

**COMMUNITY AFFAIRS**

**DIVISION OF CODES AND STANDARDS**

**Carnival-Amusement Rides**

**Adopted Amendment: N.J.A.C. 5:14A-11.4**

Proposed: November 7, 2022, at 54 N.J.R. 1997(a).

Adopted: September 6, 2023, by Kimberly K. Holmes, Acting Commissioner, Department of Community Affairs.

Filed: September 6, 2023, as R.2023 d.118, **without change**.

Authority: N.J.S.A. 5:3-31.

Effective Date: October 2, 2023.

Expiration Date: February 14, 2029.

**Summary of Public Comments and Agency Responses:**

Comments were received from Mitchell Malec, retired former employee of the Department of Community Affairs (Department).

1. COMMENT: The commenter notes that the Department appears to be updating from ASTM F2007-00 to ASTM F2007-18; however, the Department has decided to retain and modify the reference to ASTM F1159 Section 5.8 by modifying ASTM F1159 to the 2015b edition to “maintain the status quo and ensure predictable and uniform interpretation and enforcement.” The commenter questions if in the future when ASTM F1159 is updated to the 2016 edition or a later edition that the Department will continue to revise the referenced section to the 2015b edition. The commenter recommends that the Department update to ASTM F1159-16 or -16E01 at this time and retain Section 6 of the Practice F1159 reference. The commenter states that the

Department's approach requires parties impacted by these regulations to refer to the old standard, ASTM F1159-15b and as an alternative, should include the text of Section 5 of the ASTM F1159-15b or Section 6 of the ASTM F1159-16 in lieu of any reference.

RESPONSE: The amendment to reference F1159-15b ensures consistency with the edition of the standard currently adopted by the Department. ASTM F2007-18, Section 5.8 references back to F1159, Section 6, but does not specify which edition of F1159. At present, the Department is not actively pursuing the adoption of ASTM 1159-16. The Department will consider the commenter's recommendation for the Department update to the ASTM 1159-16 edition for review during future ASTM standard adoption proposals. In response to the commenter's suggestion to include the full text of older standards in lieu of reference only, the Department respectfully disagrees. The text of referenced standards is not intended to be incorporated into the text of the New Jersey Administrative Code. There are a great number of referenced standards adopted at N.J.A.C. 5:14A, and to include the text would be cumbersome to code users. Instead, maintaining the standards as references facilitates their use without the need to include the full text within the New Jersey Administrative Code. Further, the Department finds the referenced standard within the New Jersey Administrative Code to be appropriate, as there are many instances where an older edition of a referenced standard is utilized because it appropriately serves the regulated population.

2. COMMENT: The commenter states that he is confused since ASTM F2007-00, Section 5.9 reads, "Concession go-karts shall be equipped with occupant compartment padding consistent with Practice F 1159 Section 6" and Section 5.11 refers to Section 6 of the of the Practice F1159. The commenter questions if the 2000 edition Section 5 reference is to "Designing in Accordance

with Passenger Weights: or to “Passenger Carrying Devices.”

RESPONSE: The most recent editions of F1159, including the edition (-15b) currently adopted by the Department, do not address “Go Kart Design” as it pertains to passenger weight or passenger carrying devices. These aspects of “Go Kart Design” are appropriately addressed within ASTM 2291.

3. COMMENT: The commenter questions if the Section 5.4 reference to Section 3.2 of Standard SAE J1241-78 Fuel and Lubricant Tanks for Motorcycles should be updated to SAE J1241-99.

RESPONSE: The Department respectfully disagrees. The statement in the notice of proposal Summary is accurate for the 2018 edition of ASTM F2007.

4. COMMENT: The commenter notes that the Department has deleted the language requiring go-karts that are powered by gasoline engines to be equipped with fuel tanks and would like clarification if the intent is that go-kart fuel tanks, filler necks, and caps meet the requirements and pass the tests of SAE J1241. The commenter recommends that the Department consider including ANSI SAE J1241 at N.J.A.C. 5:14A-1.3, along with updating the edition of ASTM F2007 and others.

RESPONSE: The enforcement of SAE J1241-78 pursuant to ASTM F2007-18, Section 5.3 is still required; this includes the requirements for go-kart tanks, filler necks, and caps. The recommendation to include ANSI SAE J1241 at N.J.A.C. 5:14A-1.3 shall be taken under consideration by the Department with review of future adoptions, if deemed necessary.

5. COMMENT: The commenter notes that, as expressed in the Department's Carnival-Amusement Rides Adoption in the January 16, 2018, New Jersey Register (50 N.J.R. 299(a)), the Department would undertake comprehensive reviews and update the standards, as applicable. The commenter would like an explanation regarding the Department's proposed amendments considering the past responses of the Department. The commenter states that it appears the time for updating the standards has passed and will never be complete if the Department continues to utilize old versions of the standards and further explains that the potential for unsafe conditions is increased if the standards are not periodically updated.

RESPONSE: The referenced standards at N.J.A.C. 5:14A are consistently updated, and the Department will continue to undertake review of these updated standards to determine where updates to the rules are necessary for properly ensuring the safety of riders and operators.

### **Federal Standards Statement**

No Federal standards analysis is required for the adopted amendments because the amendments are not being adopted in order to implement, comply with, or participate in any program established pursuant to Federal law or pursuant to a State law that incorporates or refers to Federal law, standards, or requirements.

**Full text** of the adoption follows:

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