

RULES AND REGULATIONS

Title 7—AGRICULTURE

DEPARTMENT OF AGRICULTURE

[7 PA. CODE CH. 139]

Amusement Rides and Attractions Erected Permanently or Temporarily at Carnivals, Fairs and Amusement Parks

The Department of Agriculture (Department) hereby amends Chapter 139 (relating to amusement rides and attractions erected permanently or temporarily at carnivals, fairs and amusement parks) to read as set forth in Annex A.

Statutory Authority

The Amusement Ride Inspection Act (act) (4 P. S. §§ 401—419) provides the legal authority for the final-form rulemaking.

Section 4 of the act (4 P. S. § 404) prescribes the powers and duties of the Department with respect to amusement rides and authorizes the Department to adopt regulations necessary to its administration of the act.

Purpose of the Final-Form Regulations

The final-form regulations update the Department's amusement ride and amusement attraction regulations to reflect developments in the amusement ride and amusement attractions industry in the 21 years since current regulations were last updated, moves these regulations into greater conformity with well-regarded National industry standards for the safe erection and operation of amusement rides and amusement attractions (the American Society for Testing Materials International F-24 Committee Standards) and provides a clearer set of standards for the regulated community.

The amusement ride and amusement attraction industry is a vital, evolving industry. Amusement rides that are common today, such as inflatable bounce rides, climbing walls and water rides, were not in widespread use when the current regulations were last amended. In addition, as the Department has carried-out its responsibilities in administering and enforcing the current regulations over the years, it has identified provisions that are unclear, that are inconsistent with the act or that are not as comprehensive or detailed as their counterpart provisions in the American Society for Testing Materials International F-24 Committee Standards.

Comments and Responses

A notice of proposed rulemaking was published at 37 Pa.B. 2823 (June 23, 2007), affording the public, the Legislature and the Independent Regulatory Review Commission (IRRC) the opportunity to offer comments. Comments were received from IRRC, Hersheypark, Kennywood Entertainment, Inc. (Kennywood) and the Pennsylvania State Association of Township Supervisors.

The Department afforded interested persons a second opportunity to offer comments. Advance notice of the final-form rulemaking was published at 38 Pa.B. 1830 (April 19, 2008). The notice afforded interested persons an opportunity to review the Department's draft of the final-form rulemaking, and to offer comments through May 6, 2008. Five persons offered comments as a result of this advance notice of final rulemaking. The commentators were the Inflatable Industry Purchasing Group, Inc.,

two qualified inspectors, Doylestown Rock Gym Adventure Center, Inc., and the President/CEO of Magic Carousels, LLC.

A summary of comments received during the comment periods described in the preceding paragraphs follows. If the comment was received in response to the advance notice of the final-form rulemaking, that fact is noted in the summary of the comment.

Comment 1: While offering a number of specific comments addressed as follows, Kennywood also offered general support for the Department's effort to provide needed regulatory guidance to park operators. The Pennsylvania Association of Township Supervisors also offered its agreement with the need for an updating of the amusement ride regulations.

Response: The Department acknowledges these comments, and agrees the final-form rulemaking will provide helpful guidance to the regulated community.

Comment 2: In response to the advance notice of this final-form regulations provided by the Department, Doylestown Rock Gym Adventure Center, Inc., sought clarification as to the extent that "climbing walls" are subject to the final-form rulemaking. The commentator wanted to know whether there is a difference between permanently-constructed climbing walls, portable climbing walls and climbing walls that are onsite at amusement parks, fairs or carnivals.

Response: The Department takes the position that a climbing wall located within a rock climbing gym is not located within an "amusement park," "fair" or "carnival," as those terms are defined in the act, and for this reason is not subject to the regular inspection requirements set forth in section 7(a) of the act (4 P. S. § 407(a)).

Comment 3: In response to the advance notice of the final-form rulemaking provided by the Department, a qualified inspector offered a comment expressing in strong terms that he felt the Department did not conduct sufficient outreach to qualified inspectors in drafting the proposed rulemaking and the final-form regulations. The commentator also suggested the Department might have made some deliberate effort to exclude certain sections of the regulated community from participating in the development of the final-form regulations.

Response: The Department rejected this comment. The project to revise the Department's amusement ride regulations has been underway for at least 5 years. In that time, at least six drafts of proposed regulatory revisions have been provided to the Amusement Ride Safety Advisory Board (Board) for review and input. The Department has solicited and considered opinions and advice from all segments of the amusement ride industry; and has striven to make the final-form rulemaking the well-reasoned product of a collaborative effort. The Department took the additional step of publishing advance notice of the final-form rulemaking and providing interested persons a second opportunity to comment—beyond the comment opportunities required under the Regulatory Review Act (71 P. S. §§ 745.1—754.15).

Comment 4: With respect to proposed § 139.1 (relating to scope), IRRC asked ". . . who is responsible for ensuring the safety of users of rented inflatable devices or similar devices?" To focus its question, IRRC offered the example of a neighborhood association that rents an amusement

ride for an event, and raised questions as to who would be responsible for the proper operation of the ride, whether the ride would be considered a “commercially used” ride if the riders were not charged a fee to use the ride, and the extent to which the entity that rented the ride to the neighborhood association remains responsible for its operation.

Response: An owner of an amusement ride that is to be operated within this Commonwealth is required to register the ride with the Department, inspect it regularly in accordance with the act, obtain required minimum insurance coverage in accordance with the act, and see that the ride is erected and operated in accordance with the manufacturer’s instructions. Entities that rent amusement rides to third parties take various approaches to meeting these requirements. Some transport the ride to the site, erect it and provide trained operators for the ride. Some deliver the ride, provide written instructions as to erection and operation, and retrieve the ride at the end of the rental. Some provide instruction but leave pick-up, delivery, erection, operation and return entirely to the person who rents the ride. Whatever the approach of the entity that rents an amusement ride, basic responsibility for compliance with the act and its attendant regulations rests with the ride owner.

The Department acknowledges that the ride rental industry—particularly the segment of that industry that rents inflatable bounce rides—is a comparatively new segment of the amusement ride industry and is not squarely addressed in the act. Section 9 of the act (4 P. S. § 409) describes the circumstances under which the Department is authorized to issue a variance from any rule, regulation or standard relating to amusement rides. The Department has issued a variance with respect to certain entities that rent inflatable bounce rides, modifying certain preoperation inspection and itinerary requirements and acknowledging that it will monitor and—if necessary—revise the variance. The Department intends to seek to have the act more specifically address this segment of the amusement ride industry on the next occasion it is amended.

Under the example provided by IRRC in this comment, the rented ride would be a “commercially used” amusement ride even if the riders were not charged a fee. The proposed definition of the term “commercially used” is set forth in § 139.2 (relating to definitions). Under that definition, the rented ride in the hypothetical would be “. . . offered for use by persons in consideration of payment of a . . . rental fee . . . as a condition of use of the ride or attraction.” The entity that owns the ride and rents it to a third person makes the payment of a rental fee a condition of that third person’s use of the ride, so the use of that ride is a “commercial use.”

With respect to IRRC’s question as to the extent to which the entity that rents a ride to a third party remains responsible for its operation, the entity that rents the ride to a third party is required to have the minimum insurance coverage required under the act, and is ultimately responsible for the safe operation of its ride.

Comment 5: With respect to inflatable amusement rides and other rented amusement rides, IRRC sought clarification as to how and when inspections occur for inflatable devices and other amusement rides or attractions that are rented out to private groups or families. IRRC asked whether these inspections occur when the rides or attractions are rented and erected, and recommended this be explained in the final-form regulations.

Response: All amusement rides—including rented amusement rides—must be inspected in accordance with section 7 of the act (4 P. S. § 407), unless they are exempted from these requirements in accordance with a variance issued by the Department under authority section 9 of the act. A variance issued by the Department on July 17, 1998, defines an “inflatable bounce ride rental entity,” and exempts certain inflatable rides from the inspection and itinerary requirements imposed by the act, but requires the inflatable bounce ride rental entity to file an inspection affidavit with the Department, reflecting that the ride has been inspected no more than 1 month in advance of the rental.

Comment 6: Kennywood noted the increase in Halloween and Fall Harvest seasonal attractions in recent years, and recommended that the final-form regulations make clear that these attractions fall within the scope of the act. The referenced attractions include “haunted houses,” corn mazes and other attractions. Kennywood believes that a number of these attractions do not comply with the act and its attendant regulations. Kennywood also offered that enforcement should be without regard to whether the attractions are temporary or part of established amusement parks, or whether operated by for-profit or nonprofit entities.

Response: For the reasons that follow, the Department declines to attempt to modify or expand upon the statutory definition of an amusement ride or an amusement attraction, but acknowledges that these definitions present enforcement challenges for the Department.

The Department agrees that there has been a proliferation of the type of rides and attractions described in this comment. As is the case with amusement ride rental entities (See previous Comment and Response Nos. 4 and 5), this new and growing segment of the amusement industry is not squarely addressed in the act; and the Department intends to seek to have the act more specifically address this segment of the amusement ride industry on the next occasion it is amended.

The act defines what constitutes an “amusement ride” and what constitutes an “amusement attraction,” and the Department’s authority is limited by those definitions. Although a “haunted house” in a building or structure clearly falls within the definition of an “amusement attraction,” there are such things as “haunted trails,” “haunted forests,” “haunted corn mazes” and similar attractions that are held entirely outdoors. If no building or structure is involved in the attraction, it would not fit within the act’s definition of an “amusement attraction.” This is illustrative of some of the enforcement issues the Department faces in this general area. Against this backdrop, the Department pursues registration of every “haunted house” and other entity that constitutes an “amusement ride” or “amusement attraction,” of which it is aware, and will work with the commentator to identify any ride or attraction that is not operated in compliance with the act.

The Department agrees with the commentator that enforcement of the act should be without regard to whether the subject amusement ride or amusement attraction is temporary or part of an established amusement park, or whether operated by a for-profit or nonprofit entity.

Comment 7: Kennywood recommended the final-form regulations define what constitutes an “accident” for purposes of reporting accidents involving serious injury, serious illness, or death. The commentator offered that:

“Overstating the number of real accidents could mislead the media and the legislature as to the safety of the rides.” The commentator also offered the following definition:

“Accident”—A mechanical, electrical or structural defect or malfunction that results in the failure of the ride or attraction to operate as designed or intended; failure by the ride operator to follow standard operating procedures resulting in an injury to a rider.

Response: The Department declines to add the recommended definition.

Section 13 of the act (4 P. S. § 413) requires the reporting of: “. . . any accident which involves serious injury or illness or death to an individual or individuals as a result of the operation of an amusement ride or attraction.” Although “serious illness or injury” is defined in the act, “accident” and “operation” are not.

Proposed § 139.2 adds a definition of “operation” which includes the loading, unloading and movement of amusement rides and attractions, but would exclude that portion of a passenger line that extends beyond the gate or rail that is required to surround the ride under ASTM International F-24 Committee standards. This provides greater clarity, and would not require the reporting of accidents that occur in waiting lines that extend outside the immediate enclosure of the ride or attraction.

The Department is aware that the ASTM International F-24 Committee is currently considering whether to establish a definition of an “accident,” but is not aware of whether this definition will actually be established. The Department will leave this word undefined in the regulations. If the ASTM International F-24 Committee subsequently defines the term and there is no contrary definition in the act or its attendant regulations, the ASTM International F-24 Committee definition shall control.

Comment 8: Hersheypark recommended that a definition of “attraction” be added to the final-form regulations.

Response: The Department declines to implement this recommendation. The term “amusement attraction” is defined in section 2 of the act (4 P. S. § 402), and is the term that is relevant throughout Chapter 139. Every reference to the term “attraction” in the final-form regulations refers to an amusement attraction—and that phrase is defined by statute and repeated in § 139.2.

Comment 9: Hersheypark recommended that a definition of “amusement ride and devices” be added to the final-form regulations.

Response: The Department declines to implement this recommendation because the phrase is not used in the final-form regulations. The phrase is used and defined in the ASTM International F-24 Committee Standards, but is not used in the act or the final-form regulations and is not needed.

Comment 10: IRRC noted that the definition of “Class I amusement ride or attraction” in proposed § 139.2 included live animal rides within that definition. IRRC also noted that the definition of an “amusement ride” in section 2 of the act uses the words “any device that carries, suspends or conveys passengers” and does not include the word “animal.” Against this backdrop, IRRC asked whether a live animal would need to be registered and inspected as an amusement ride under the act, and requested an explanation of the Department’s authority to address live animal rides.

Response: The Department does not require the registration or inspection of a live animal ride unless the ride entails attaching an animal to a device—in which case the device is an “amusement ride” that is registered and inspected. The typical live animal ride that is registered and regulated under the act resembles a live-animal merry-go-round: a fixed central vertical axle with individual animals tethered or otherwise attached to spoke-like appendages extending from the central axis, restricting the animals to a specific course and direction. When the live animal ride employs a device as described previously, it must be registered and inspected. Live animal rides that entail simply letting the rider steer the animal or having an attendant lead the animal through the ride are not registered or inspected under the act. The Department believes its interpretation of the types of live animal rides that must be regulated as “amusement rides” is consistent with the act.

Comment 11: IRRC also noted a typographical error in the definition of “Class I amusement ride or attraction” in proposed § 139.2, and suggested the parenthetical phrase at the end of subparagraph (iii) be revised to read “(4 P. S. § 414(a)(1))” instead of “(4 P. S. § 414(a)(2)).”

Response: The Department accepts this suggestion, and has implemented the recommended change in the final-form regulation.

Comment 12: Hersheypark asked that the final-form regulations contain definitions of the terms “general inspector” and “independent inspector.”

Response: Proposed § 139.2 defines the terms “affiliated qualified inspector” and “general qualified inspector;” and those terms are used throughout the final-form regulation. While an affiliated qualified inspector may only inspect rides and attractions owned or leased by designated entities, a general qualified inspector may inspect rides and attractions without regard to who owns or leases them. Although the Department declines to implement the commentator’s recommendation, it believes the substance of that recommendation is embodied in the definition and use of the terms “affiliated qualified inspector” and “general qualified inspector.”

Comment 13: Kennywood noted that proposed § 139.2 contains a definition of “operation” that would (in the context of amusement rides and amusement attractions) include the loading and unloading of guests while the ride is in a stationary position. The commentator added:

. . . Reporting bumps, bruises, twisted ankles or other events while loading or unloading a ride will only serve to inflate the number of accidents. Such events are more a reflection on the physical condition of the guests and their ability to pay attention than on ride safety. We do not think the number of guests encountering problems boarding rides is any more or less than for passengers boarding buses, planes or other transportation vehicles. The legislature does not compile data in those cases. We request that events while loading and unloading rides be eliminated from the definition of “operation.”

Response: The Department notes that the ability to load and unload riders in a safe, efficient and rapid manner is a consideration in the design of any amusement ride or amusement attraction, and is frequently addressed in the ASTM International F-24 Committee Standards. For this reason, the Department believes it reasonable to adopt a definition of “operation” that includes some aspects of the loading and unloading process. The referenced definition seeks to limit the scope of what

constitutes the "operation" by excluding activities that take place outside the fence or protective barrier that is required to surround an amusement ride under ASTM International F-24 Committee Standards.

Comment 14: Hersheypark offered a comment that is related to the preceding comment by Kennywood. The commentator suggested language be added to the definition of "operation" in proposed § 139.2 to address situations where the ASTM International F-24 Committee Standards do not require a fence or barrier, and offered language.

Response: The Department accepts this comment, and has added language to the definition of "operation" to implement the commentator's suggestion.

Comment 15: Hersheypark recommended that the definition of "permanent structure" in proposed § 139.2 be better defined, and offered language that would clearly include ride stations and similar structures in the definition.

Response: Although the Department agrees the commentator's idea would add some clarification, the definition of the term "permanent structure" is prescribed by section 2 of the act, and the Department cannot stray from that language in the final-form regulation.

Comment 16: IRRC and Kennywood offered similar comments on the definition of the term "professional engineer" in proposed § 139.2. IRRC offered that the proposed definition is unclear as to whether it would include out-of-State engineers who are allowed to practice temporarily in this Commonwealth under section 5(b) of the Engineer, Land Surveyor and Geologist Registration Law (63 P. S. § 152(b)). IRRC noted that an amusement park might have affiliated parks in other states, and asked whether an out-of-State engineer who complies with the referenced statutory provision and is familiar with the act and its attendant regulations could provide verification for their rides under proposed § 139.4(d)(7)(ii) (relating to registration). IRRC recommended the final-form regulations clarify whether an out-of-State engineer may perform the required tasks for the owner or lessee.

Kennywood requested that consideration be given to allowing the referenced engineer's verification to be provided by any professional engineer licensed in any state and who is a member of the National Society of Professional Engineers.

Response: The Department has revised the referenced definition to clearly state that the term "professional engineer" does not include engineers who are exempt from registration and licensure under section 5(b) of the Engineer, Land Surveyor and Geologist Registration Law. The exemption allows out-of-State engineers to engage in the practice of engineering within the Commonwealth for up to 30 days each calendar year without having to be licensed and registered, as long as the standards of their home jurisdiction are "at least equal to the standards of the Commonwealth." There are many jurisdictions that do not have professional qualification standards that equal or exceed those of the Commonwealth. The Department believes that the best and simplest way to verify that another jurisdiction's professional qualification standards for engineers are at least equal to those of this Commonwealth is for the out-of-State engineer to have a license (a temporary license would suffice) issued through the State Registration Board for Professional Engineers, Land Surveyors and Geologists.

With respect to Kennywood's request that membership in the National Society of Professional Engineers determine whether an engineer is a "professional engineer," the Department declines to implement this request, since this membership in this organization is not proof that a member meets the Commonwealth's standards for engineers.

Comment 17: IRRC noted that the final-form regulations would add and define two new terms—"affiliated qualified inspector" and "general qualified inspector." IRRC suggested that the definition of "qualified inspector" in § 139.2 be revised to make it clear that the term includes "affiliated qualified inspectors" and "general qualified inspectors."

Response: Although the definition of "qualified inspector" is prescribed by the act, the Department agrees that IRRC's suggested change would add clarity, and has included the recommended language in the final-form regulation.

Comment 18: Kennywood offered several comments with respect to the definition of "serious injury or illness" in proposed § 139.2. The term is used in proposed § 139.11 (relating to accident reporting), which would require owners or lessees of amusement rides to report accidents involving serious injury or illness. The commentator expressed concern that a ride owner or lessee might not know that a particular rider who is injured in connection with the operation of an amusement ride sustained serious injury or illness. The commentator requested that language be added to clarify that there is no reporting requirement unless the park operator has knowledge of the event prior to the time the patron leaves the park, or until the operator receives medical records verifying that offsite medical treatment was administered. The commentator adds:

... This modification will clarify reporting for telephone calls or letters reporting alleged injuries or illness received days or weeks after an event where the operator lacks any prior knowledge. We request clarification that any offsite medical treatment must be administered or recommended by a licensed physician. This will eliminate the uncertainty of who must recommend treatment in order for it to be a "serious injury or illness." Many parks hire first aid professionals to provide onsite assistance. In almost every case the first aid provider will suggest to a guest that they follow up with their own physician if any problems arise. This recommendation should not by itself elevate a minor injury to a "serious injury."

Response: The term "serious injury or illness" is prescribed by section 2 of the act. The Department shares the commentator's concern that—from the perspective of the ride owner or lessee that is required to report "serious injury or illness"—the statutory definition of that term appears to make the owner or lessee responsible to report serious injuries or illnesses of which it might not be aware. In practice, though, the Department does not hold an owner or lessee accountable to report (or report within the required 48-hour window) serious injuries or illnesses of which it is not aware. The Department expects an owner or lessee to pass along the required report of "serious injury or illness" once it acquires knowledge that the injury or illness falls within the statutory definition. In the longer term, the Department intends to consider revisions to this definition on the next occasion the act is amended.

Comment 19: IRRC offered several comments with respect to proposed § 139.4. Proposed § 139.4(d)(7)(ii)(B) would require confirmation from a professional engineer that the materials and construction of a ride or attraction conform to “normal engineering practices, procedures, standards and specifications.” In addition, proposed subsection (d)(7)(ii)(C) uses the term “accepted engineering practices.” IRRC offered that both of these standards are vague, and that: “It would be difficult for professional engineers to know exactly what it is that they are confirming and it would be difficult for the Department to enforce these provisions.” IRRC recommended these standards either be better-defined or deleted. IRRC based the option to delete on subsection (d)(7)(ii)(D), which would require a ride or attraction to meet ASTM International F-24 Committee Standards.

Response: The Department declines to delete or revise the referenced language. The Department consulted with the mechanical engineer member of the Board on this subject. Terms such as “accepted engineering practices” and “normal engineering practices” are commonly used and widely understood throughout the various technical engineering disciplines (such as, mechanical, electrical, civil, structural, and the like). The Department does not seek to constrict or limit the professional engineer.

Comment 20: Hersheypark reviewed proposed § 139.4(e) and suggested that language should be added to address or require Board review of proposed amusement ride or amusement attraction registrations. The commentator asks: “What is the mission of Board relating to ride review?”

Response: For the reasons that follow, the Department declines to implement the commentator’s recommendation.

The duties of the Board do not include a formal role in the Department’s review and approval of amusement rides and amusement attractions under the act. In summary, the statutory duties of the Board (under section 6 of the act (4 P. S. § 406)) are to:

... advise, consult, make recommendations and propose reasonable rules, regulations and standards to the department for the prevention of conditions detrimental to the public in the use of amusement rides and attractions as the board finds necessary for the protection and safety of the public . . .

The Board comprises a knowledgeable cross-section of interests and experience relating to amusement rides and attractions. The Board’s statutory role is to consult and advise. The Department views the Board as an invaluable resource, and seeks-out this body with respect to each application for approval of an amusement ride or amusement attraction. Although the Board is not an adjudicatory or decision-making body, the Department presents every proposed amusement ride or amusement attraction registration to the Board, and seeks its advice and recommendation. The final decision with respect to a registration application lies with the Department, though. The Department cannot, by regulation, expand upon the scope of the duties imposed on the Board under the act.

Comment 21: Hersheypark noted that proposed § 139.4(h) would require that the Department-issued registration plate be affixed to each amusement ride or attraction in a location where the plate is visible to the riding public, and suggested that language be added to allow the plate to be affixed or posted other than on the ride or attraction if necessary to make the plate visible to the riding public.

Response: The Department accepts this suggestion, and has implemented it in the final-form regulation.

Comment 22: Kennywood noted that proposed § 139.5 (relating to insurance) would delete current regulatory language that allows for required insurance coverage to be provided through businesses eligible to do business under the Surplus Lines Insurance Law. The commentator stated that some of its current insurance coverage is provided through “non-admitted surplus lines carriers,” and that the regulation would serve to exclude these providers from being able to provide coverage. The commentator suggested that the regulation should “. . . allow surplus line carriers who have an insurance rating by A. M. Best of B+ or higher.”

Response: The Department agrees that the subject of surplus lines insurance needs to be referenced in the final-form regulations. Although section 14(b) of the act (4 P. S. § 414(b)) authorizes required insurance coverage to be obtained through any insurer or surety that is eligible to do business under the Surplus Lines Insurance Law, the Surplus Lines Insurance Law was repealed by the act of December 18, 1992 (P. L. 1519, No. 178). The subject matter of the repealed Surplus Lines Insurance Law is currently found in Article XVI of The Insurance Company Law of 1921 (40 P. S. §§ 991.1601—991.1625). The Department has inserted this appropriate legal reference in the final-form regulations.

Comment 23: Hersheypark and Kennywood both offered essentially the same comment with respect to proposed § 139.5(c)(3). The concern is with whether that paragraph means that all of a particular owner or lessee’s rides have to be listed individually on the required certificate of insurance. Hersheypark noted that this would be difficult to administer by both the owner and the Department, and Kennywood noted that the Department would have this information on the registration forms it requires with respect to these rides.

Response: The Department agrees with the commentators, and has added language to this paragraph to allow a certificate of insurance to either list all insured rides or clearly state that all rides owned, operated or leased by the insured are subject to the insurance policy.

Comment 24: In response to the advance notice of this final-form rulemaking provided by the Department, the Inflatable Industry Purchasing Group, Inc. recommended that the final-form rulemaking establish a requirement that there be mandatory insurance coverage and documentation requirements for amusement ride and amusement attraction manufacturers and distributors. This would be in addition to the owner and operator insurance requirements set forth in proposed § 139.5.

Response: Although the Department believes it would be sound business practice for an amusement ride or amusement attraction manufacturer or dealer to carry adequate insurance coverage to address the risks and liabilities it is likely to encounter, the Department declines to establish a mandatory insurance requirement for these entities in the final-form rulemaking. The General Assembly has made clear the limits of the type of insurance coverage the Department can require; and the expansion of these requirements recommended by the commentator would exceed the Department’s legislative authority in this area. Section 7 of the act imposes specific insurance requirements with respect to owners and operators of amusement rides and amusement attractions; but does not go so far as to extend insurance requirements to manufacturers and dealers.

Comment 25: Hersheypark noted that proposed § 139.7(b) (relating to inspection) might be read as requiring rides to be inspected year-round, rather than only during seasons when the rides are in operation for the riding public. Hersheypark also noted that the current § 139.7(b)(1)—which is proposed for deletion—uses the phrase “during a season for operation for use by the general public” to limit the period within which regular inspections are required, and suggested this phrase be worked into the final-form regulation to add clarity.

Response: The Department accepts this suggestion, and has implemented it in the final-form regulations.

Comment 26: Hersheypark reviewed proposed § 139.9(a) (relating to qualified inspectors), and observed that it requires amusement ride inspections to be completed by qualified inspectors. The commentator expressed concern that this might be read as requiring that only “qualified inspectors” conduct the numerous daily inspections performed at amusement parks.

Response: The Department believes that a full reading of the referenced provision would avoid confusion on the part of the regulated community. The referenced subsection requires that a qualified inspector perform any inspections of amusement rides or amusement attractions “. . . required under the act.” The numerous daily inspections performed at amusement parks are not the regular inspections required under the act—so they need not be performed by persons who are “qualified inspectors” for purposes of the act.

Comment 27: IRRC noted that proposed § 139.9(g) would require the Department to “promptly” report the results of a Qualified Inspector Test to the applicant. The commentator recommended that the final-form regulation include a more definitive time frame for reporting results to an applicant.

Response: The Department accepts the comment, and has implemented IRRC’s recommendation in the final-form regulation by requiring the test to be scored, and the test results reported to the applicant, within 30 days of the test.

Comment 28: Hersheypark noted that proposed § 139.9(k)(1)(i) would require a qualified inspector who is seeking renewal of certification to provide the Department a variety of information and material to prove compliance with continuing education requirements. The commentator suggested that since proposed § 139.9(l) would require continuing education courses to be approved by the Department, a course completion certificate—reflecting completion of one of these Department—approved continuing education courses—should be all the documentation the Department requires to verify that continuing education requirements have been met.

Response: The Department accepts this comment, and has implemented it in the final-form regulation.

Comment 29: IRRC noted that proposed subsection 139.9(l) includes provisions that would allow the Department to reduce the hours of continuing education required for certain types of rides or attractions by means of a publication of notice in the *Pennsylvania Bulletin* without a rulemaking or amendment to the regulation. IRRC offered the following:

. . . The subsection states that this action would be considered for rides or attractions “of a comparatively simple design or operation.” This is very similar to the definition for “Class I” rides or attractions. Hence, it is unclear what would justify a reduction in the

requirement. This subsection needs to be refined to provide more information about the bases or criteria that would be used to reduce the continuing education requirement for certain rides or amusements.

Response: The distinction between “Class I” amusement rides and “Class II” amusement rides exists only for the purpose of determining the appropriate minimum liability insurance coverage for these rides. The classification of amusement rides as “Class I” or “Class II” is made in section 14 of the act—the provision of the act addressing required insurance coverage—and nowhere else.

The Department seeks to separate insurance issues from continuing education requirements. There is not a perfect correlation between the two. Also, given the constant innovation in the amusement ride industry, the Department seeks to preserve some reasonable leeway with respect to the minimum hours of continuing education required with respect to a particular type of ride.

In response to IRRC’s suggestion, though, the Department has revised this subsection to provide that continuing education would never be less than 16 hours.

Comment 30: Hersheypark reviewed proposed § 139.9(l), emphasized the importance of continuing education, and reminded the Department that its own inspectors should comply with the minimum continuing education requirements. The commentator also recommended that the minimum training for a general qualified inspector be reduced from the proposed 48-hour minimum to 40 hours. The commentator noted that “. . . larger seminars generally last 3 to 5 days with 8 hours of instruction per day,” and suggested that 48 hours would require attendance at more than one of those seminars.

Response: The Department declines to implement this recommendation. The proposed 48-hour minimum will likely require that a general qualified inspector attend more than one seminar during the 3-year certification period preceding recertification; and this is by design. The Department believes continuing education is important, and that requiring a general qualified inspector to attend more than one training course during a period of certification is reasonable.

Comment 31: In response to the advance notice of the final-form rulemaking provided by the Department, the President/CEO of Magic Carousels, LLC, noted his familiarity with the assembly, operation and upkeep of the amusement rides in his charge. He also described how he had a direct interest in making sure these rides are mechanically safe, and are manned by well-trained operators. His concern was that the “current PA training and continuing education is excellent and should be sufficient for re-certification,” but that the training requirements in the final-form regulation would create a hardship by keeping a certified inspector away from his workplace for “more than a week” pursuing the required continuing education described in proposed § 139.9(l).

Response: The Department declines to revise the training requirements described in § 139.9(l) of the final-form rulemaking. The commentator would fall within the “affiliated qualified inspector” category of qualified inspector; and the final-form regulations would simply require 24 hours of appropriate continuing education training over the 3-year interval during which certification remains in effect. This equates to one 8-hour training course each year. The Department believes this is not an unduly burdensome continuing education requirement.

Even if the commentator is a “general qualified inspector,” the continuing education requirement would be a total of 48 hours—averaging only 16 hours of continuing education each year. The Department does not believe this requirement is overly burdensome.

Comment 32: In response to the advance notice of this final-form rulemaking provided by the Department, a qualified inspector offered several related comments with respect to § 139.9(l). The commentator suggested that the minimum number of hours of required continuing education for an affiliated qualified inspector should be 48 hours—the same as for a general qualified inspector. The commentator expressed skepticism over whether there are actual differences between the responsibilities of these inspectors so as to justify different minimum continuing education requirements. The commentator offered that amusement rides: “. . . are becoming more complex and the older rides are aging and both have an increased need for inspector expertise.” The commentator was also critical of the language that would allow the Department to reduce the minimum continuing education requirements to as few as 16 hours with respect to certain rides and attractions it determines to be of a “comparatively simple design.”

Response: The Department declines to revise the minimum continuing education requirements in response to this comment. A general qualified inspector may inspect a wider array of amusement rides than an affiliated inspector. The Department is satisfied that the difference between the minimum continuing education requirements for affiliated qualified inspectors and general qualified inspectors (24 hours v. 48 hours) is justified by the wider range of amusement rides and amusement attractions that may be inspected by a general qualified inspector. As far as the 24-hour minimum continuing education requirement for affiliated qualified inspectors is concerned, the Department is satisfied that this is an adequate requirement. As far as the language affording the Department the option to reduce the continuing education requirement to as few as 16 hours under certain circumstances, the Department believes that this language provides it a tool by which to accommodate the owners and operators of simpler rides. In considering whether to exercise this option, though, the Department will err on the side of requiring more than the minimal training necessary to the safe erection and operation of a given amusement ride or amusement attraction.

Comment 33: Several comments were received with respect to proposed § 139.10 (relating to advisory board), which the Department proposed to delete. Kennywood sought confirmation that the composition and duties of the Board would remain as prescribed by the sections 5 and 6 of the act (4 P. S. §§ 405 and 406). Hersheypark offered that: “. . . The mission and responsibility of the Advisory Board needs to be included and annotated in the rulemaking,” and asked why the section is proposed for deletion. Hersheypark also offered that:

The integration between the Department of Agriculture and the experience of the board member 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.

Hersheypark also recommended that the regulation continue to specify that seats on the Board be reserved for the President and Chairperson of the Pennsylvania Amusement Park Association.

Response: As proposed, the Department would simply delete § 139.10 and allow the language of sections 5 and 6 of the act to speak for itself. The Department believes that the referenced statutory language is self-executing, that the current regulatory provision is somewhat out-of-step with the act, and that it would serve no regulatory purpose to simply repeat the exact language of the act.

In light of the comments offered with respect to proposed § 139.10, though, the Department has revised that section in the final-form regulation to restate the exact composition of the Board, as prescribed by the act. The Department concedes that the inclusion of a reference to the Board’s composition and function can do no harm; but the Department cannot by regulation limit or expand the composition or duties of the Board.

Comment 34: IRRC reviewed proposed § 139.11 (relating to accident reporting), and noted that the definition of the term “serious injury or illness” in section 2 of the act includes situations where “offsite medical treatment . . . may be required at a future date.” IRRC observed that, in practice, an owner or operator might have no idea that a person sought or received “offsite medical treatment” after sustaining an injury or illness related to the operation of an amusement ride or amusement attraction. IRRC questioned whether the Department expected or required a report under these circumstances. IRRC recommended that the final-form regulation clarify the circumstances under which a report is required, and raised the question:

If the injured or ill party is not transported offsite for medical treatment within a few minutes or on the same day of the accident, then why is an owner, operator or lessee required to report the injury or illness?

Response: The Department agrees that the requested clarification would be helpful, and has implemented this recommendation in § 139.11(a) of the final-form regulation by adding language specifying that the Department would not hold an owner or lessee responsible to report a death or serious injury or illness of which it is unaware.

Comment 35: IRRC noted the absence of the word “illness” in proposed § 139.11(b)(5)—(7), and recommended this term be worked into the language of these provisions.

Response: The Department accepts IRRC’s recommendation, and has revised the final-form regulation accordingly.

Comment 36: Section 13 of the act requires that an accident report include a description of the amusement ride involved and the nature of the injuries or the cause of death. Kennywood took note of this, and asked whether the Department would exceed its statutory authority by requiring an accident report to provide more detail than is described in the preceding sentence. The commentator also questioned whether the Health Insurance Accountability and Portability Act of 1996 (HIPAA) would prohibit the disclosure of names of ill or injured persons and the nature of their injuries. The commentator also offered the following:

We believe that such information should remain confidential. We suggest that the regulations indicate that the operator retain all additional information related to the accident and that the inspector shall be permitted to review such records during any follow up inspections.

Response: The Department declines to revise the referenced section in response to this comment. The Department believes the act does not limit the types of information the Department might reasonably require in an accident report. Where section 13(a) of the act states that an accident report "shall include" certain information, the Department interprets this phrase as meaning "shall include, but is not limited to." The Department is also satisfied that it is not an entity to which HIPAA is applicable, in that it is not a health care provider as designated in that statute.

Comment 37: Kennywood reviewed proposed § 139.11 and requested that language requiring an owner or lessee to report certain "serious illness" to the Department be deleted. The commentator stated that:

... Based upon all the information presented, any individual who exits a ride and begins to experience motion sickness, illness or vomiting, which is not uncommon at an amusement facility, would require an accident report to be filed, this would dramatically increase the number of "false" accident reports.

Response: The Department declines to make the requested revision. An illness does not become reportable as a "serious illness" unless the illness requires offsite first aid, offsite medical treatment, observation by a licensed physician or admission to a hospital. In the examples presented by the commentator, the illnesses would rarely be reportable.

Comment 38: Section 7(d) of the act requires that when a death results from the operation of an amusement ride, it not be reopened "... until declared safe by the insurance company of the operator." Proposed § 139.11(c) repeats this requirement. Kennywood took note of this provision, and offered that Kennywood's insurance carriers would not declare a ride safe to reopen after a fatal accident. The commentator suggested that the final-form regulations simply require that an operator provide the Department a current certificate of insurance prior to reopening a ride after a fatal accident.

Response: The Department cannot implement the commentator's suggestion, since the referenced requirement that the insurance carrier declare a ride safe after a fatal accident is prescribed by the act.

Comment 39: IRRC noted that proposed § 139.12 (relating to variances) would be deleted in its entirety, and recommended the regulation retain a reference to section 9 of the act—the provision that describes variances—for owners or lessees who may need to apply for a variance. Kennywood noted this proposed deletion, and sought assurance that the referenced statutory language relating to variances would continue to apply.

Response: The Department accepts IRRC's comment, and has replaced § 139.12 with the relevant *verbatim* text from the act. This revision also addresses Kennywood's comment.

Comment 40: IRRC and Kennywood offered related comments with respect to proposed § 139.42(a) (relating to structures). Both commentators noted that the Pennsylvania Construction Code Act applies to buildings and similar structures, and that it does not include standards or requirements for amusement rides or attractions (which are addressed in the ASTM International F-24 Committee Standards). IRRC recommended that the final-form regulations be revised to clearly indicate that § 139.42 applies only to buildings, facilities or structures not manufactured as part of an amusement ride or

attraction and that the references to "rides" and ride or attraction in the first sentence be stricken.

Response: The Department agrees with the commentators. Language has been added to the final-form regulations to reflect that the Pennsylvania Construction Code Act (35 P. S. §§ 7210.101—7210.1103) is only applicable to shelters and buildings that are not part of the amusement ride or attraction.

Comment 41: IRRC recommended that proposed § 139.43(8) (relating to passenger-carrying rides) be revised to include a reference to the ASTM International F-24 Committee Standards, since the term "clearance envelope" is a term-of-art from those standards. Hersheypark raised a comment with respect to this same paragraph, seeking clarification as to how existing rides might be exempted (grandfathered) from the referenced "clearance envelope" requirement.

Response: The Department accepts IRRC's suggestion, and has included the requested reference in the final-form regulations.

With respect to Hersheypark's concerns, the Department offers that the clearance requirements prescribed in this paragraph are reasonable and would be immediately applicable to an amusement ride or amusement attraction. If a ride or attraction was constructed at a time when the ASTM International F-24 Committee Standard for a "clearance envelope" was something other than as currently prescribed by those standards, the earlier standard would apply, in accordance with proposed § 139.41(c) (relating to general).

Comment 42: IRRC and Hersheypark offered essentially the same comment with respect to proposed § 139.72(2) (relating to erection/disassembly of amusement rides and attractions). Each sought clarification of what constitutes a "high voltage line."

Response: The Department accepts the comment, and has made the recommended clarification in the final-form regulations. Language has been added to link this provision to the definition of "high voltage line" as defined in the National Electric Code.

Comment 43: With respect to proposed § 139.72(3), Kennywood sought clarification as to whether preexisting amusement rides would be "grandfathered" from having to meet the requirement that means of egress be at least 36 inches in width.

Response: The Department believes this 36-inch standard is reasonable, and is consistent with current ASTM International F-24 Committee Standards for amusement ride egress. If a particular ride was designed or constructed with a narrower means of egress at a time when ASTM International F-24 Committee Standards did not require this width, the owner or operator may apply to the Department for a variance in accordance with § 139.12.

Comment 44: In response to the advance notice of final-form rulemaking provided by the Department, a qualified inspector offered that proposed § 139.74(c) (relating to temporary wiring) contained a misspelling of the word "receptacles."

Response: The commentator is correct. The error appears in the current regulation; and the final-form regulations corrects that error.

Comment 45: IRRC recommended that proposed § 139.75(a) (relating to fire protection and prevention) be revised to clarify the phrase "and otherwise where necessary to secure reasonable and adequate protection from fire hazards." IRRC added:

... What is the intent or objective? It is unclear how this phrase would be enforced as a binding standard on regulated parties. It should be clarified in the final-form regulations.

Response: The Department accepts IRRC's recommendation, and has added language to the final-form regulation to clarify that the objectives of fire extinguisher placement are to have extinguishers accessible and in use within 20 seconds of a person spotting a fire, and sufficiently removed or protected from potential exploding or highly-flammable material to prevent their damage or destruction in the initial explosion or flames.

Comment 46: IRRC offered the following comment with respect to proposed § 139.76(6) (relating to ride and attraction operators and attendants):

... It is our understanding that the phrase "sufficient numbers of operators and attendants" will always be enforced as meeting or exceeding the number of operators recommended by the manufacturer. If this is the case, the phrase "sufficient numbers of operators and attendants" is unnecessary and should be deleted. The final-form regulation need only state that the numbers of operators and attendants shall meet or exceed the manufacturer's recommendations.

Response: The Department accepts this suggestion, but has also added language to the final-form regulation to reflect that in the event a manufacturer does not provide recommended minimum numbers of operators or attendants, or these numbers are lesser than those prescribed in ASTM International F-24 Committee Standards, the existing standards calling for the highest number of operators or attendants applies.

Comment 47: In response to the advance notice of final-form rulemaking provided by the Department, a qualified inspector noted that § 139.77(c) (relating to maintenance of amusement rides and attractions) addresses wire rope used in connection with amusement rides, and recommended the "rag test" (a test by which the inspector runs a shop rag over a wire rope, with the expectation that the rag will snag on any broken strand) be described and required in the final-form regulation.

Response: The Department agrees that the rag test is a good method by which to detect tears in wire rope. Rather than incorporate that test into the final-form regulation, though, the Department will see that this tip for detecting tears in wire rope is referenced in relevant training courses.

Comment 48: With respect to proposed § 139.77(f)(8), IRRC recommended that the final-form regulation delete the following sentence: "Additional retention periods for this documentation may be advisable."

Response: The Department has made the recommended revision in the final-form regulation. In addition, the Department has expanded the period for which records must be kept and made available to the Department to 3 years.

Comment 49: Hersheypark sought clarification as to whether § 139.79(a)(2)(i) and (ii) (relating to records) were proposed for deletion in the proposed rulemaking.

Response: Since the Department does not propose to change or delete the referenced paragraphs, the text of these subparagraphs was not printed when the proposed rulemaking was published for comment. These paragraphs will remain unchanged.

Comment 50: With respect to proposed § 139.79, IRRC noted that this section requires owners or lessees to maintain certain records. The commentator offered:

... How long must the regulated parties retain these files in order to make them available for the Department or a qualified inspector? Records discussed in existing § 139.77(e)(8) are required to be retained for a year. The final-form regulation should include a similar directive for the records discussed in this section.

Response: The Department accepts this recommendation, and has revised the final-form regulations accordingly. Since the Department has revised § 139.77(e)(8) to require a 3-year record retention period, though, the new language establishes that same interval as the record retention period required under § 139.79.

Affected Individuals and Organizations

The final-form regulations will impact upon the amusement ride and amusement attraction industry, as well as upon the riding public. There are approximately 7,400 registered amusement rides and amusement attractions that are either located within this Commonwealth or that are brought into this Commonwealth (for events such as fairs and carnivals) each year. There are approximately 675 owners or lessees of these rides and attractions. This community of ride and attraction owners and lessees will be impacted by these final-form regulations, as would the riding public.

Fiscal Impact

Commonwealth. The final-form regulations impose no costs and have no fiscal impact on the Commonwealth.

Political subdivisions. The final-form regulation impose no costs and have no fiscal impact upon political subdivisions.

Private sector. The final-form regulation might impose some new costs on amusement ride or amusement attraction owners or operators. The final-form regulations might require some owners or operators to hire additional operators or attendants for their rides and attractions to meet or exceed the minimum number recommended by the ride or attraction manufacturer. The other changes that would be established by the final-form regulations would not have appreciable fiscal impact upon the private sector. Since the final-form regulations would move the Commonwealth's standards into greater conformity with the ASTM International F-24 Committee Standards and these standards are the widely-accepted industry standards for amusement ride and amusement attraction design, construction and operation, the related industry is either already in compliance with these standards or can readily come into compliance with these standards without appreciable costs.

General public. The final-form regulation would impose no costs and have no fiscal impact on the general public. The final-form regulations would enhance public safety.

Paperwork Requirements

The final-form regulations will not impact upon the paperwork generated by the Department or the regulated communities.

Effective Date

The final-form regulations will be effective upon publication in the *Pennsylvania Bulletin*.

Contact Person

Individuals who need information about the final-form regulations should contact the Department of Agriculture, Bureau of Ride and Measurement Standards, Division of

Ride Safety, 2301 North Cameron Street, Harrisburg, PA 17110-9408, Attention: John Dillabaugh, Director.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on June 13, 2007, the Department submitted a copy of the notice of proposed rulemaking, published at 37 Pa.B. 2823, to IRRC and the Chairpersons of the House and Senate Standing Committees on Agriculture and Rural Affairs (Committees) for review and comment.

Under section 5(c) of the Regulatory Review Act, the Department provided IRRC and the referenced Committees with copies of all comments received during the public comment period.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on November 5, 2008, the final-form regulations were deemed approved by the Committees. Under section 5.1(g) of the Regulatory Review Act, the final-form regulations were approved by IRRC on November 6, 2008.

Findings

The Department finds that:

(1) Public notice of intention to adopt these final-form regulations have been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) A public comment period was provided as required by law; and all comments that were received were considered. In addition, advance notice of the final-form regulations provided interested persons a second opportunity to comment.

(3) The modifications that were made to these regulations in response to comments received do not enlarge the purpose of the proposed amendments published at 37 Pa.B. 2823.

(4) The adoption of the final-form regulations in the manner provided in this order is necessary and appropriate for the administration of the authorizing statute.

Order

The Department, acting under the authorizing statute, orders that:

(a) The regulations of the Department, 7 Pa. Code Chapter 139, are amended by amending §§ 139.1—139.14, 139.41, 139.42, 139.71—139.77 and 139.79 to read as set forth in Annex A.

(b) The Secretary of Agriculture shall submit this order and Annex A to the Office of General Counsel and the Office of Attorney General for approval as required by law.

(c) The Secretary of Agriculture shall certify and deposit this order and Annex A with the Legislative Reference Bureau as required by law.

(d) This order shall take effect upon publication in the *Pennsylvania Bulletin*.

DENNIS C WOLFF,
Secretary

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 39 Pa.B. 6429 (November 29, 2008).)

Fiscal Note: Fiscal Note 2-102 remains valid for the final adoption of the subject regulations.

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.

(a) This chapter prescribes policies and procedures relating to administration of safety standards for installation, assembly, repair, maintenance, use, operation, disassembly and inspection of amusement rides and amusement attractions erected permanently or temporarily at carnivals, fairs, amusement parks or any other location in this Commonwealth.

(b) This chapter applies to new and existing commercially used amusement rides and attractions subject to the act.

(c) This chapter does not apply to:

(1) An attraction principally devoted to the exhibition of products of agriculture, industry, education, science, religion or the arts.

(2) Single passenger, coin-operated, manually, mechanically or electrically operated rides except where admission is charged for the use of the equipment.

(3) Licensed watercraft regulated by the Fish Commission or the United States Coast Guard.

(4) Aircraft regulated by the Federal Aviation Administration.

(5) Devices, including trains, regulated by the United States Government.

(6) Ski lifts, elevators or rides to the extent they are registered and regulated by any other agency of the Commonwealth.

(7) Amusement attractions, and amusement rides regulated by another Commonwealth agency and waterslides, to the extent that they are regulated by the Department of Health for pool design, sanitary facilities and similar features.

§ 139.2. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Act—The Amusement Ride Inspection Act (4 P. S. §§ 401—419).

Affiliated qualified inspector—A qualified inspector with a Department-issued certificate and credential card authorizing that person to act as a qualified inspector only with respect to the amusement rides or amusement attractions of the owner or lessee designated on that certificate and credential card. An affiliated qualified inspector is not a general qualified inspector.

Amusement attraction—

(i) A building or structure around, over or through which people may move or walk, without the aid of a moving device integral to the building or structure, that provides amusement, pleasure, thrills or excitement.

(ii) The term does not include an enterprise principally devoted to the exhibition of products of agriculture, industry, education, science, religion or the arts.

Amusement park—A tract or area used principally as a location for permanent amusement structures or rides.

Amusement ride—A device that carries, suspends or conveys passengers along, around or over a fixed or restricted route or course or within a defined area, for the purpose of giving its passengers amusement, pleasure, thrills or excitement.

ASTM—American Society for Testing Materials—This organization is currently named and known as ASTM International.

ASTM International—The organization formerly known as ASTM or the American Society for Testing Materials.

ASTM International F-24 Committee Standards—The ASTM standards promulgated by the ASTM International F-24 Committee, as published in the current annual book of ASTM International Standards Volume 15.07, or its successor document.

ASTM standards—Standards promulgated by the ASTM entitled *Standard Guide for the Classification of Amusement Ride and Device Related Injuries and Illnesses*, designation ASTM F 1305, or its successor, which provide procedures for the uniform classification of data related to amusement ride and device injuries and illnesses.

Attendant—A person having responsibility for some aspect of the operation of an amusement ride or attraction, but who is not an operator.

Board—The Amusement Ride Safety Advisory Board.

Carnival—An itinerant enterprise consisting principally of temporary amusement structures or mechanical rides.

Class I amusement ride or amusement attraction—A type of amusement ride or amusement attraction with respect to which the following apply:

(i) The ride or attraction is on the Department's most current list of approved rides.

(ii) The ride or attraction is a comparatively simple ride such as bumper cars, bumper boats, a multipassenger coin-operated kiddie ride, go-carts, a live animal ride, a manually powered ride, a miniature train, an inflatable bounce ride, slide or similar device.

(iii) The Department has, on its most current list of approved rides, designated the ride or attraction as belonging within "Class I" for purposes of establishing the appropriate required minimum liability insurance coverage required with respect to that ride or attraction, in accordance with section 14(a)(1) of the act (4 P. S. § 414(a)(1)).

Class II amusement ride or amusement attraction—A type of amusement ride or amusement attraction with respect to which the following apply:

(i) The ride or attraction is on the Department's most current list of approved rides.

(ii) The Department has, on its most current list of approved rides, designated the ride or attraction as belonging within "Class II" for purposes of establishing the appropriate required minimum liability insurance coverage required with respect to that ride or attraction, in accordance with section 14(a)(2) of the act.

Commercially used—In the context of amusement rides and amusement attractions, the term includes any ride or attraction offered for use by persons in consideration of

payment of a ticket fee, an entry fee, a rental fee or any other fee or charge as a condition of use of the ride or attraction.

Department—

(i) The Department of Agriculture of the Commonwealth.

(ii) The term includes employees of the Department.

Fair—An enterprise principally devoted to the periodic and recurring exhibition of products of agriculture, industry, education, science, religion or the arts that has one or more amusement rides or attractions operated in conjunction therewith in either temporary or permanent structures.

General qualified inspector—A qualified inspector with a Department-issued certificate and credential card authorizing that person to act as a qualified inspector, without limiting the exercise of that inspection authority to the amusement rides or amusement attractions of a particular owner or lessee. A general qualified inspector is not an affiliated qualified inspector.

Inspection—Inspection by a qualified inspector of an amusement ride, device or attraction for compliance with the act and this chapter.

Kiddy ride or kiddie ride—An amusement ride or attraction designed primarily for use by children up to 12 years of age.

Lessee—A person who leases an amusement ride or attraction from its owner, or from an authorized representative of an owner.

Major modification—A change in either the structural or operational characteristics of an amusement ride or amusement attraction which can alter its performance from that specified in the manufacturer's design criteria.

Major ride—An amusement ride or attraction that is not a kiddie ride.

National Electrical Code—The National Electrical Code NFPA No. 70-E, as revised, amended or corrected.

New amusement ride or amusement attraction—An amusement ride or attraction of a design not previously operated in this Commonwealth and for which no regulations have been adopted.

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 nonmechanical 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 in order for the ride or attraction to meet the ASTM International F-24 Committee Standards.

(iii) The term does not include that portion of a patron line that extends outside or beyond any device or object that limits or identifies control access for the ride or attraction if a fence, wall, guardrail or gate is not required in order for the ride or attraction to meet ASTM International F-24 Committee Standards.

Operator—A person actually engaged in or directly controlling the operation of an amusement ride or attraction.

Owner—

(i) A person who owns an amusement ride or attraction.

(ii) The term excludes the Commonwealth or its political subdivisions.

Pennsylvania Construction Code Act—35 P. S. §§ 7210.101—7210.1103.

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.

Person—Includes a corporation, partnership, limited liability company, business trust, other association, government entity (other than the Commonwealth), estate, trust, foundation or natural person.

Professional engineer—

(i) An individual licensed and registered under the Engineer, Land Surveyor and Geologist Registration Law (63 P. S. §§ 148—158.2) or a successor statute to engage in the practice of engineering.

(ii) The term does not include a person who is exempt from licensure and registration under section 5(b) of the Engineer, Land Surveyor and Geologist Registration Law (63 P. S. § 152(b)).

Qualified inspector—

(i) A person certified by the Department who by education, training or experience is knowledgeable with amusement ride operating manuals and the psychological effects each ride has upon a passenger. The person shall also be experienced in the erection and dismantling of amusement rides and shall be familiar with the specific equipment with that particular operator.

(ii) The term includes affiliated qualified inspectors and general qualified inspectors.

Secretary—The Secretary of the Department.

Serious injury or illness—

(i) An injury or illness that requires one or more of the following:

(A) Offsite emergency first aid.

(B) Offsite medical treatment, whether it is administered or recommended or may be required at a future date.

(C) Observation by a licensed physician.

(D) Admission to a hospital.

(ii) The term also includes an injury or illness that results in death, dismemberment, significant disfigurement or permanent loss of the use of a body organ, member, function or system.

Temporary structure—A structure, enclosure or arrangement of parts used, or intended to be used for or as an amusement ride or attraction, that is relocated from time to time with or without disassembly.

Working day—A day other than a Saturday, Sunday, National holiday or holiday of the Commonwealth.

§ 139.3. Compliance.

(a) *General requirement.* Owners, lessees and operators of amusement rides or attractions in this Commonwealth shall comply with this chapter.

(b) *Use of nonconforming rides or attractions prohibited.* An amusement ride or amusement attraction which is not in compliance with this chapter may not be used or occupied except as provided in subsection (c).

(c) *Nonconforming individual units.* Where only individual units of a ride, such as cars, seats or other carriers are defective and not in compliance with this chapter, the units shall either be removed from the operating area of the ride or shall be taken out of service and clearly marked with a sign reading “Out of Service” if the defects or removal do not jeopardize the safety of the entire ride or attraction.

§ 139.4. Registration.

(a) *Registration required.* An owner intending to operate or use an amusement ride or an amusement attraction in this Commonwealth during a calendar year shall register the amusement ride or amusement attraction with the Department prior to operation.

(b) *Duration of registration.* Registration of an amusement ride or an amusement attraction shall expire as of the earlier of the following:

(1) January 1 of the year immediately following the year with respect to which the registration is issued.

(2) The date upon which the registered amusement ride or amusement attraction undergoes a major modification.

(c) *Obtaining a registration application.* A person may obtain an amusement ride or amusement attraction registration application form by contacting the Department as described in § 139.14 (relating to contacting the Department). The Department will provide the form upon request, and make the form available for download through the Department’s web site: www.agriculture.state.pa.us.

(d) *Contents of registration application form.* A registration application form will require the following information:

(1) The name, address, e-mail address and telephone number of the owner.

(2) The name, address, e-mail address and telephone number of the lessee, if different than the owner.

(3) If the amusement ride or amusement attraction has previously been registered, the registration number appearing on the registration plate issued by the Department and attached to that ride or attraction.

(4) A description of the type of enterprise involved, whether a carnival, fair, park, rental company, go-cart track, water park, nonseasonal operation, or other.

(5) A list of each amusement ride or amusement attraction with respect to which registration is sought, by name, manufacturer’s name and serial number.

(6) The name, address, e-mail address and telephone number of the insurance carriers providing the owner, lessee or operator the liability coverage required under section 14 of the act (4 P. S. § 414) and § 139.5 (relating to insurance).

(7) With respect to each identified amusement ride or attraction, verification of one of the following:

(i) The amusement ride or amusement attraction is of a type appearing on the Department's most current list of approved rides.

(ii) Written verification under seal of a professional engineer, acknowledging familiarity with the ride or attraction at issue, acknowledging familiarity with the requirements of the act and this chapter and confirming all of the following:

(A) The ride or attraction is designed to carry all loads safely, and to withstand normal stresses to which it may be subjected.

(B) The structural materials and construction of the ride or attraction conform to normal engineering practices, procedures, standards and specifications.

(C) Data pertinent to the design, structures, and factors of safety and performance are in accordance with accepted engineering practices.

(D) The manufacturer or fabricator of the ride or attraction otherwise meets the applicable design and construction requirements of the act, the ASTM International F-24 Committee Standards and this chapter.

(8) An acknowledgment by the applicant that, if the registration is approved, it is the responsibility of the applicant to apprise the Department, in writing, of changes to the information provided on the registration application during the registration period.

(9) An acknowledgment by the applicant that, if registration is approved, the registration automatically ceases as of the date of any major modification, and the ride shall be reregistered with the Department.

(10) The signature of the applicant for registration, verifying that representations in the application are accurate and complete, and making that verification subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

(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:

(1) Written confirmation of registration and, if necessary, a registration plate to be affixed to the amusement ride or attraction.

(2) Written denial of registration, with an explanation of the reasons for denial.

(3) A detailed request for additional information or clarification the Department deems necessary to ensure the amusement ride or amusement attraction meets the requirements in subsection (d)(7)(ii)(A)—(D). This request may also include a requirement the ride or attraction be made available to the Department or persons authorized by the Department, at a time or location mutually agreeable to the applicant and the Department, for inspection and testing. Once the requested information is delivered to the Department or the requested testing and inspection is conducted, the Department will have an additional 30-day period within which to review the registration application.

(f) *Responsibility of registrant.* A person who registers an amusement ride or amusement attraction in accordance with this section shall, during the registration period, be responsible to apprise the Department, in writing, of changes to the information provided on the registration application. In addition, the registrant shall affix the registration plate provided by the Department to the amusement ride or amusement attraction in a loca-

tion where the plate is plainly visible to the riding public, and shall promptly request a replacement plate when necessary.

(g) *Refusal or revocation of registration.* If the Department issues a written denial of registration as described in subsection (e)(2), it will afford the applicant an opportunity for an administrative hearing on the denial. If the Department has reason to believe an amusement ride or amusement attraction that is registered does not meet the requirements for registration, it will issue a written revocation of registration, and will afford the applicant an opportunity for an administrative hearing on the denial.

(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. If the registration plate cannot be affixed to the registered amusement ride or amusement attraction in a location where the plate is plainly visible to the riding public, it may be affixed to a sign, placard or surface at the point of ingress to the ride or attraction, so as to be plainly visible to the riding public, and shall physically accompany the ride or attraction at all times. 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.

(i) *Inspection of amusement rides or amusement attractions.* The Department may inspect any amusement ride or attraction, or any device or location it reasonably believes to be an amusement ride or attraction, to determine whether the ride or attraction is properly registered. The inspection will be conducted in accordance with § 139.7(d) (relating to inspection).

§ 139.5. Insurance.

(a) *General requirement.* A person may not operate an amusement ride or amusement attraction unless a policy of insurance is in effect insuring the owner, lessee or operator against liability for injury to persons arising out of the use of an amusement ride or attraction. The insurance policy shall be procured from an insurer or surety authorized to do business in this Commonwealth or eligible to do business under the surplus lines insurance provisions established under Article XVI of The Insurance Company Law of 1921 (40 P. S. §§ 991.1601—991.1625).

(1) If the ride or attraction is a Class I amusement ride or attraction, the minimum limits of the policy must be \$100,000 per occurrence and \$300,000 in the aggregate.

(2) If the ride or attraction is a Class II amusement ride or amusement attraction, the minimum limits of the policy must be \$250,000 per occurrence and \$500,000 in the aggregate.

(b) *Certificate of insurance.* An owner or operator shall deliver a valid certificate of insurance to the Department prior to the operation of an amusement ride or amusement attraction for use by the public. The certificate of insurance shall be delivered to the Department in accord-

ance with § 139.14 (relating to contacting the Department). The owner or operator is responsible for assuring that the insuring company notifies the Department immediately upon cancellation or change of coverage.

(c) *Content of certificate of insurance.* A certificate of insurance must set forth the following:

- (1) The identity of the insured.
- (2) The identity, address and telephone number of the insurance company issuing the policy.
- (3) Identification of the amusement rides and amusement attractions covered by the policy. This may consist of a roster identifying each ride that is insured under the policy, or an acknowledgment that all of the amusement rides and amusement attractions of a designated owner or operator are covered by the policy.
- (4) The policy limits per occurrence.
- (5) The policy limits in the aggregate.
- (6) The effective dates of coverage.
- (7) An acknowledgment that the Department, as certificateholder, is to be notified by the insurance carrier in the event of cancellation of coverage.

§ 139.6. Itinerary.

The owner or operator of an amusement park, carnival, fair, or other itinerant amusement ride or amusement attraction registered with the Department shall deliver

an itinerary to the Department at least 15 days prior to the operation of a ride or attraction for use by the public in this Commonwealth. This delivery may be accomplished by mail, e-mail, personal delivery or fax transmission to the fax number provided in § 139.14 (relating to contacting the Department). The itinerary must include the following:

- (1) The name of the amusement ride or amusement attraction owner.
- (2) The park owner.
- (3) The carnival, fair, activity sponsor and, if available, the name and telephone number of a contact person for the event.
- (4) The address and telephone number of the activity site, the fax number of the site (if available) and an e-mail address for the site (if available).
- (5) The dates open to the public.
- (6) The name of a contact person on site if available.

§ 139.7. Inspection.

(a) *General inspection requirement.* An owner or lessee of an amusement ride or amusement attraction shall have the ride inspected in accordance with section 7 of the act (4 P. S. § 407) and this chapter.

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

<i>Location</i>	<i>Type</i>	<i>Interval</i>
Any location	Amusement ride or amusement attraction	Prior to operation for the riding public, and on a monthly basis thereafter during a season of operation for use by the riding public (INSPECTIONS MAY BE DISCONTINUED AT THE END OF A SEASON OF OPERATION FOR THE RIDING PUBLIC, BUT SHALL BE RESUMED PRIOR TO ANY OPERATION FOR THE RIDING PUBLIC THAT IS TO OCCUR OUTSIDE OF THE NORMAL SEASON OF OPERATION)
Amusement park	Amusement ride or amusement attraction	Prior to operation for the riding public, and on a monthly basis thereafter during a season of operation for use by the riding public (INSPECTIONS MAY BE DISCONTINUED AT THE END OF A SEASON OF OPERATION FOR THE RIDING PUBLIC, BUT SHALL BE RESUMED PRIOR TO ANY OPERATION FOR THE RIDING PUBLIC THAT IS TO OCCUR OUTSIDE OF THE AMUSEMENT PARK'S NORMAL SEASON OF OPERATION)
Fair or carnival	Amusement ride or amusement attraction	Prior to operation for the riding public at each new location
Any location	New amusement ride or amusement attraction	Prior to operation for the riding public
Any location	Amusement ride or amusement attraction that has undergone major modification	Prior to operation for the riding public

(c) *Qualified inspector to conduct inspection.* The amusement ride or amusement attraction owner or lessee shall engage a qualified inspector to perform the inspections required by the act and this chapter. The owner or lessee shall make the amusement ride or amusement attraction available to the qualified inspector. The owner or lessee shall be solely responsible for expenses in connection with the inspection. The qualified inspector

shall, at the conclusion of an inspection, issue the owner or lessee the original plus one copy of a complete inspection affidavit form, as described in § 139.8 (relating to inspection affidavits), and retain a copy for the qualified inspector's records.

(d) *Inspection by the Department.* The Department may inspect any amusement ride or amusement attraction (including the operation of that amusement ride or

amusement attraction), or any device or location it reasonably believes to be an amusement ride or amusement attraction, to determine whether the ride or attraction is properly registered, whether the ride or attraction has been inspected by a qualified inspector, whether the qualified inspector has performed a competent inspection of the ride or attraction and whether the ride or attraction otherwise complies with the act and this chapter. The inspection may be unannounced or with advance notice to the owner or lessee. The Department will endeavor to conduct these inspections at reasonable times and with a minimum intrusion, unless otherwise necessary to safeguard the public.

(e) *Responsibility of owner, lessee or operator to allow inspection.* An owner, lessee or operator shall allow the Department to inspect an amusement ride or amusement attraction, and may not hinder or impede the Department in the performance of the inspection.

(f) *Responsibility of owner, lessee or operator to produce records.* At the request of the Department, an owner, lessee or operator shall produce documentation as to both the operation and maintenance of an amusement ride or amusement attraction.

§ 139.8. Inspection affidavits.

(a) *Inspection affidavit required.* An owner or lessee shall, with respect to each amusement ride or amusement attraction that is to be operated for use by the public, file a written affidavit with the Department, affirmed by a qualified inspector, that the amusement ride or amusement attraction has been inspected in accordance with the requirements of the act and this chapter, and meets those requirements. A single inspection affidavit may pertain to multiple amusement rides or amusement attractions.

(b) *Filing the inspection affidavit.* An owner or lessee shall file an inspection affidavit with the Department within 48 hours of the inspection. Filing shall be accomplished in accordance with § 139.14 (relating to contacting the Department).

(c) *Copy of inspection affidavit to be retained for inspection onsite.* An owner or lessee shall be responsible to ensure that a copy of the inspection affidavit described in subsection (b) is retained at the site where the amusement ride or amusement attraction is being operated for public use. The inspection affidavit shall be made available for inspection upon request of the Department. The Department may retain the onsite copy of the inspection affidavit, provide the owner, lessee, operator or attendant a receipt for the same, and allow the amusement ride or amusement attraction to continue being operated for public use.

(d) *Notice of compliance to be posted.* An owner or lessee of an amusement ride or amusement attraction shall post a notice advising the public of compliance with the act. This notice is in addition to any registration plate issued in accordance with § 139.4 (relating to registration). The notice shall be posted at a place readily observed by the public and consist of a sign made of durable material suitable for the location where it is posted. The notice must be on a bright green background, with white lettering. The size of the letters must be at least 1/2 inch in height and 1/8 inch width stroke reading:

THIS RIDE HAS (OR ALTERNATE—THE RIDES IN THIS PARK, CARNIVAL, FAIR, ETC. HAVE) BEEN INSPECTED AS REQUIRED BY THE PENNSYLVANIA AMUSEMENT RIDE INSPECTION ACT.

§ 139.9. Qualified inspectors.

(a) *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 December 13, 2008, may continue to inspect amusement rides and attractions under authority of that certification, but shall meet the requirements of this section when the qualified inspector next renews the certification in accordance with subsection (k).

(b) *Certification categories.* The Department will categorize amusement rides and attractions, and will be guided by ASTM categorizations of amusement rides and attractions in this categorization process. The Department will establish specific written tests or hands-on tests, or both, with respect to each category. These categories may address water rides, climbing walls, kiddie rides, train rides, hydraulics, inflatable rides or any other category described in ASTM standards and designated by the Department. The Department will publish the current list of certification categories on its web site (www.pda.state.us). The Department may categorize an amusement ride or amusement attraction in a manner other than as categorized by ASTM if there is no applicable ASTM categorization or the Department, in its discretion, believes another categorization is more appropriate.

(c) *Application.* A person may apply to the Department to become a qualified inspector. A qualified inspector application form may be obtained by contacting the Department through any means described in § 139.14 (relating to contacting the Department). The qualified inspector application form will require the following information:

- (1) The name, address and telephone number of the applicant.
- (2) The e-mail address of the applicant (if it exists).
- (3) The name, address and telephone number of the particular owner or lessee with respect to which the applicant seeks to become an affiliated qualified inspector, if the applicant seeks to be an affiliated qualified inspector.
- (4) A detailed description of the education, training or experience of the applicant with respect to the safe erection, operation and dismantling of the amusement rides and attractions.
- (5) The specific categories of amusement rides or amusement attractions with respect to which certification is sought.
- (6) Verification that the applicant is at least 18 years of age as of the date of the qualified inspector application form.
- (7) The signature of the applicant, verifying that representations made in the application are true and correct, and made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

(d) *Application fee.* The application fee with respect to a qualified inspector application form is \$50. This fee is not refundable, and shall be paid by check or money order made payable to the "Commonwealth of PA" in that amount.

(e) *Filing the application.* An applicant shall submit a complete qualified inspector application form to the Department by mailing or delivering the form, together with the fee described in subsection (d), to the address in § 137.14.

(f) *Department review and action.* The Department will promptly review an application to determine whether the application form is complete and will, within 30 days of receiving the application, provide the applicant the following by mail or electronic means:

(1) An acknowledgment of receipt of the complete application.

(2) A schedule showing dates, times and locations of upcoming Qualified Inspector Tests, and instructions for scheduling the applicant to sit for the test.

(3) Written instructions as to how the applicant may download a Qualified Inspector Test study packet from the Department's internet web site, receive a test study packet by e-mail or request the Department mail the applicant a test study packet.

(g) *Qualified Inspector Test.* The Qualified Inspector Test shall be a written test or a hands-on test, or both, measuring the experience and ability of the applicant with respect to the safe erection, operation and dismantling of amusement rides or attractions that are in the category of amusement ride or amusement attraction with respect to which certification is sought. The test may address multiple categories of amusement rides and attractions. The Department will score a Qualified Inspector Test. The passing score for the test shall be 70% or higher. The Department will report the results to the applicant by mail or electronic means within 30 days of the date of the qualified inspector test.

(h) *Qualified inspector's certificate and credential card.*

(1) If an applicant passes the Qualified Inspector Test, the Department will issue a certificate and a credential card identifying the applicant as a qualified inspector of amusement rides and attractions, specifying whether the person is an affiliated qualified inspector or a general qualified inspector, and setting forth the following:

(i) The name of the qualified inspector and, on the credential card only, a photograph of the qualified inspector.

(ii) The date of certification and the expiration date.

(iii) The particular owner or lessee with respect to which the applicant is authorized to act as an affiliated qualified inspector, if the application does not specify an affiliation, if issued to an affiliated qualified inspector.

(iv) The categories of amusement rides or attractions with respect to which the applicant is certified as a qualified inspector.

(2) The certificate and credential card will remain the property of the Department and shall, upon the written request of the Department, be surrendered to the Department. The applicant shall be responsible to coordinate with the Department to obtain the photograph required for the issuance of the credential card.

(i) *Powers of affiliated qualified inspectors and general qualified inspectors.*

(1) An affiliated qualified inspector may do the following:

(i) Conduct an inspection of an amusement ride or amusement attraction that is both of the following:

(A) Owned or leased by a person designated on the affiliated qualified inspector's certificate and credential card.

(B) Within a category with respect to which the qualified inspector is certified.

(ii) Issue inspection affidavits as described in § 139.8 (relating to inspection affidavits).

(iii) Charge a fee for conducting an inspection, but not a fee that varies with whether an amusement ride or amusement attraction passes or fails the inspection.

(2) A general qualified inspector may do the following:

(i) Conduct an inspection of an amusement ride or amusement attraction that is within a category with respect to which the qualified inspector is certified.

(ii) Issue inspection affidavits as described in § 139.8.

(iii) Charge a fee for conducting an inspection, but not a fee that varies with whether an amusement ride or amusement attraction passes or fails the inspection.

(j) *Duration of certification.* A qualified inspector's certification will expire 3 years from the date of certification, unless revoked or suspended earlier by the Department.

(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) A copy of a course completion certificate verifying that the applicant has met the continuing education requirement in subsection (l).

(ii) A nonrefundable \$50 application fee, by check or money order made payable to the "Commonwealth of Pennsylvania" in that amount.

(2) The Department will, within 30 days of receipt of a complete renewal form, mail or deliver to the applicant approval or denial of the requested renewal, or a request for additional information. If the Department denies the renewal it will provide written notice of the basis for denial. A renewed certificate will be valid for the period described in subsection (j).

(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 web site and providing all qualified inspectors for the subject category of amusement ride or amusement attraction with written notice of this requirement. This reduced continuing education requirement may not entail less than 16 hours of continuing education training.

(m) *Revocation or suspension of certification.* The Department may revoke the certification of a qualified inspector for cause, after providing the qualified inspector written notice and opportunity for a hearing. A revocation will be for a specific period of time determined by the Department. The circumstances justifying revocation include the following:

- (1) Allowing another person to conduct an amusement ride or amusement attraction inspection under authority of the certificate or credential card.
- (2) Issuing an inspection affidavit without first conducting a thorough inspection of the amusement ride or amusement attraction that is the subject of the inspection affidavit.
- (3) Issuing an inspection affidavit with respect to an amusement ride or amusement attraction that does not meet the requirements of the act and this chapter.
- (4) Representing a qualified inspector to be an employee or agent of the Department.
- (5) Inspecting an amusement ride or amusement attraction that is not in the category of amusement ride or amusement attraction with respect to which the qualified inspector is certified.
- (6) Basing an inspection fee amount upon whether an inspection affidavit is issued with respect to the amusement ride or amusement attraction inspected.
- (7) Altering or defacing a certificate or credential card for the purpose of obscuring or misrepresenting the information on either document.
- (8) Other violations of the act or this chapter.

§ 139.10. Advisory Board.

(a) The Board is established under authority of the act, to exercise the powers and perform the duties ascribed to it in the act. The Board is appointed by the Governor, and consists of ten members, as follows:

- (1) A representative of the amusement ride manufacturers.
- (2) Two representatives of the Pennsylvania State Showmen's Association.
- (3) Two representatives of the Pennsylvania Amusement Park Association.
- (4) A representative of the Pennsylvania State Association of County Fairs.
- (5) A mechanical engineer.
- (6) Two public representatives.
- (7) The Secretary or a designee, who will be designated by the Governor as the Chairperson.

(b) The Board will hold public hearings at a time and place that the Board specifies to carry out its responsibilities.

§ 139.11. Accident reporting.

(a) *Report required.* An owner or lessee shall file an accident report with the Department with respect to any accident which results in death or serious injury or illness as a result of the operation of an amusement ride or

amusement attraction. The accident report form shall be faxed or delivered to the Department, at the address or fax number in § 139.14 (relating to contacting the Department), within 48 hours after the owner, lessee or operator is aware of the death, serious injury or illness. The reporting requirement described in this subsection applies from the time the owner or lessee acquires knowledge that such a death has occurred, or that the injury or illness is a serious injury or illness, as that term is defined in § 139.2 (relating to definitions) and section 2 of the act (4 P. S. § 402).

(b) *Accident report form.* An accident report required under the act and this section shall be made on a form provided by the Department. The accident report form may be downloaded from the Department's web site, or a supply of accident report forms may be obtained from the Department by request directed to the Department in accordance with § 139.14. The following information shall be included in an accident report:

- (1) The name and address of the operator of the amusement ride or amusement attraction at which the death or serious injury or illness occurred.
- (2) The name and address of the owner or lessee of the amusement ride or amusement attraction at which the death or serious injury or illness occurred.
- (3) A description of the ride involved, including registration number, name of ride, manufacturer and manufacturer's serial number.
- (4) A detailed description of the incident giving rise to the death or serious injury or illness.
- (5) The name and address of the dead, ill or injured person.
- (6) A general summary of the apparent illness or injuries sustained by each dead, ill or injured person.
- (7) The names and addresses of all known witnesses to the incident giving rise to the death, illness or injury.
- (8) The signature of the owner or lessee, verifying the accuracy of the injury report form subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

(c) *Duty of owner, lessee or operator to close ride or attraction pending inspection.*

- (1) When a death, a serious injury or illness or a fire occurs as a result of an operation of an amusement ride or amusement attraction, the owner, operator or lessee shall immediately close the ride or attraction until it has been inspected and declared safe by a qualified inspector.
- (2) If the serious injury described in paragraph (1) results in death, dismemberment, significant disfigurement or permanent loss of the use of a body organ, the required inspection shall be performed by a qualified inspector who is an employee of the Department, and the ride or attraction may not be reopened until it has been inspected and approved to reopen, in writing, by the Department.
- (3) If the serious injury described in paragraph (1) results in death, the ride or attraction may not be reopened until the written approval described in paragraph (2) is obtained and the ride or attraction is declared safe by the insurance company of the owner. This declaration shall be by writing delivered to the Department.

§ 139.12. Variances.

(a) *Application.* An affected owner or lessee of amusement rides or attractions may apply in writing to the Department for an order for a variance from any rule, regulation or standard.

(b) *Exceptions.* The Secretary may grant exceptions from the rules, regulations and standards adopted by the Department under the act if one of the following applies:

(1) It is evident that the action is necessary to prevent undue hardship.

(2) Existing conditions prevent practical compliance and reasonable safety of the public can, in the opinion of the Secretary, be assured.

§ 139.13. Penalties.

(a) *Civil penalties.*

(1) A person who willfully or repeatedly violates the act or this chapter is subject to a civil penalty not to exceed \$2,000 with respect to each violation.

(2) If the Department elects to pursue a civil penalty, it will provide the person who is the proposed subject of that civil penalty with written notice of the proposed adjudication assessing the civil penalty, and afford that person 7 working days from receipt of that notice within which to deliver to the Department a written request for an administrative hearing on the proposed civil penalty.

(3) A written request for an administrative hearing must specify those portions of the proposed adjudication with respect to which the person requesting the hearing takes issue, the basis for the objection and other relevant facts or arguments not addressed in the proposed adjudication. The administrative hearing will be limited to these objections, additional facts or arguments. Any portion of the proposed adjudication that is not specifically objected to will be deemed admitted at the administrative hearing.

(4) The Department will, in accordance with section 11(a) of the act (4 P. S. § 411(a)), grant an administrative hearing within 7 days of receiving a written request for an administrative hearing. The Department will grant this hearing by mailing or delivering a notice to the person making the request, setting forth the date, time and location of the administrative hearing. An administrative hearing is "granted" for purposes of section 11(a) of the act if the referenced notice is mailed or delivered within the 7-day period, regardless of whether the actual scheduled date of the administrative hearing is before or after the expiration of the referenced 7-day period.

(5) If a timely request for an administrative hearing is not received, the Department will issue the proposed adjudication as its final adjudication, and deliver that final adjudication to the subject of that document.

(b) *Criminal penalties.* An owner or lessee of an amusement ride or amusement attraction who willfully violates the act or this chapter where the violation causes death to a member of the public exposed to the violation, commits a misdemeanor of the third degree and shall, upon conviction, be sentenced to pay a fine not exceeding \$2,500 or to a term of imprisonment not exceeding 1 year, or both. If the conviction is for a violation committed after a first conviction, the offender shall be sentenced to pay a fine not exceeding \$5,000 or to a term of imprisonment not exceeding 1 year, or both.

(c) *False representation.* A person who knowingly makes a false statement, representation or certification in an application, record, report, plan or other document

filed or required to be maintained under the act commits a misdemeanor of the third degree and shall, upon conviction, be sentenced to pay a fine not exceeding \$2,500 or to a term of imprisonment not exceeding 6 months, or both.

§ 139.14. Contacting the Department.

(a) *Methods of contact.* For purposes of the act and this chapter, the Department may be contacted as follows:

(1) By mail to the following address:

Pennsylvania Department of Agriculture
ATTN: Bureau of Ride and Measurement Standards
2301 North Cameron Street
Harrisburg, PA 17110-9408

(2) By telephone to (717) 787-2291.

(3) By fax to (717) 783-4158.

(4) By e-mail to: ra-amusementrides@state.pa.us.

(b) *Obtaining forms.* Forms and documents referenced in this chapter may be obtained by mailing, faxing or telephoning a request to the Department, or may be available from the Department's web site, at: www.agriculture.state.pa.us

(c) *Filing documents with the Department.* A document required to be filed with the Department under this chapter will be considered "filed" as of the date of postmark, fax transmission, e-mail delivery or actual delivery, whichever occurs first.

(d) *Delivering documents to the Department.* A document required to be delivered to the Department under this chapter will be considered "delivered" as of the date it is received at the Department, whether by mail delivery, e-mail, personal delivery, facsimile transmission or other electronic means.

Subchapter B. DESIGN AND CONSTRUCTION**§ 139.41. General.**

(a) *Design and construction.* Manufacturers and fabricators of amusement rides and attractions shall design and construct the amusement rides, devices and structures to carry all loads safely and to withstand normal stresses to which they may be subjected. Structural materials and construction of rides and attractions must conform to recognized engineering practices, procedures, standards and specifications. This information shall also be furnished by the owner or operator for existing rides and attractions if required by the Department. Stress analysis and other data pertinent to the design, structure, factors of safety or performance characteristics shall be in accordance with accepted engineering practices.

(b) *ASTM International F-24 Committee Standards.* Manufacturers and fabricators of amusement rides and attractions shall comply with current ASTM International F-24 Committee Standards concerning amusement rides and devices as they pertain to manufacturer responsibilities for equipment design, testing, erection, operation maintenance and inspections. These ASTM International F-24 Committee Standards and subsequent amendments are incorporated by reference.

(c) *Changes or modifications.*

(1) The applicable standards shall be the ASTM International F-24 Committee Standards in effect as of the earlier of the following:

(i) The date of contract for original manufacture of the amusement ride or attraction.

(ii) The date of the bill of sale from the manufacturer to the original purchaser of the amusement ride or attraction.

(2) Any changes or modifications to the ASTM International F-24 Committee Standards after the earlier of the dates described in paragraph (1)(i) and (ii) may not apply to the amusement ride or amusement attraction unless the standards themselves require retroactive implementation or the Department makes adherence to these new standards a condition of registration.

(d) An amusement ride or amusement attraction shall operate in strict accordance with the applicable ASTM International Standards. If the attraction is modified the latest version of the ASTM International Standards shall apply to the change, alteration or modifications.

(e) Owners of existing amusement rides and attractions are responsible for obtaining the required construction maintenance and operational information from the manufacturer if available.

§ 139.42. Structures.

Permanent buildings, enclosed structures that are not manufactured as part of an amusement ride or amusement attraction but that are nevertheless used for or as an amusement ride or amusement attraction shall be constructed to conform to 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 a building code official in accordance with the Pennsylvania Construction Code Act.

§ 139.43. Passenger-carrying rides.

Amusement rides and amusement attractions shall be designed for safe operation and meet applicable ASTM International Standards, as described in § 139.41(c) (relating to general), and conform to the other requirements of this section to the extent they do not conflict with applicable ASTM International Standards.

(1) *Interior and exterior parts.* The interior and exterior parts of passenger-carrying amusement rides with which a passenger may come in contact shall be smooth and rounded, free from sharp, rough or splintered edges and corners, with no protruding studs, bolts, screws or other projections which might cause injury.

(2) *Padding.* Interior parts upon which a passenger may be forcibly thrown by the action of the ride shall be adequately padded.

(3) *Restraining devices.* Rides equipped with a safety bar, cage or other mechanically operated restraining device shall be equipped with a retiring cam or other device so designed that the safety bar, cage or other mechanically operated device cannot be inadvertently released.

(4) *Self-powered rides.* Rides which are self-powered and which are operated by a passenger shall have the driving mechanism and any moving part that might pose a threat to the rider guarded and the guards secured in place to prevent passengers from gaining access to the mechanism.

(5) *Safe entrance, exit and support.* Belts, bars, foot-rests and other equipment as may be necessary for safe entrance and exit and for support while the ride is in operation shall be provided. The equipment and the fastenings must be of sufficient strength to retain the passengers.

(6) *Passenger restraints.* Passenger restraining or containing devices used on tubs, cars, chairs, seats, gondolas and other carriers on a ride where the forces generated by the action of the ride require retention, restraining or actual physical support of the passenger shall be designed, constructed and installed where deemed necessary by the manufacturer to support the passenger safely. The fastening must be of a type which cannot be inadvertently released.

(7) *Anchorage.* Anchorages for the required restraining devices must have strength at least equal to the strength of the restraining device.

(8) *Travel clearance.* The path of travel of an amusement ride must have a clearance envelope that meets ASTM international standards for patron clearance envelopes, 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.

(9) *Emergency brakes and antirollback devices.* Emergency brakes and antirollback devices must be in accordance with manufacturer's specifications and, if required or recommended by the manufacturer, must be in place and operational when the ride is open for use by the public.

(i) If cars or other components of an amusement ride are subject to collide upon failure to normal controls, emergency brakes sufficient to prevent collisions shall be provided.

(ii) On rides which make use of inclined tracks, automatic antirollback devices shall be installed to prevent backward movement of the passenger-carrying units in case of failure of the propelling mechanism, unless movement in the reverse direction would not cause injury or damage.

(10) *Speed-limiting device.* An amusement ride capable of exceeding its maximum safe operating speed shall be provided with a maximum speed-limiting device.

(11) *Signal systems.*

(i) Signal systems for the starting and stopping of amusement rides shall be provided where the operator of the ride does not have a clear view of the point at which passengers are loaded and unloaded, or where the ride operator does not have a clear view of oncoming or returning passenger-carrying vehicles with sufficient line-of-sight to prevent a collision. A signal system must be a mechanical, electronic or other system that meets or exceeds the manufacturer's recommendations.

(ii) A code of signals adopted for the operation of an amusement ride shall be printed and kept posted at both the operator's station and the signalman's station. A person who may use these signals shall be adequately instructed in their use.

(iii) Signals for the movement or operation of an amusement ride shall be printed and kept posted at both the operator's and signalman's stations. A person who may use these signals shall be carefully instructed in their use.

(12) *Protection against moving parts.*

(i) An amusement ride may not be used or operated while a person is located in a position where a person would be endangered by the amusement ride. Areas in which persons may be endangered must be fenced, barricaded or otherwise guarded against public intrusion.

(ii) A ride containing or having a mounting that could entangle a passenger's hair must be guarded to minimize the risk of entanglement in accordance with manufacturer's specifications.

(iii) Machinery used in or with an amusement ride must be enclosed, barricaded or otherwise effectively guarded against accidental contact. Guards removed for maintenance purposes shall be replaced before normal operation is resumed.

(13) *Amusement ride and attraction ancillary equipment.*

(i) *Air compressors and hydraulic equipment.*

(A) Air compressors, air compressor tanks and appurtenances used in connection therewith shall be designed, constructed, equipped and maintained to insure safe operation.

(B) Air compressor tanks and other receivers used in connection with air compressors must comply with 34 Pa. Code Chapter 3a (relating to boilers and unfired pressure vessels).

(C) Air compressor tanks and other air receivers used in connection with air compressors must have the maximum allowable working pressure conspicuously marked thereon.

(ii) *Oil and hydraulic systems.*

(A) Oil and hydraulic systems and related equipment used in connection with amusement rides and attractions must be free of leaks and maintained to insure safe operations. These systems must have a dumping or by-pass valve that shall be drilled and sealed at 125% of working pressure by the manufacturer. Pressure gauges must have the maximum safe working pressures conspicuously marked thereon. Systems must have a manual lowering valve.

(B) Flexible hoses must have a bursting strength sufficient to withstand eight times working pressure and be tested at a pressure at least four times working pressure. They must be compatible with the fluid used therein.

(iii) *Internal combustion engine power sources.*

(A) Internal combustion engine power sources must be of adequate type design and capacity to handle the design load.

(B) Refueling of fuel tanks shall be performed only when the ride or attraction is closed down and unloaded and the engine is not running.

(C) When the engine is in an enclosed area, adequate ventilation shall be provided and the engine exhaust shall discharge to the outside.

Subchapter C. OPERATION, MAINTENANCE AND RECORDS

§ 139.71. General requirement.

(a) Owners and operators of amusement rides, devices and structures shall conform to the ASTM International F-24 Committee Standards in effect as of the date the amusement ride or amusement attraction is registered with the Department, as they pertain to owner/lessee/operator responsibilities for equipment erection, testing, operation, maintenance and inspection. Changes or modifications to the ASTM International F-24 Committee Standards after this registration date may not apply to the amusement ride or amusement attraction unless the standards themselves require retroactive implementation

or the Department makes adherence to these new standards a condition of registration.

(b) An amusement ride or amusement attraction must be constructed, maintained and operated in strict accordance with the applicable ASTM International F-24 Committee Standards. If the attraction is modified, the latest version of the ASTM International F-24 Committee Standards apply to the change, alteration or modification. If the modification is a major modification, the owner, operator or manufacturer shall also comply with § 139.78 (relating to rebuilt and modified rides).

(c) Air compressors and hydraulic equipment shall be inspected under § 139.43(13) (relating to passenger-carrying rides).

§ 139.72. Erection/disassembly of amusement rides and attractions.

The owner or lessee shall cause each amusement ride, device or attraction to be erected in accordance with the manufacturer's recommendations as provided for in ASTM International F-24 Committee Standards, and conform to the other requirements of this section to the extent they do not conflict with applicable ASTM International Standards.

(1) *Lighting.* Amusement rides, access thereto, and means of egress therefrom shall, while in operation or occupied, be provided with illumination by natural or artificial means sufficient to guard against injuries to the public.

(2) *Proximity to high voltage lines.* Amusement rides must be located at least 15 feet from suspended high voltage lines carrying greater than 600 volts, or as otherwise defined in the *National Electrical Code*.

(3) *Ride entry and discharge.* Safe and adequate means of normal entry and normal discharge from each ride shall be provided.

(i) At least two unrestricted means of egress remote from each other shall be provided from each floor, tier, room or balcony in structures which house amusement rides.

(ii) Access to the means of egress shall be marked by readily visible signs in all cases where it is not immediately visible to the passengers.

(iii) A means of egress must be at least 36 inches in width.

(iv) The width of a stairway shall be taken as the length of the treads between stringers. The width of a doorway shall be taken as the width of the door.

(v) The maximum travel distance from the most remote point in a room or enclosed space to an exit may not be greater than the following:

(A) One hundred fifty feet in unsprinklered construction.

(B) Two hundred feet in sprinklered construction.

(C) Seventy-five feet in dead ends.

(vi) Means of access and egress must have protection from adjacent hazards and protection from falling by use of rails, enclosures or similar means.

(vii) Means of access and egress must be free from debris, obstructions, projections and slipping, tripping and other hazards.

(viii) The head clearance in passageways may not be less than 7 feet.

(ix) Means of access or egress must have either stairways or ramps and connecting landings or platforms where the public enter or leave an amusement ride that is above or below grade.

(x) Stairways, passageways, ramps, landings or platforms must be at least 36 inches in width for single lane passage or 44 inches for double lane passage. Landings or platforms must be at least 3 feet long measured in the direction of travel.

(xi) Stair treads must be at least 9 inches deep, exclusive of nosing, and the rise may not exceed 8 inches. Between two connecting levels, the treads must be uniform depth and the risers must be of uniform height. The slope of ramps may not exceed one in ten except when nonslip surfaces are provided.

(xii) Handrails must be provided on both sides of all stairways of four or more risers connecting adjoining levels whose difference in elevation is 30 inches or more.

(xiii) Handrails must be at least 30 inches and no more than 34 inches above the surface of step treads and 42 inches above the landings, platforms, runways and ramps which are 4 feet or more in height or are adjacent to dangerous equipment or areas over deep water.

(xiv) The distances between handrails may not be less than 18 inches for single lane passage and 36 inches for a double lane passage.

(xv) One intermediate rail spaced equal distance from handrail and base construction to prevent a passenger from falling through the handrails shall be provided with all handrails.

(xvi) Stairways and ramps requiring handrails which are more than 8 feet wide shall be provided with railings dividing the widths into not more than 8 feet, and not less than 22 inches in width.

§ 139.73. Electrical system and equipment.

(a) Amusement rides and attractions where restoration of electrical power could create a hazard shall be provided with a magnetic disconnect switch.

(b) An electrically operated amusement ride not designed to be controlled by the passenger shall be provided with an emergency stop switch placed within easy reach of the operator. A second back up—dead man, timer or safety switch, wired in series with the primary start/stop switch, shall be added to kiddie rides to provide added safety from unauthorized starting of the device. The safety switch shall be deenergized at the end of each ride cycle by the operator.

(c) Where electrical distribution and transmission lines have not been deenergized or where special insulating barriers to prevent physical contact with the lines have not been erected, a person shall be designated to give timely warning for all maneuvers of equipment, ride structures and machinery operated proximate to the lines so that ample clearance is maintained.

(d) Electrical wiring and equipment located outdoors shall be of a quality and constructed or protected that exposure to weather will not interfere with its normal operation.

(e) Electrical transformer stations must be properly enclosed and proper warning signs shall be posted.

(f) Outlets of more than 120 volts must be clearly marked to show their voltage.

(g) Services shall be installed in conformance with Article 525 of the *National Electrical Code*.

(h) Temporary electrical power and lighting installation shall be permitted during periods of construction, remodeling or demolition activities. Temporary electrical power and lighting shall be permitted for a period not to exceed 90 days when associated with operating amusement rides or attractions.

§ 139.74. Temporary wiring.

(a) Feeders must be provided with overcurrent protection in accordance with the load imposed and conductor size as specified in Article 240 of the *National Electrical Code*.

(b) Branch circuits must originate in an approved power outlet or panelboard. Conductors shall be permitted within multiconductors. Conductors shall be protected by overcurrent devices at their rated capacity.

(c) Receptacles must be of the grounding type. Unless installed in a complete metallic raceway, branch circuits must contain a separate equipment grounding conductor and all receptacles must be electrically connected to the grounding conductor.

(d) Bare conductors or earth returns may not be used for the wiring of a temporary circuit.

(e) Suitable disconnecting switches or plug connectors shall be installed to permit the disconnection of ungrounded conductors of a temporary circuit.

(f) Lamps for general illumination exclusive of decorative or festoon lighting shall be protected from accidental contact or breakage. Protection shall be provided by elevation of at least 7 feet from a normal working surface or by a suitable fixture or lamp-holder with a guard.

(g) Temporary wiring over 600 volts shall be permitted during periods of construction, tests, experiment or emergency. A less permanent class of wiring and equipment shall be permitted than would be required for permanent installations.

(h) Suitable fencing, barriers or other effective means shall be provided to prevent access of other than authorized and qualified personnel to temporary wiring over 600 volts.

(i) Temporary wiring over 600 volts shall be removed immediately upon completion of construction or purpose for which the wiring was installed.

(j) Temporary electric wiring, if suspended, shall be supported so that its protective insulation will not be damaged.

(k) Overcurrent protection devices may not be installed in neutral or grounding conductors.

(l) Where electrical power is supplied for an amusement ride by a generating system, the generator and equipment must be properly grounded.

(m) Receptacles and attachment plugs must be of the grounding type and have ground fault interrupter (GFI) protection.

(n) Electrical installations and each electrically powered amusement ride must be effective as to noncurrent carrying metal parts which may become energized and which are exposed to contact by personnel. The path to ground from circuits, equipment and conductor enclosures must:

- (1) Be permanent and continuous.
- (2) Have ample carrying capacity to conduct currents liable to be imposed on it.

(3) Have impedance, as evidenced by testing, sufficiently low to limit the potential above ground and to facilitate the operation of the overcurrent devices in the circuit.

(o) Grounding which does not have a resistance to ground of 25 ohms or less as evidenced by testing shall be augmented by additional electrodes as needed spaced not less than 6 feet apart.

(p) Temporary electrical lines placed at ground level must be of the "S" or equivalent type and be adequately insulated and protected in areas of vehicular or pedestrian traffic to provide the maximum public safety.

§ 139.75. Fire protection and prevention.

(a) Approved U. L. fire extinguishers shall be provided at gasoline-driven rides and otherwise where necessary to secure reasonable and adequate protection from fire hazards. Fire extinguishers shall be placed to be accessed and in use within 20 seconds of a person spotting a fire, and shall be sufficiently removed or protected from highly-flammable or exploding material to prevent their damage or destruction in the initial explosion or flames.

(b) Flammable waste, such as oily rags or other flammable materials, shall be placed in covered metal containers which shall be kept in easily accessible locations. The containers may not be kept at or near exits.

(c) Gasoline and other flammable liquids and flammable gases when stored shall be kept in reasonably cool and ventilated places. The liquids shall be in approved containers. Smoking and the carrying of lighted cigars, cigarettes, or pipes is prohibited in an area where liquids or gases are stored or are transferred from one container to another.

(d) Fabrics constituting part of an amusement ride must:

(1) Conform to the following requirements, based on tests conducted in accordance with ASTM-E-84, or its current successor document:

(i) Flame spread rating of 0 to 75.

(ii) Smoke development of 0 to 450.

(2) Conform to the requirement of vertical burn test as follows:

(i) The average burn length may not exceed 8 inches.

(ii) The average flame time after removal of the flame source may not exceed 15 seconds.

(iii) Drippings from the test specimen may not continue to flame for more than 15 seconds.

(e) All parts of amusement rides and attractions shall be maintained in a clean condition.

§ 139.76. Ride and attraction operators and attendants.

The ride operator shall operate the ride, device or attraction as follows:

(1) The ride operator shall be at least 16 years of age as specified in the Child Labor Law (43 P. S. §§ 41—71).

(2) On rides involving exposure to water to the extent that accidental drowning could occur, at least one person who is trained in life saving techniques shall be available on the premises at all times during operating hours.

(3) The operator shall operate one ride at a time.

(4) The operator may not operate a ride while under the influence of alcohol or drugs.

(5) The operator shall be in the immediate vicinity of the operating controls during operation and no other person shall be permitted to handle the controls during normal operation. This paragraph does not apply to amusement rides designed to be operated or controlled safely by a passenger.

(6) The number of operators and attendants shall meet or exceed the number of operators and attendants recommended by the manufacturer of the ride, device or attraction or the number prescribed in the ASTM International F-24 Committee Standards, whichever number is higher.

§ 139.77. Maintenance of amusement rides and attractions.

(a) *Maintenance program.* The owner of an amusement ride or amusement attraction shall implement a program of maintenance, testing and inspection, based on manufacturer's recommendations, providing for the duties and responsibilities necessary in the care of each amusement ride or attraction. The maintenance program must include a checklist to be made available to the person performing the regularly scheduled maintenance. The maintenance program must include, the ASTM International F-24 Committee Standards for the operation, maintenance, testing and inspections.

(b) *Electricity lock-out.* A person performing maintenance or repairs, or making an inspection, shall lock-out the electrical disconnect switch when restoration of electrical power to an amusement ride or amusement attraction could create a hazard to persons during the performance of maintenance, repair, inspection or an emergency evacuation of persons, and ensure that it remains locked out until restoration of power will not create a hazard.

(c) *Identification and rating plates.* Manufacturers' identification information affixed to the ride or attraction shall be maintained in a readily visible and legible condition at all times to the inspector.

(d) *Wire rope.*

(1) Wire rope shall be thoroughly examined. Wire rope found to be damaged shall be replaced with a new rope or proper design and capacity as set forth on the manufacturer's date tag. If failure of the rope would affect safety of the ride or attraction and its passengers any of the following conditions will be cause for rope replacement:

(i) In running ropes, six randomly distributed broken wires in a rope lay, or four broken wires in one strand of a rope lay. A rope lay is the length along the rope in which one stand makes a complete revolution around the rope.

(ii) In pendants or standing ropes—ropes bearing the entire load and subject to constant pressure and surge shocks—evidence of more than one broken wire in one rope lay.

(iii) Abrasion, scrubbing or peening causing loss of more than 1/3 of the original diameter of the outside individual wires.

(iv) Severe corrosion.

(v) Kinking, crushing, birdcaging or other damage resulting in distortion of the rope structure.

(vi) Heat damage.

(vii) Reduction from nominal diameter of more than 6.0%. Marked reduction diameter indicates deterioration

of the core resulting in lack of proper support for the load carrying strands. Excessive rope stretch or elongation may be an indication of internal deterioration.

(viii) Bird-caging or other distortion resulting in some members of the rope structure carrying more load than others.

(ix) Noticeable rusting or development of broken wires in the vicinity of attachments. If the condition is localized in an operating rope, the section in question can be eliminated by making new attachment. This may be done rather than replacing the entire rope.

(2) Wire ropes used to support, suspend, bear, or control forces and weights involved in the movement and utilization of tubs, cars, chairs, sets, other carriers, the sweeps, or other supporting members of a ride or attraction may not be lengthened or repaired by splicing.

(3) Mechanical devices that brake, control, or come in contact with wire rope, such as rollers, drums and sheaves shall be examined to ensure cleanliness and safe condition. Mechanical devices with broken chips, undue roughness or uneven wear shall be replaced immediately.

(f) *Articulations and bearings.*

(1) The articulating pinions, frames, sweeps, eccentrics and other mechanical members shall be inspected for wear, out-of-round, cracks and other signs of deterioration, and shall be kept in good repair.

(2) Main center spindles shall be tested by nondestructive methods according to the manufacturer's specifications. Test results must list the date of the test, name of the ride owner and serial number or identification number of the device.

(3) Bearing surfaces, ball joints and other single or multiple direction mechanical surfaces shall be kept well lubricated, clean and inspected for out-of-round or out-of-spherical and shall be kept in good repair.

(4) Gear alignment and gear drives shall be kept in good repair.

(5) Motor wiring, general service circuitry, decorative wiring and festoon wiring shall be inspected for signs of deterioration such as cracking. Secure tape repairs may be used; however, use of tape repairs shall be kept to a minimum. Wire clips on articulating devices shall be kept in good repair, and particular attention shall be paid to wires at elbows and at the end of articulating devices during inspections.

(6) Retaining, restraining and containing devices shall be inspected to insure they can continuously fulfill their function. Worn and damaged areas shall be repaired immediately or be immediately replaced.

(7) The hydraulic system shall be checked for leaks, damaged pipes and worn or deteriorated hoses.

(8) A record of each inspection, test and maintenance shall be made immediately upon completion of the inspection/test and indicate those components subjected to special examination, such as X-ray, liquid penetrant, magnetic particle or ultrasonic testing and the dates the examinations were performed. The record must also include breakdowns or repairs and violations of this chapter with action taken to rectify the violation. The record shall be kept and made available to the Department and qualified inspector for at least 3 years.

§ 139.79. Records.

(a) The owner or lessee of an amusement ride or amusement attraction shall maintain the following records onsite for 3 years, and make them available upon request of the Department, the Department's representative or the qualified inspector:

(1) *Daily inspection records.* Daily inspection records—including daily ride-specific inspection checklist records referenced in ASTM International F-24 Committee Standards—shall be prepared and maintained by the owner, lessee or operator who shall be experienced and knowledgeable in the proper assembly and operation of the ride or attraction. The inspection and tests must include operation of control devices, speed-limiting devices, brakes and other safety equipment. The inspection shall be made each day the ride or attraction is put into normal operation.

(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:

(i) The manufacturer of the ride or attraction.

(ii) An insurance carrier lawfully doing business in this Commonwealth and carrying public liability insurance on the ride or attraction.

(iii) A professional engineer.

(iv) A person recommended by the manufacturer as qualified to perform the test.

(b) A complete maintenance and testing history file for each amusement ride and attraction shall be maintained at the ride or by the owner and be available to the Department or the qualified inspector.

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