracting or leasing for the installation and use of amusement rides ~~or attractions~~ shall carry a condition in a contract or agreement that the amusement ride ~~or attraction~~ owner meets the conditions of this chapter prior to the opening for use by frequenters.

SECTION 36. Comm 34.45 (4) (f) is created to read:

**Comm 34.45 (4) (f)** Vehicles shall not be operated with more than one person per seat unless the vehicle is designed for such operation by the vehicle manufacturer.

SECTION 37. Comm 34.55 (2) is amended to read:

**Comm 34.55 (2) PROHIBITED JUMPING.** Bungee jumping from cranes, bridges or hot air balloons is prohibited. Stunt jumping, sandbagging, and tandem jumping and catapulting are also prohibited. Catapulting is prohibited when an overhead obstruction exists which may impact or otherwise strike the person, thereby posing a hazard.

SECTION 38. Comm 34.56 (5) is amended to read:

**Comm 34.56 (5)** "Catapulting" means a procedure where ~~the jumper~~ a person is held on the ground while the bungee cord is stretched, and when the ~~jumper~~ person is released, he or she is propelled upwards.

SECTION 39. Chapter Comm 34 Appendix is repealed.

**(END)**

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**EFFECTIVE DATE**

Pursuant to s. 227.22 (2) (intro.), Stats., these rules, except SECTION 29, shall take effect on the first day of the month following publication in the Wisconsin Administrative Register.

Pursuant to s. 227.22 (2) (b), Stats., SECTION 29 shall take effect on the first day of the 37th month following publication in the Wisconsin Administrative Register.

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