



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Carrie Kuruc, Director

MEMORANDUM

TO: Jacquie Keller-Potvin, Ohio Department of Agriculture

FROM: Joseph Baker, Regulatory Policy Advocate

DATE: February 17, 2020

RE: **CSI Review – Amusement Ride Safety Five-Year Rule Review Package (OAC 901:9-1-02, 901:9-1-03, 901:9-1-05, 901:9-1-06.1, 901:9-1-07, 901:9-1-08, 901:9-1-10, 901:9-1-11, 901:9-1-12, 901:9-1-12.1, 901:9-1-13, 901:9-1-15, 901:9-1-16, 901:9-1-17, 901:9-1-18, 901:9-1-19, 901:9-1-20, 901:9-1-48, and 901:9-1-51)**

On behalf of Lt. Governor Jon Husted, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (ORC) Section 107.54, the CSI Office has reviewed the abovementioned administrative rule package and associated Business Impact Analysis (BIA). This memo represents the CSI Office's comments to the Department as provided for in ORC 107.54.

Analysis

This rule package consists of 19 no change rules proposed by the Ohio Department of Agriculture as part of the statutorily required five-year review process. This rule package was submitted to the CSI Office on January 4, 2021, and the public comment period was held open through January 27, 2021. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on January 4, 2021.

The rules in this package outline the enforcement process for the Director of the Department of Agriculture to suspend operations of unsafe amusement rides, delineate the necessary safety and operation guidelines for amusement ride and aquatic device operators, and set forth other requirements and rules to protect the health and safety of the public with respect to amusement ride and aquatic device operations. These rules are issued under the Department's authority as stated in ORC 1711.53. They are not required by federal statute.

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Ohio Administrative Code (OAC) Section 901:9-1-02 describes the process for the Director of the Department of Agriculture to stop the operation of amusement rides or suspend the operating license of the operator. OAC 901:9-1-03 prohibits the operation of amusement rides when no permit is in place, the Director has instructed the operator to stop operations, the operator does not maintain the required insurance liability coverage, or the ride is otherwise unsafe for public use. OAC 901:9-1-05 requires that operators of amusement rides understand the manufacturer's maintenance instructions and implement a program of maintenance, inspection, and training of each person who performs maintenance on the ride.

OAC 901:9-1-06.1 states that inflatable amusement devices are subject to the same rules and regulation as amusement rides and sets forth relevant safety criteria specific to inflatable devices. OAC 901:9-1-07 requires that owners of amusement rides clearly display a sign at each ride informing riders that they are required to obey the instructions of the ride operator and outlining the physical requirements for riders. OAC 901:9-1-08 defines necessary terms related to amusement rides. OAC 901:9-1-10 requires that construction, installation, or major modifications to aquatic devices be approved by the relevant building code authority. OAC 901:9-1-11 defines terms related to aquatic devices. 901:0-1-12.1 outlines minimum criteria for lifeguards serving at aquatic devices. OAC 901:9-1-12 requires that operators must comply with the manufacturer's requirements for operation or state laws or rules, whichever imposes a stricter standard. OAC 901:9-1-13 provides guidelines for the operation of wave pools.

OAC 901:9-1-15 specifies minimum water quality treatment requirements for aquatic device operators that use non-chemically treated water. OAC 901:9-1-16, OAC 901:9-1-17, OAC 901:9-1-18 and OAC 901:9-1-19 outline safety standards for aquatic activity areas, water slides, lazy rivers, and water coasters. OAC 901:9-1-20 specifies signage requirements and instructs aquatic device operators to utilize international pictorial language on signage to communicate to patrons whenever possible. OAC 901:9-1-48 specifies the meeting rules for the Advisory Council on Amusement Ride Safety. Lastly, OAC 901:9-1-51 outlines safety requirements for all permanent, water or portable coasters that have a multiple vehicle safety system.

During stakeholder outreach, the Department of Agriculture sent the rules to representatives of Associated Insurance Agencies, Cedar Fair, McGinnis Amusement, Columbus Zoo and Aquarium, A & S Party Rental, Ohio Fair Managers' Association, Dynamic Attractions, Fun Services, Ohio State Fair, Durant Enterprises, Erieview Park, and several members of the general public with interest in the topic. One comment was received by the Department of Agriculture, which addressed necessary amendments to OAC 901:9-1-14. In response to the comment, the Department removed the rule from this package for further review. No comments were received during the CSI public comment period.

The business community affected by these rules includes all operators of amusement rides, aquatic devices, and bungee jumps in the State of Ohio. The adverse impact on business includes administrative effort necessary to comply with operational safety standards for each type of ride, train each person performing maintenance or physically operating the ride or device, display appropriate signage, maintain necessary records for the prescribed timeframes, and obtain necessary building permits and authorization. The adverse impact may also include fines

for operators who fail to comply, as instructed by ORC 1711.53(B)(1), which range from \$500 for first offenses, \$2,500 for second offenses, and \$5,000 for subsequent offenses. The Department of Agriculture reports that first-time offenders are routinely offered settlements that are appropriate to the circumstances of the violation, and that many violations are settled for less than the original proposed fine or waived altogether if the operator comes into compliance. Permit and inspection fees are also necessary to operate amusement rides and aquatic devices, but these fees required and defined specifically by ORC Section 1711.54(E)(1). The Department of Agriculture states that the justification for the adverse impacts created by these rules is to protect public safety by establishing minimum safety standards for the amusement ride industry.

Recommendations

Based on the information above, the CSI Office has no recommendations on this rule package.

Conclusion

The CSI Office concludes that the Department should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.