

RECEIVED

2007 JUL 30 AM 10:09

INDEPENDENT REGULATORY
REVIEW COMMISSION

2616



1907-2007

July 21, 2007

Bureau of Ride and Measurement Standards
Division of Ride Safety
Attention: Joe Filoromo
Pennsylvania Department of Agriculture
2301 North Cameron Street
Harrisburg, PA 17110-9408

Re: Regulation ID #2-102 (#2616) on the correspondence. The deadline for submitting comments to PDA is July 23, 2007.

Dear Mr. Filoromo;

On June 23, 2007, the Pennsylvania Department of Agriculture (PDA) published a proposed rulemaking in the *Pennsylvania Bulletin*. The full title for the proposed rulemaking is "Amusement Rides and Attractions Erected Permanently or Temporarily at Carnivals, Fairs and Amusement Parks."

It is our understanding that the proposed rulemaking revises and updates the existing regulations for the amusement rides and amusement attractions industry in Pennsylvania. With that understanding we have reviewed the proposed rulemaking as published in the Pa Bulletin and are providing to the Department the following comments, suggestions, questions and concerns which have developed from our review of the proposed rulemaking:

REVIEW COMMENTS on the PROPOSED RULEMAKING from
DEPARTMENT OF AGRICULTURE [7 PA. CODE CH. 139] Amusement Rides
and Attractions Erected Permanently or Temporarily at Carnivals, Fairs and
Amusement Parks

Annex A TITLE 7. AGRICULTURE PART V-D. AMUSEMENT RIDES AND
AMUSEMENT ATTRACTIONS CHAPTER 139. AMUSEMENT RIDES AND
ATTRACTIONS

Subchapter A. REGISTRATION AND INSPECTION

§ 139.1. Scope.

- Comment – What is the definition of “Independent Inspector”? What is definition “General Inspector”?
- Comment – The definition of an “Attraction” should be established.
- Comment – Define Amusement Ride and Devices needs to be defined in the regulations

Proposed Rulemaking wording “Operation—

(i) When used in the context of an amusement ride or attraction, the term includes the loading of persons onto the ride or attraction, the physical movement of the ride or—in the case of non-mechanical rides (such as slides) or attractions—the movement of persons on or through the ride or attraction, and the unloading of persons from the ride or attraction.

(ii) The term does not include the portion of a patron line that extends outside of any fence, wall, guardrail or gate that limits access to the amusement ride or amusement attraction and that is required to meet the ASTM International F-24 Committee Standards.”

- Comment – Since there are some rides/attraction which do not have a physical separation device wording should be added to this section which includes “.....any device which limits or identifies control access to the ride.”

Proposed Rulemaking wording “*Permanent structure*—A structure, enclosure or arrangement of parts, used or intended to be used for or as an amusement ride or attraction, that is erected to remain a lasting part of the premises.

- Comment – A permanent structure needs to be better defined under this section such as “...a ride station or the like.” but not the ride.

Proposed Rulemaking wording

“(e) *Department action on registration application.* The Department will, within 30 days of receiving a correct and complete registration application form mail the applicant one of the following:”

- Comment – There should be some reference to the Advisory Board review of the proposed ride attraction . What is the mission of the Ride Advisory Board relating to ride review?

Proposed Rulemaking wording – “§ 139.4. Registration.

(h) *Registration plate.* The Department will issue a registration plate, bearing a unique registration number, with respect to each amusement ride or amusement attraction registered in accordance with this section. The registration plate remains the property of the Department after it is issued. The registrant shall be responsible to ensure that the registration plate remains affixed to the registered amusement ride or amusement attraction in a location where the plate is plainly visible to the riding public. The registration plate is intended as a permanent means of identifying the amusement ride or attraction, and shall remain affixed to the ride or attraction from one registration period to the next. Although the Department will not charge a fee for the issuance of a registration plate, it will charge a registrant \$30 to replace a lost or obliterated registration plate. This charge reflects the reasonable cost to the Department of replacing a registration plate."

- Comment - Referring to the Registration Plate: Affixing the plate in a location that is plainly visible to the riding public is not always possible. Suggest that SHALL should be replaced with SHOULD or WHEREVER POSSIBLE; for example the "Roller Racer" ride

Proposed Rulemaking wording - § 139.5. Insurance.

(c) *Content of certificate of insurance.* A certificate of insurance must set forth the following: (3) Identification of the amusement rides and amusement attractions covered by the policy.

- Comment - Does this mean that ALL rides have to be listed individually on the Certificate of Insurance? If so, this will be difficult to administer by both the owner and the Department.

Proposed Rulemaking wording - § 139.7. Inspection.

(b) *Occasions when inspection is required.* An amusement ride or amusement attraction shall be inspected as follows:

- Comment - Since (b) (1) is scheduled to be deleted completely the following is suggested to be added to the proposed (b) after the word "....inspected" during a season for operation for use by the public is as "follows:" The proposed wording under (b) suggests the occasions when inspection is required: Amusement Park Interval, suggest wording be changed to clarify "on a monthly basis thereafter." As written this could mean that rides need inspected 12 months a year.

Proposed Rulemaking wording - § 139.9. Qualified inspectors.

(a) [It is the policy of the Department to accept voluntary registration of an individual or an agency registration of an individual if there is acceptable evidence that the individual has a thorough working knowledge of pertinent statutes relating

to amusement rides and attractions and this chapter.] *General.* The Department will certify persons who meet the requirements of this section to act as qualified inspectors. Any inspection of an amusement ride or amusement attraction required under the act shall be conducted by a qualified inspector who is certified by the Department with respect to the category of amusement ride or amusement attraction that is being inspected. Persons who have been certified by the Department as qualified inspectors prior to

- **Comment - (a)** The portion that states "Any inspection of an amusement ride or amusement attraction SHALL be conducted by a qualified inspector who is certified by the Department..... Currently Daily inspections can be conducted by a person that is not a so called "qualified inspector" as defined by the new definition.

Proposed Rulemaking wording – "139.9 Qualified Inspectors:

(k) *Renewal of current certificate and credential card.*

(1) A qualified inspector may renew certification by delivering to the Department, at the address in § 139.14 and prior to the expiration of the current certificate and credential card, a complete renewal form. A person may obtain this form by contacting the Department through any means described in § 139.14. The renewal form will require the information described in subsection (c)(1)–(7), and the following:

(i) Information to verify that the applicant has met the continuing education requirement in subsection (l). This information must include course dates, locations and descriptions, copies of course completion certificates and other information necessary to demonstrate attendance at the course and successful completion of the course requirements."

- **Comment - (k)(i)** Copies of course completion certificates should be sufficient to prove that the attendee participated in continuing education. Not all Seminars provide descriptions of each class given plus most Seminars end up changing some of the original class schedules for a variety of reasons.

Proposed Rulemaking wording – "§ 139.9. Qualified inspectors.

(l) *Continuing education requirement.* As a prerequisite to renewal of certification under subsection (k), an affiliated qualified inspector shall attend at least 24 hours of relevant Department approved continuing education training in the area of safe amusement ride and attraction erection and operation during the period of certification. A general qualified inspector shall attend at least 48 hours of this training during the period of certification. If a qualified inspector fails to comply with this continuing education requirement, certification will expire as of the expiration date on the qualified inspector's current certificate and credential card. If the Department determines that amusement rides or amusement attractions belonging to a particular category established under subsection (b) are of a comparatively simple design or operation to reasonably justify a requirement of

fewer hours of continuing education for qualified inspectors of that particular category of amusement ride or amusement attraction than are otherwise required under this subsection, it may establish this continuing education requirement by publishing notice of this requirement in the *Pennsylvania Bulletin*, posting notice of this requirement on its website and providing all qualified inspectors for the subject category of amusement ride or amusement attraction with written notice of this requirement."

- Comment - Continuing education requirement: Certainly continuing education is important in this business. The department should realize that it's own employees will need to comply with the new hour requirements as well. Suggest that the number of hours to maintain a General Qualified Inspector be reduced to 40 hours. Currently the larger seminars generally last 3 to 5 days with 8 hours of instruction per day. Requiring the suggested 48 hours seems excessive.

Proposed Rulemaking wording - "§ 139.10. [Advisory Board] (Reserved).

[(a) For the purpose of advising the Secretary when determining factual interpretations amending or repealing this chapter and for evaluating petitions for exception or variance from this chapter, the Governor will appoint an Advisory Board on Amusement Ride/Attraction Safety consisting of nine members. Members will include the following:

- (1) A representative of the amusement ride manufacturers.
 - (2) The President of the Pennsylvania State Showman's Association.
 - (3) The Chairman of the Pennsylvania Amusement Park Association.
 - (4) The President of the Pennsylvania Amusement Park Association.
 - (5) The President of the Pennsylvania County Fairs Association.
 - (6) A mechanical engineer.
 - (7) Two public representatives.
 - (8) The Secretary, who will be designated by the Governor as the Chairman.
- (b) The Board will be known as the Amusement Ride Safety Advisory Board.
- (c) The Board will hold public hearings at a time and place that the Board specifies to carry out its responsibilities.]"

- Comment – The proposed rulemaking proposes to delete this section in its entirety. The mission and responsibility of the Advisory board needs to be included and annotated in the rulemaking.
- Why is this section proposed for deletion?
- The integration between the Department of Agriculture and the experience of the board members is paramount to the successes of the amusement industry. Deleting any reference to the Advisory Board suggests that safety of the industry is not important.
- This section must be retained with the two PAPA members be the Chairman, President or their designee.

Proposed Rulemaking wording – “ § 139.42. Structures.

[(a)] Permanent buildings, enclosed structures and rides intended to be used for or as an amusement ride or amusement attraction shall be constructed to conform to [the requirements of fire and panic regulations at 34 Pa. Code Chapters 49—59 (relating to administration— buildings; general requirements—buildings; A-1 assembly; division A-2 assembly; division A-3 assembly; group B educational; division C-2 hotels, motels, apartment buildings, etc.; division C-3 small group habitation; division C-4 single exit apartments; division D-0 ordinary commercial, industrial, office)] the Pennsylvania Construction Code Act unless exempted under that statute or its attendant regulations, and shall have posted therein a certificate of occupancy issued by [the Secretary of the Department of Labor and Industry] a building code official in accordance with the Pennsylvania Construction Code Act.”

- Comment – The sentence should read “Permanent buildings” and “enclosed structures intended to be used for or amusement attraction shall be constructed to conform to [the requirements of fire and panic regulations at 34 Pa. Code Chapters.....” The Department of Agriculture is the sole authority a.k.a “Authority Having Jurisdictions” over the all amusement rides and devices. No municipality or the Department of Labor has the experience or training to understand the design, details or operation of an amusement ride or device. This is a specialized field of education and training. The Pennsylvania Construction Code Act does not address any of the ASTM F-24 requirements.

Proposed Rulemaking wording – “ § 139.43. Passenger-carrying rides.

(8) *Travel clearance.* The path of travel of an amusement ride shall have a clearance envelope to ensure that a passenger on the ride cannot be injured by contacting a structural member or other fixed or moveable object when the passenger is in the riding position in accordance with the manufacturer’s specifications”.

- Comment – How are existing rides addressed? Is there a grandfather clause in the proposed rulemaking document? Where is it detailed or annotated?

Proposed Rulemaking wording – “ § 139.72. Erection/disassembly of amusement rides and attractions.

(2) *Proximity to high voltage lines.* Amusement rides shall be located at least [10] 15 feet from suspended high voltage lines.”

- Comment – Dose the reference to high voltage refer to any voltage greater than 600 volts?

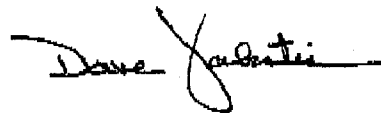
Proposed Rulemaking wording – “§ 139.79. Records.

(2) *Tests.* Tests recommended by the manufacturer shall be recorded and a copy made available to the Department, the Department’s representative and the qualified inspector. Evidence of satisfactory test results shall be recorded on a form or statement by one of the following:”

- Comment – There is no wording on subsections (i) and/or (ii). Have these two been deleted from the regulations?

Thank you in advance for this opportunity for us to review and provide comments on the proposed rule making to the Department of Agriculture.

Sincerely



Dave Yakstis
Director, Rides & Equipment

Cc: Task Force Committee Members



RECEIVED

2007 JUL 30 AM 10:09

2616

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF AGRICULTURE
BUREAU OF RIDE & MEASUREMENT STANDARDS
AMUSEMENT RIDE SAFETY DIVISION

INDEPENDENT REGULATORY
REVIEW COMMISSION

July 26, 2007

Dave Yakstis
Hersheypark
100 W Hersheypark Dr
Hershey, PA 17033

Re: NOTICE OF PROPOSED RULEMAKING
Department of Agriculture
7 Pa. Code Chapter 139
Amusement Rides and Attractions Erected Permanently
or Temporarily at Carnivals, Fairs and Amusement Parks
I.D. No. 2-102
37 #25(Volume) Pennsylvania Bulletin 2823 (Page) (June 23, 2007)

Dear Mr. Yakstis:

You were among the persons who offered written comments with respect to the proposed regulation referenced above. I hereby acknowledge receipt of those written comments.

Under the provisions of the Regulatory Review Act (at 71 P.S. § 745.5a), this Department is required to review and consider your comments as it prepares the "final-form" version of this regulation. The Regulatory Review Act *also* prescribes a process by which you can formally request: (1) a copy of the final-form regulation (showing any changes that have been made as a result of the comment review process); and (2) notification of the date upon which this Department delivers the final-form regulation to the Independent Regulatory Review Commission for review by that body. The Regulatory Review Act requires you be notified that - if you wish to make this formal request - you can do so by contacting me at the mailing address or telephone number set forth on this letterhead. ***Rather than require you to make this formal request, though, this office will mail you a copy of the final-form regulation on or before the day it delivers that document to the Independent Regulatory Review Commission, and will advise you of that delivery date.***

If I may be of further assistance, please advise.

Sincerely,

cc: Dwight-Jared Smith, Esq., with Comment Letter

Room G-4
2301 North Cameron St.
Harrisburg, PA 17110-940

Amusement Rides & Attractions:
Emergency # 800-573-1352
FAX: 717-783-4158
E-Mail: jfiloromo@state.pa.us

TEL - 717-787-2291
FAX - 717-783-4158