

PROPOSED RULEMAKING

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) proposes to amend 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 this proposed 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 provisions of the act.

Purpose

The proposed rulemaking updates the Department's amusement ride and amusement attraction regulations to reflect developments in the amusement ride and amusement attractions industry in the 19 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.

Background

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.

Drafts of the proposed rulemaking have been in existence for several years and have been circulated among the members of the Amusement Ride Safety Advisory Board (Board) on several occasions. The Board, established under the act, is an advisory body representing a broad cross-section of amusement ride and amusement attraction industry experience. The Department used this strong resource in preparing the proposed rulemaking and intends to make use of the collective expertise and experience of the Board throughout the regulatory process.

Need for the Proposed Rulemaking

The proposed rulemaking is a much-needed update of the Department's amusement ride and amusement attraction regulations. The ultimate objective of the proposed rulemaking is to help protect the health and safety of the riding public. The Department is satisfied that there are no reasonable alternatives to proceeding with the proposed rulemaking.

Overview of the Major Provisions of the Proposed Rulemaking

Section 139.2 (relating to definitions) would be amended to add two definitions to distinguish between the types of qualified inspectors of amusement rides and amusement attractions. These types are defined as "affiliated qualified inspectors" and "general qualified inspectors." The act of February 7, 1996 (P. L. 11, No. 4) (Act 4) amended the act to address the required reporting of certain injuries sustained in the operation of amusement rides and amusement attractions and to establish several new defined terms which are repeated in § 139.2. These include definitions of "ASTM standards" and "serious injury."

Proposed amendments to § 139.4 (relating to registration) would provide a more detailed explanation of the process by which an owner of an amusement ride or amusement attraction may comply with the statutory requirement that the ride or attraction be registered with the Department prior to its operation within this Commonwealth. It would also provide more detailed guidance on the type of professional engineer's report that would be required in support of an application for registration of a ride or attraction that had not previously been successfully registered with the Department.

Section 14 of the act (4 P. S. § 414) requires the Department to divide amusement rides into one of two classifications—Class I or Class II—for purposes of establishing the minimum insurance requirements applicable to the ride or attraction, and requires that a certificate of insurance be provided to the Department. Proposed amendments to § 139.5 (relating to insurance) would add language to clearly prescribe the content of the certificate of insurance and to require that the Department be identified as a "certificateholder" for purposes of notification by the insurance carrier in the event of a cancellation of coverage.

Proposed amendments to § 139.6 (relating to itinerary) would allow for the filing of required itineraries by electronic means and would provide a reference to the appropriate e-mail and fax numbers by which this filing might be accomplished.

Proposed amendments to § 139.7 (relating to inspection) would restate the amusement ride and amusement attraction inspection requirements in section 7 of the act (4 P. S. § 407), provide the ride or attraction owner or lessee with a good understanding of the document and recordkeeping requirements necessary to demonstrate compliance with this requirement and affirmatively state the Department's authority to inspect the ride or attraction and review records of inspections.

The Department provides credentials to persons to act as "qualified inspectors" of amusement rides and amusement attractions. Proposed amendments to § 139.9 (relating to qualified inspectors) would make several revisions and clarifications to: (1) allow currently-certified qualified

inspectors to continue conducting inspections under their credentials expire (at which time they would have to be certified in accordance with the proposed process in this section); (2) provide the Department flexibility to establish categories of amusement rides or attractions (such as water rides, inflatable rides, and the like) with respect to which it would certify qualified inspectors and establish training requirements; (3) clarify the application process, the renewal of certification and continuing education requirements; and (4) establish standards for revocation of a certification issued under that section.

Proposed amendments to § 139.11 (relating to accident reporting) track with changes in Act 4.

Proposed amendments to § 139.13 (relating to penalties) would provide more detail on the procedure by which the Department may pursue civil penalties regarding violations of the act or its attendant regulations, and prescribe a process by which a civil penalty could be challenged.

Proposed amendments to § 139.41 (relating to general) would clarify the design and construction standards that are applicable to a given amusement ride or amusement attraction. The ASTM International F-24 Committee Standards are an evolving set of highly-regarded industry standards for the safe design and operation of amusement rides and amusement attractions. Since these standards change over time, the proposed amendments would clarify which version of these standards is applicable to a given ride or attraction.

Proposed amendments to § 139.71 (relating to general requirement) would require that amusement rides and amusement attractions be operated in conformance with ASTM International F-24 Committee Standards.

Proposed amendments to § 139.76 (relating to ride operators and attraction attendants) would formalize a requirement that there be an adequate number of operators and attendants present when a ride or attraction is in operation, and would require that operators and attendants be present in at least the numbers recommended by the ride or attraction manufacturer.

The proposed rulemaking would also make a number of technical and grammatical corrections.

Affected Individuals and Organizations

The proposed rulemaking would 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 would be impacted by the proposed rulemaking, as would the riding public.

Fiscal Impact

Commonwealth. The proposed rulemaking would impose no costs and have no fiscal impact on the Commonwealth.

Political subdivisions. The proposed rulemaking would impose no costs and have no fiscal impact upon political subdivisions.

Private sector. The proposed rulemaking might impose some new costs on amusement ride or amusement attraction owners or operators. The proposed rulemaking 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 proposed rulemaking would not have appreciable fiscal impact upon the private sector. Since this proposed rulemaking would move the Commonwealth's standards into greater conformity with the ASTM International Y-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 proposed rulemaking would impose no costs and have no fiscal impact on the general public. The proposed rulemaking would enhance public safety.

Paperwork Requirements

The proposed rulemaking is not likely to appreciably impact upon the paperwork generated by the Department or the regulated community.

Effective Date

The proposed rulemaking will be effective upon publication in the *Pennsylvania Bulletin* as final-form rulemaking.

Sunset Date

There is no sunset date for the proposed rulemaking. The Department will review the efficacy of this proposed rulemaking on an ongoing basis.

Public Comment Period/Contact Person

Interested persons are invited to submit written comments regarding the proposed rulemaking within 30 days following publication in the *Pennsylvania Bulletin* to the Department of Agriculture, Bureau of Ride and Measurement Standards, Division of Ride Safety, 2301 North Cameron Street, Harrisburg, PA 17110-9408, Attention: Joe Filoromo.

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 this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Standing Committees on Agriculture and Rural Affairs. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Department, the General Assembly and the Governor of comments, recommendations or objections raised.

DENNIS C WOLFF,
Secretary

Fiscal Note: 2-102. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 7. AGRICULTURE

PART V-D. AMUSEMENT RIDES AND AMUSEMENT ATTRACTIONS

CHAPTER 139. AMUSEMENT RIDES AND ATTRACTIONS [ERECTED PERMANENTLY OR TEMPORARILY AT CARNIVALS, FAIRS AND AMUSEMENT PARKS]

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 [and], 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:

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

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(6) Ski lifts, elevators or rides to the extent they are registered and regulated by [the Department of Labor and Industry] 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 [Environmental Resources] Health for [water quality,] pool design, sanitary facilities [, lifeguards] 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:

* * * * *

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.

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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—[ASTM Standards on Amusement Rides and Devices F698-83, F747-82, F770-82, F846-83, F853-83 and F893-84, published October 1984, in pamphlet format in the Annual Book of 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.

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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 multi-passenger 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)(2)).

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.**

* * * * *

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 [certified] 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 [the ride or device which will] an amusement ride or amusement attraction which can alter its performance from that specified in the manufacturer's design criteria.

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*National Electrical Code—*The National Electrical Code NFPA No. [70-1984] 70-E, as revised, amended or corrected.

*New amusement ride or amusement attraction—*An amusement ride or attraction of a design not [previously] 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 to meet the ASTM International F-24 Committee Standards.**

* * * * *

Owner—

(i) A person who owns an amusement ride or attraction[, or the lessee if the amusement ride or attraction is leased].

(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—*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.

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Serious injury or illness—[Permanent or prolonged impairment of the body in which part of the body is made functionally useless or substantially reduced in efficiency.]

(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 [and ride operators operating], 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] 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.* [An amusement ride or attraction which has undergone major modification shall be registered and inspected by a qualified inspector before its operation for use by the public.] 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) [Registration includes the following:

(1) Owner's name, address and telephone number.

(2) Type of activity, park, carnival or fair.

(3) List of each ride or attraction by ride name, manufacturer's name and serial number.

(4) Name of owner's insurance company.]

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 website: 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 shall automatically cease 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 informa-

tion 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 location 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. 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 shall 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 [within the owner's control]. The insurance policy shall be procured from an insurer or surety authorized to do business in this Commonwealth [or eligible to do business under section 7 of the act of January 24, 1966 (1965) (P. L. 1509, No. 531), referred to as the Surplus Lines Insurance Law and shall be in the following amounts:].

(1) [For an attraction or amusement ride qualified to meet a Class I designation according to a list maintained by the Department, including bumper cars, bumper boats, coin-operated kiddie rides, go-carts, live animal rides, manually powered rides, miniature trains, moon walks, slides and similar devices—] 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) [For an attraction or amusement ride qualified to meet a Class II designation according to a list maintained by the Department—] 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.* [A] An owner or operator shall deliver a valid certificate of insurance [shall be furnished] to the Department prior to the operation of [a] an amusement ride or amusement attraction for use by the public. The certificate of insurance shall be delivered to the Department in accordance 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 [and the certificate shall acknowledge the notification responsibility].

(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.
- (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 [file] deliver an itinerary [with] to the Department [no less than] 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 [shall] must include the following:

(1) The name of the amusement ride or amusement attraction owner.

* * * * *

(3) The carnival, fair [or], 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).

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§ 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
Amusement park	Amusement ride or amusement attraction	Prior to operation for the riding public, and on a monthly basis thereafter
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 [certified by the Department] to perform the inspections required by the act and this chapter. [Rides or attractions to be operated by the owner shall be] The owner or lessee shall make the amusement ride or amusement attraction available to the qualified inspector [and the owner will be held]. The owner or lessee shall be solely responsible for all 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.

[(b) The owner or lessee shall have inspection performed by a qualified inspector on the following:

(1) An amusement park ride or attraction on a 30 operating day basis during a season for operation for use by the public.

(2) A fair, carnival ride and attraction before its operation at a new location.

(3) A new or modified amusement ride and attraction before its operation for use by the public begins.]

(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 requirements of 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.* [The] 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 [complies with the act and this chapter. The affidavit shall be filed for each amusement ride and attraction which is to be operated for use by the public] 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.* [The affidavit shall be filed by mail] An owner or lessee shall file an inspection affidavit with the Department within 48 hours of the inspection[, and a copy shall be available upon request at the ride or attraction site when the ride is being operated for public use]. 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.* [The] An owner [of the] 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 [shall] consist of a sign made of [substantial and, if exposed to the elements, of weather-proof] durable material [with] suitable for the location where it is posted. The notice must be on a bright green background [and], with white lettering. The size of the letters [may not be less than] 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) [HAS] BEEN INSPECTED AS REQUIRED BY THE PENNSYLVANIA AMUSEMENT RIDE INSPECTION ACT.

§ 139.9. Qualified inspectors.

(a) [It is the policy of the Department to accept voluntary registration of an individual or an agency registration of an individual if there is acceptable evidence that the individual has a thorough working knowledge of pertinent statutes relating to amusement rides and attractions and this chapter.] *General.* The Department will certify persons who meet the requirements of this section to act as qualified inspectors. Any inspection of an amusement ride or amusement attraction required under the act shall be conducted by a qualified inspector who is certified by the Department with respect to the category of amusement ride or amusement attraction that is being inspected. Persons who have been certified by the Department as qualified inspectors prior to _____ (*Editor's Note:* The blank refers to the effective date of adoption of this proposed rulemaking.) 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) [The Department will hold examinations as qualified amusement ride/attraction inspectors, at times determined by the Department. Persons desiring to take the examination shall forward their applications to the Department, on forms provided by the Department, in a reasonable time prior to the day of examination and include a fee of \$50 for a 3-year certification period.] *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 catego-

ries on its website (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) [Only applicants who meet the Department's requirements for education, training and are experienced in the erection and dismantling of amusement rides will be permitted to take the examination. The examination will consist of two parts, class I and class II, and those found competent through examination will be awarded a certificate and a credential card authorizing them to inspect amusement rides/attractions according to a listing maintained by the Department for each class. A certified inspector does not become an employee, agent or authorized representative of the Department, nor may he represent himself to be.] *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) [Credential cards will be issued for a 3-year period. Credential cards will be renewed for 3 years following written application to do so, and upon Department confirmation that the applicant has been active in the inspection of amusement rides and has attended an industry sponsored school, such as the A.R.E.A. Safety and Maintenance Seminar or its equivalent, during the 3-year period. If an applicant for credential card renewal has not remained sufficiently active in the inspection of amusement rides, reexamination may be required.] *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) [Credential cards will be issued in the name of the inspector identifying the scope of the inspector's authority, such as being limited only to specific owners of equipment. Separate cards are required for each affiliation or for independent status.] *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 (relating to contacting the Department).

(f) [The Secretary may suspend a credential card for cause, but no certificate may be revoked until the inspector has been granted a hearing.] *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 website, 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 within 30 days after it is administered. The passing score for the test shall be 70% or higher. The Department will promptly report the results to the applicant by mail or electronic means.

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

(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 website and providing all qualified inspectors for the subject category of amusement ride or amusement attraction with written notice of this requirement.

(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] (Reserved).

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

(1) A representative of the amusement ride manufacturers.

(2) The President of the Pennsylvania State Showman's Association.

(3) The Chairman of the Pennsylvania Amusement Park Association.

(4) The President of the Pennsylvania Amusement Park Association.

(5) The President of the Pennsylvania County Fairs Association.

(6) A mechanical engineer.

(7) Two public representatives.

(8) The Secretary, who will be designated by the Governor as the Chairman.

(b) The Board will be known as the Amusement Ride Safety Advisory Board.

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

§ 139.11. Accident reporting.

(a) *Report required.* [When an owner submits an accident report to the owner's insurance company, a copy of those reports which involve physical injuries or death to an individual as a result of the operation of an amusement ride or attraction shall be sent to the Department by the owner at the same time. The notice shall indicate the description of the amusement ride or attraction by which the injury or death occurred and the nature of the injuries or cause of death.] 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.

(b) *Accident report form.* [When a serious injury, death or fire occurs as a result of the operation of an amusement ride or attraction, the operators shall immediately close the attraction or ride and the owner shall so notify the Department within a reasonable period of time. The attraction or ride may not be reused until it has been inspected, repaired or declared safe by a qualified inspector. In the event of death, the ride or attraction may not be reopened until declared safe by the insurance company of the owner. This declaration shall be in writing to the Department. In the case of a verbal declaration from the insurance carrier, a written declaration shall be submitted to the Department.] 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 website, 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 or injured person.

(6) A general summary of the apparent injuries sustained by each dead or injured person.

(7) The names and addresses of all known witnesses to the incident giving rise to the death 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 reinspection.* [Documents concerning accident reports, the disclosure of which may lead to the disclosure of the institution, progress or result of investigation undertaken by an agency in the performance of its official duties, may not be deemed public record under the act of June 18, 1984 (P. L. 384, No. 81) (65 P. S. § 66.1), known as the Right-to-Know Act.]

(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 per-

formed 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] (Reserved).

[Where the literal application of this chapter may cause undue hardship, the affected party may file a written request for relief with the Secretary. The petition shall set forth in detail the grounds upon which the request is based and whether or not a personal hearing is desired. The Secretary may, upon application, grant exceptions or variances but only where it is clearly evident that it is needed to prevent undue hardship—that is, financial, and the like—existing conditions prevent practical compliance and where it is clearly evident that reasonable safety is 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 [for] 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.

* * * * *

§ 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 website, 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 [shall] must conform to recognized engineering [practices] 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 [, October 1984,]** 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.

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

[(b)] **Temporary buildings intended to be used for or as an amusement ride or attraction that are relocated from time to time, with or without disassembly, shall conform to the following:**

(1) Be noncombustible or 1 hour flame-retardant.

(2) Be provided a minimum of two exits reasonably remote from each other. Exits, including access to exits, shall be illuminated and marked and exit doors be equipped with panic hardware and open outward and lead directly to the outside. Required travel distance from one point may be no more than 75 feet.

(3) Be provided with an emergency lighting system which shall be activated by U. L. approved smoke detectors.

(4) Have access to the means of egress marked by readily visible signs in cases where it is not immediately visible to the passengers.

(5) Conform interior finishes to the fire prevention requirements of § 139.75(d) (relating to fire protection and prevention) which deal with fabric hazards constituting part of a passenger-carrying amusement ride.

(6) Be placed or secured with blocking, cribbing, outriggers, guys or other means to be stable under operating conditions.]

§ 139.43. Passenger-carrying rides.

[Tubs, cars, chairs, seats, gondolas and other carriers] 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.

* * * * *

(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.

* * * * *

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

(9) *Emergency brakes and [antiroll back] antirollback devices.* Emergency brakes and [antiroll back] antirollback devices [shall] 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.

* * * * *

(ii) On rides which make use of inclined tracks, automatic [antiroll back] 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.

* * * * *

(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 [stations] station. A person who may use these signals shall be [carefully] adequately instructed in their use.

* * * * *

(12) *Protection against moving parts.*

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

* * * * *

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

(i) *Air compressors and hydraulic equipment.*

* * * * *

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

* * * * *

Subchapter C. OPERATION, MAINTENANCE AND RECORDS

§ 139.71. General requirement.

(a) Owners and operators of amusement rides, devices and structures shall [use ASTM Standards on Amusement Rides and Devices] 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. [ASTM Standards, October 1984, and subsequent amendments, are incorporated by reference.] 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 shall 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 shall 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 shall conform to the other requirements of this section to the extent they do not conflict with applicable ASTM International Standards.

* * * * *

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

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

* * * * *

(iii) [No] A means of egress [shall] must be [less than 22] at least 36 inches in width.

* * * * *

(x) Stairways, passageways, ramps, landings or platforms [may not be less than 22] must be at least 36 inches in width for single lane passage or 44 inches for double lane passage. Landings or platforms [may not be less than] must be at least 3 feet long measured in the direction of travel.

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

* * * * *

§ 139.73. Electrical system and equipment.

* * * * *

(c) Where electrical distribution and transmission lines have not been de-energized or where special insulating barriers to prevent physical contact with the lines have [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.

* * * * *

(g) Services shall be installed in conformance with Article [230] 525 of the *National Electrical Code* [(NFPA 70-1984) and as subsequently amended].

(h) Temporary electrical power and lighting installation shall be permitted during periods of construction, remodeling or demolition activities. Temporary electrical power and [lightings] 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 shall be provided with overcurrent protection in accordance with the load imposed and conductor size as specified in Article 240 of the *National Electrical Code* [(NFPA70-1984) and as subsequently amended].

* * * * *

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

* * * * *

§ 139.75. Fire protection and prevention.

(a) Approved U. L. fire extinguishers shall be provided at [gas driven] gasoline-driven rides and otherwise where necessary to secure reasonable and adequate protection from fire hazards.

* * * * *

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

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

* * * * *

§ 139.76. Ride and attraction operators and [attraction] attendants.

[(a)] The ride operator shall operate the ride, device or attraction as follows:

* * * * *

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

* * * * *

(6) There shall be sufficient numbers of operators and attendants, and this number shall meet or exceed the number of operators recommended by the manufacturer of the ride, device or attraction.

[(b)] The operator shall lock-out the electrical disconnect switch when restoration of electrical power to an amusement ride or 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.]

§ 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 [shall] must include a [check list] checklist to be made available to the person performing the regularly scheduled maintenance. The maintenance program [shall] must include, but is not limited to, 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.

[(c)] (d) * * *

[(d)] (e) * * *

[(e)] (f) * * *

§ 139.79. Records.

(a) The owner or lessee of an amusement ride or amusement attraction shall maintain the following records onsite and make them available [to] upon request of the Department, the Department's representative [and] 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 [shall] 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:

* * * * *

(iii) A [registered licensed] professional engineer.

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

* * * * *

[Pa.B. Doc. No. 07-1083. Filed for public inspection June 22, 2007, 9:00 a.m.]

GAME COMMISSION

[58 PA. CODE CH. 141]

Hunting and Trapping; Firearms

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its April 18, 2007, meeting, proposed to amend § 141.15 (relating to loaded firearm).

The proposed rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

The authority for the proposed rulemaking is 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

The proposed rulemaking was made public at the April 18, 2007, meeting of the Commission. Comments can be sent, until June 25, 2007, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

1. Purpose and Authority

Section 2503 of the act (relating to loaded firearms in vehicles) generally prohibits persons, not otherwise authorized, from having a loaded firearm of any kind in, on or against a conveyance propelled by mechanical power. This prohibition is intended primarily to protect the safety of persons traveling within these conveyances as well as others who may be in the vicinity. Similar to the hazards associated with more traditional firearms, loaded crossbows and muzzleloaders also have the potential of causing serious injury or death to persons inside a conveyance propelled by mechanical power, as well as others who may be in the vicinity of the same, if either an intended or unintended discharge occurs. In an effort to limit the various and potential harms associated with this type of conduct, the Commission is proposing to amend § 141.15 to extend the application of section 2503 of the act to prohibit "loaded" crossbows or muzzleloaders in, on or against a conveyance propelled by mechanical power.

Section 2102(a) of the code (relating to regulations) provides that "The commission shall promulgate such regulations as it deems necessary and appropriate concerning game or wildlife and hunting or furtaking in this Commonwealth, including regulations relating to the protection, preservation and management of game or wildlife and game or wildlife habitat, permitting or prohibiting hunting or furtaking, the ways, manner, methods and means of hunting or furtaking, and the health and safety of persons who hunt or take wildlife or may be in the vicinity of persons who hunt or take game or wildlife in this Commonwealth." The amendments to § 141.15 were proposed under this authority.

2. Regulatory Requirements

The proposed rulemaking will amend § 141.15 to extend the application of section 2503 of the act to prohibit "loaded" crossbows or muzzleloaders in, on or against a conveyance propelled by mechanical power.

3. Persons Affected

Persons possessing loaded crossbows or muzzleloaders in, on or against a conveyance propelled by mechanical power will be affected by the proposed rulemaking.

4. Cost and Paperwork Requirements

The proposed rulemaking should not result in additional cost or paperwork.

5. Effective Date

The proposed rulemaking will be effective upon final-form publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

6. Contact Person

For further information regarding the proposed rulemaking, contact Richard A. Palmer, Acting Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

CARL G. ROE,
Executive Director

Fiscal Note: 48-253. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 141. HUNTING AND TRAPPING

Subchapter A. GENERAL

§ 141.15. Loaded [firearm] firearms or devices in vehicles.

For the purpose of enforcing section 2503 of the act (relating to loaded firearms in vehicles), the term loaded [means a firearm of any kind which has a live shell or cartridge in either the chamber or magazine.] firearm includes the following meanings:

(1) Any centerfire or rimfire firearm that has a live shell or cartridge in either the chamber or magazine.

(2) Any muzzleloading firearm that has a live charge of ammunition in its firing chamber and a primer, flash powder or a battery, which ever is applicable, properly positioned in the firing mechanism of the firearm rendering it capable of discharge.

(3) Any crossbow that has been cocked and has a bolt affixed onto the string or positioned into the firing mechanism of the device.

[Pa.B. Doc. No. 07-1084. Filed for public inspection June 22, 2007, 9:00 a.m.]

[58 PA. CODE CH. 141]

Hunting and Trapping; Muzzleloading Firearms

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its April 18, 2007, meeting, proposed to amend § 141.18 (relating to permitted devices).

The proposed rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

The authority for the proposed rulemaking is 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

The proposed rulemaking was made public at the April 18, 2007, meeting of the Commission. Comments can be sent, until June 25, 2007, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

1. Purpose and Authority

Each year the Commission is asked to review the potential permissive use of various devices for hunting or trapping purposes that are otherwise prohibited by statute or regulation. As part of the review process, the Commission generally considers to what degree the use of a given device might negatively impact principles of resource conservation, equal opportunity, fair chase or public safety. Two devices that have recently been presented to the Commission for consideration are: 1) muzzleloading firearms using an electronic impulse to trigger discharge; and 2) illuminated nocks for arrows and bolts. After thoughtful review of these devices, the Commission determined that their use would have negligible impacts on the previously mentioned principles while still providing increased opportunity to hunters interested in using these devices. Therefore, the Commission is proposing to amend § 141.18 to permit the lawful use of muzzleloading firearms using an electronic impulse to trigger discharge and illuminated nocks for arrows and bolts.

Section 2102(d) of the code (relating to regulations) authorizes the Commission to "promulgate regulations stipulating the size and type of traps, the type of firearms and ammunition and other devices which may be used, the manner in which and the location where the devices may be used, the species the devices may be used for and the season when the devices may be used." The amendments to § 141.18 were proposed under this authority.

2. Regulatory Requirements

The proposed rulemaking will amend § 141.18 to permit the lawful use of muzzleloading firearms using an electronic impulse to trigger discharge and illuminated nocks for arrows and bolts.

3. Persons Affected

Persons wishing to hunt through the use of muzzleloading firearms using an electronic impulse to trigger discharge and illuminated nocks for arrows and bolts will be affected by the proposed rulemaking.

4. Cost and Paperwork Requirements

The proposed rulemaking should not result in additional cost or paperwork.

5. Effective Date

The proposed rulemaking will be effective upon final-form publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

6. *Contact Person*

For further information regarding the proposed rule-making, contact Richard A. Palmer, Acting Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

CARL G. ROE,
Executive Director

Fiscal Note: 48-254. No fiscal impact; (8) recommends adoption.

Annex A
TITLE 58. RECREATION
PART III. GAME COMMISSION
CHAPTER 141. HUNTING AND TRAPPING
Subchapter A. GENERAL

§ 141.18. Permitted devices.

The following devices may be used to hunt or take wildlife:

(1) Any manually operated firearm that uses an electronic impulse to detonate the primer or main powder charge of the [**cartridge**] **ammunition** unless [**manually operated**] **those** firearms are a specifically prohibited device.

* * * * *

(4) **Electronic illuminating devices that are affixed at the aft end of a bolt or arrow and used solely for the purpose of locating or tracking bolt or arrow flight after being launched from a cross-bow or bow.**

[Pa.B. Doc. No. 07-1085. Filed for public inspection June 22, 2007, 9:00 a.m.]