



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

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Business Impact Analysis

Agency, Board, or Commission Name: Ohio Department of Agriculture

Rule Contact Name and Contact Information:

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Regulation/Package Title (a general description of the rules' substantive content):

Amusement Ride Safety – Statute Amendments

Rule Number(s): 901:9-1 (01, 02, 03, 04, 04.1, 04.2, 06, 06.1, 07, 08, 09, 14, 14.1, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, and 47.)

Date of Submission for CSI Review: January 14, 2022

Public Comment Period End Date: February 8, 2022

Rule Type/Number of Rules:

New/___ rules

No Change/___ rules (FYR? ___)

Amended/40 rules (FYR? 40)

Rescinded/___ rules (FYR? ___)

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

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Reason for Submission

1. **R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.**

Which adverse impact(s) to businesses has the agency determined the rule(s) create?

The rule(s):

- a. ☒ **Requires a license, permit, or any other prior authorization to engage in or operate a line of business.**
- b. ☐ **Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.**
- c. ☐ **Requires specific expenditures or the report of information as a condition of compliance.**
- d. ☐ **Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.**

Regulatory Intent

2. **Please briefly describe the draft regulation in plain language.**

Please include the key provisions of the regulation as well as any proposed amendments.

The following rules have been amended to correct cross-references to the Revised Code within the rule and the supplemental information provided on the last page of each final published rule:

- Rule 901:9-1-02 sets forth the powers of the Director as provided for by statute.
- Rule 901:9-1-03 sets forth prohibitions against interference with an inspector of amusement rides and details when an amusement ride may be operated.
- Rule 901:9-1-04.1 establishes ride categories for fatigue and corrosion review, fatigue and corrosion review protocols, and effective dates for the implementation of corrosion review.
- Rule 901:9-1-04.2 outlines the frequency of inspections the department must conduct and the number of inspectors, based on the categorization of rides established in rule 901:9-1-04.1 of the Administrative Code.

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- Rule 901:9-1-06 sets forth operation procedures for amusement rides and devices.
- Rule 901:9-1-06.1 reiterates that inflatable amusement devices are an amusement ride subject to the rules of this chapter.
- Rule 901:9-1-07 sets forth sign requirements for amusement rides and devices.
- Rule 901:9-1-08 sets standards of terms relating to amusement rides or devices.
- Rule 901:9-1-09 sets the schedule of fines for violations of Chapter 1711 of the Revised Code and the rules in Chapter 901:9-1 of the Administrative Code.
- Rule 901:9-1-23 outlines the requirements for a permit application.
- Rule 901:9-1-47 exempts rides which are powered solely through a three-prong plug connected to an existing and permanent 110-volt outlet.

The following rules have no amendments to the rule and will only have amendments to the supplemental information provided on the last page of each final published rule:

- Rule 901:9-1-04 requires inspection of amusement rides and devices to be conducted by the department.
- Rule 901:9-1-14 sets the standards for water quality in aquatic devices that treat water chemically.
- Rule 901:9-1-14.1 regulates ultraviolet disinfection systems for full body contact aquatic devices.
- Rule 901:9-1-21 establishes the purpose of rules 901:9-1-21 to 901:9-1-41 is to set standards that must be met for the operation of bungee jumps.
- Rule 901:9-1-22 outlines the definitions as used in rule 901:9-1-21 to 901:9-1-41 of the Administrative Code.
- Rule 901:9-1-24 regulates the amount of safety space between the bottom of the jump zone and the ground or water level.
- Rule 901:9-1-25 outlines the safe working load of the jump platform.
- Rule 901:9-1-26 sets forth requirements for the operation of a bungee jump lowering system.
- Rule 901:9-1-27 outlines the safety regulations for cranes used in the bungee jump operation.
- Rule 901:9-1-28 outlines safety regulations for suspended personnel platforms which are used as bungee jump platforms.

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- Rule 901:9-1-29 outlines bungee cord safety requirements.
- Rule 901:9-1-30 outlines safety requirements for jumper harnesses and hardware.
- Rule 901:9-1-31 sets forth testing and inspection requirements for jump rigging, harnesses, lowering systems, and safety gear.
- Rule 901:9-1-32 requires replacement parts for certain pieces of equipment to be on site at all times.
- Rule 901:9-1-33 sets forth identification requirements of equipment, rigging, bungee cords, and other safety equipment.
- Rule 901:9-1-34 sets forth safety regulations for the landing area of all bungee jump operations.
- Rule 901:9-1-35 outlines the requirements of the bungee jump site.
- Rule 901:9-1-36 establishes physical requirements of the jumper.
- Rule 901:9-1-37 outlines educational and training requirements of the jump master and staff.
- Rule 901:9-1-38 sets forth the requirements of the site operating manual.
- Rule 901:9-1-39 outlines requirements for emergency provisions and procedures.
- Rule 901:9-1-40 sets forth prohibited activities at a bungee jump operation.
- Rule 901:9-1-41 outlines safety requirements for nets as used in bungee jump operations.
- Rule 901:9-1-42 defines terms used in rules 901:0-1-42 to 901:9-1-46 of the Administrative Code.
- Rule 901:9-1-43 regulates the design and manufacture of concession go karts.
- Rule 901:9-1-44 regulates the design and manufacture of go kart tracks.
- Rule 901:9-1-45 outlines rules for all concession go kart facility operations.
- Rule 901:9-1-46 states that the plans to construct a new go kart track or to make major modifications to an existing tract must be submitted to the department for review and approval.

In addition to the above stated changes, rule 901:9-1-01 of the Administrative Code has been amended to allow additional flexibility in the reporting of itineraries.

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- Rule 901:9-1-01 requires an amusement ride be operated only upon issuance of a permit pursuant to section 1711.53 of the Revised Code. Further, the rule defines the process and requirements for the granting of the permit.

3. Please list the Ohio statute(s) that authorize the agency, board or commission to adopt the rule(s) and the statute(s) that amplify that authority.

Section 993.04 of the Revised Code.

4. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?

If yes, please briefly explain the source and substance of the federal requirement.

No.

5. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.

Not Applicable.

6. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?

The purpose of these regulations is to ensure continued public safety on amusement rides and devices by setting minimum safety standards for operations in Ohio.

7. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?

The rules are judged as being successful when inspections find few violations and when there is no increase in the number of accident reports filed with the Department.

8. Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?

If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.

No.

Development of the Regulation

9. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.

If applicable, please include the date and medium by which the stakeholders were initially contacted.

The following stakeholders were contacted on October 13, 2021 via email for the comment period ending on October 27, 2021:

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Ohio Fair Managers Association – Howard Call and Amanda Sines

Greater Ohio Showman’s Association – David Drake and Eric German

Ohio Festivals and Events Association – Mike Spriggs

Ohio Expo Center & Ohio State Fair – Virgil Strickler

Ohio Advisory Council on Amusement Ride Safety:

- Tim Bowers
- Jamie Gaffney
- Nick McGinnis
- Doug Guinsler
- Tammy Chapman
- Jeffrey Kline
- Cynthia Emerick-Whitson
- Frank Newlon
- Nick Blois
- John Gannon
- Chris Small
- Mike Seal
- Michael Vartorella
- Bill Welsh
- Don Woodward
- Kevin Wiegand

10. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?

The Department received one comment during the open comment period pertaining to rule 901:9-1-15 and suggested amendments to the testing mechanism for treating the water with non-chemical methods. This comment has been taken under consideration and will need further discussion by the Advisory Council for Amusement Ride Safety prior to any amendments to the rule.

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11. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?

The rules are based on standards from the American Society for Testing and Materials (ASTM) and the American National Standards Institute (ANSI) wherever applicable.

12. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?

The Department is statutorily tasked with regulating amusement rides and devices in order to ensure the safety of all individuals who elect to participate. The standards that are contained in the rules are based on scientific research and in most cases are nationally accepted. At this time, the Department has not considered any other regulatory alternatives.

13. Did the Agency specifically consider a performance-based regulation? Please explain. *Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.*

The regulations set minimum safety standards to protect the public and therefore performance-based regulations are not appropriate.

14. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?

The Ohio Department of Agriculture has sole regulatory authority for the amusement ride industry.

15. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.

The rules have been in effect for years and the primary purpose of this rule package is to correct the cross-references to Ohio Revised Code.

Adverse Impact to Business

16. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:

a. Identify the scope of the impacted business community; and

All owners and operators of amusement ride safety rides and devices in Ohio.

b. Identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance,); and

Prior to operation, all amusement ride operations must obtain an amusement ride permit and be inspected by the Division of Ride Safety. The rules require employer time for compliance, fees for inspection, and recordkeeping requirements.

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c. Quantify the expected adverse impact from the regulation.

The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a “representative business.” Please include the source for your information/estimated impact.

The scope of the impacted community is amusement ride owners. The cost of compliance varies based upon the size, nature, and complexity of the rides owned and operated.

17. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?

The regulatory intent of the rules is to protect public safety by establishing minimum safety standards for the affect business communities. Due to the nature of the risk involved with all amusement rides the regulatory intent justifies the adverse impact to business.

Regulatory Flexibility

18. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.

As the primary purpose of the regulations is public safety, exemptions for smaller operators would not be applicable.

19. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?

The Department works with all violators to resolve violations and ensure compliance.

20. What resources are available to assist small businesses with compliance of the regulation?

The Department has online resources and has staff available to provide assistance.