

COMMUNITY AFFAIRS

DIVISION OF CODES AND STANDARDS

Carnival-Amusement Rides

Aerial Adventure Courses

Proposed Amendment: N.J.A.C. 5:14A-1.3

Proposed New Rules: N.J.A.C. 5:14A-15

Authorized By: Lieutenant Governor Sheila Y. Oliver, Commissioner, Department of
Community Affairs.

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

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2020-010.

Submit written comments by March 21, 2020, to:

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The agency proposal follows:

Summary

The Department of Community Affairs (Department) proposes amendments to N.J.A.C. 5:14A, Carnival-Amusement Rides, related to the design, construction, and operation of aerial adventure courses. Aerial adventure courses are environments where individuals encounter

obstacles that challenge their ability to climb, jump, swing, and balance themselves above the ground. These courses are being constructed throughout the State. The Department has been using nationally recognized standards, ASTM F 2559-16, to regulate their design and construction. In addition to the ASTM standard, the Department has also established requirements to prevent access to the course until patrons have been given instructions and required additional measures related to patron safety restraints. This rulemaking codifies current enforcement practices and ensures uniformity of enforcement. A section-by-section description of amendments follows:

1. At N.J.A.C. 5:14A-1.3, amendments would add ASTM F 2959-16, “Practice for Aerial Adventure Courses” to the list of standards adopted in this chapter.

2. New N.J.A.C. 5:14A-15, Aerial Adventure Courses, is proposed. New N.J.A.C. 5:14A-15.1, Title; intent; scope, would state that this subchapter contains the rules applicable to aerial adventure courses.

3. New N.J.A.C. 5:14A-15.2, Definitions, is proposed and would include a reference to the definitions listed in Section 3 of ASTM F 2959-16, as amended at N.J.A.C. 5:14A-15.5.

4. New N.J.A.C. 5:14A-15.3, Design and construction, is proposed and would establish the minimum criteria for design, construction, and major modification of aerial adventure courses, including any components required for use by, and protection of, the user. The section would state that design must facilitate conformance with N.J.A.C. 5:14A-15.5 and comply with N.J.A.C. 5:14A-7, Design and Construction, where applicable. The section would also state that aerial adventure courses are not required to have an “operator presence device” or an “emergency stop” or “category 0 stop,” as defined within the rules.

5. New N.J.A.C. 5:14A-15.4, Operation, is proposed and would require the operation of an aerial adventure course to comply with applicable requirements of N.J.A.C. 5:14A-9. This section would also require that patrons be supervised at all times and all patron equipment be approved by the manufacturer or acceptable to the Department. This section would require that access by a patron to the aerial adventure course be controlled by a system that restricts access until safety instructions are given to each patron.

6. New N.J.A.C. 5:14A-15.5, Adoption as amended of ASTM F 2959-16, is proposed. N.J.A.C. 5:14A-15.5(a) would adopt ASTM F 2959 by reference, as amended by this subchapter. N.J.A.C. 5:14A-15.5(b) would state that in the event that any provisions in the adopted standard conflict with the provisions set forth in this subchapter, this subchapter governs.

7. At N.J.A.C. 5:14A-15.5(c)1, the scoping requirements not applicable to the subchapter would be deleted from the standard.

8. At N.J.A.C. 5:14A-15.5(c)2, the titles of the referenced documents would be amended to include the edition currently used by the Department.

9. At N.J.A.C. 5:14A-15.5(c)3, Section 5, Ownership, Operation, Maintenance, Inspection, and Training Requirements, of ASTM F 2959 would be amended to delete sections that are already covered by the requirements set forth at N.J.A.C. 5:14A.

10. At N.J.A.C. 5:14A-15.5(c)4, Section 6, Testing and Practice, would be deleted because this is covered by the requirements already set forth at N.J.A.C. 5:14A.

11. At N.J.A.C. 5:14A-15.5(c)5, Section 7, Auditing, would be deleted because this is covered by the requirements already set forth at N.J.A.C. 5:14A.

12. At N.J.A.C. 5:14A-15.5(c)6, Section 11, Design Requirements, would be amended to replace the phrases “designer/engineer’s” and “qualified person” with the phrase “licensed

professional engineer,” in line with New Jersey’s use of terms. A new section, Patron Safety Restraint, would be added to ASTM F 2959. This section would require that once connected to the patron safety restraint system, all patrons of the aerial adventure course must remain in constant connection with the safety restraint system until arrival at the loading/unloading area.

13. New N.J.A.C. 5:14A-15.5(d) would provide the address for obtaining a copy of the ASTM F 2959-16 standard.

As the Department has provided a 60-day comment period on this notice of proposal, this notice is excepted from rulemaking calendar requirements pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The proposed amendment and new rules related to the design, construction, and operation of aerial adventure courses are expected to have a positive social impact by codifying current enforcement practices that establish design and safety requirements for such courses.

Economic Impact

The proposed amendment and new rules address the design, construction, and operation of aerial adventure courses. These courses are already being constructed and operated throughout the State. Because the intent of this rulemaking is to codify existing enforcement practices, the Department does not anticipate that there will be any economic impact.

Federal Standards Statement

No Federal standards analysis is required because the proposed amendment and new rules are not being proposed under the authority of, or in order to implement, comply with, or

participate in any program established under Federal law or a State statute that incorporates or refers to Federal law, standards, or requirements.

Jobs Impact

The proposed amendment and new rules address the design, construction, and operation of aerial adventure courses and are not expected to have an impact on the creation or loss of jobs.

Agricultural Industry Impact

The Department does not anticipate that the proposed amendment and new rules, which address aerial adventure courses, would have any effect on the agricultural industry.

Regulatory Flexibility Statement

The proposed amendment and new rules address the design, construction, and operation of aerial adventure courses. This rulemaking affects aerial adventure course operators, many of whom would be considered small businesses as defined by the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. This rulemaking codifies current enforcement practices, and does not impose any reporting, recordkeeping, compliance requirements, or professional service requirements not already in effect for operators. Thus, no regulatory flexibility analysis is required.

Housing Affordability Impact Analysis

The proposed amendment and new rules addresses aerial adventure courses. It would not likely have an impact on housing production costs or affect affordability of housing in the State.

Smart Growth Development Impact Analysis

The proposed amendment and new rules address aerial adventure courses and would not be likely to have any impact upon housing production within Planning Areas 1 and 2, or within designated centers, under the State Development and Redevelopment Plan.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The Department has evaluated this rulemaking and determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 1. GENERAL PROVISIONS

5:14A-1.3 Standards adopted

(a) The standards listed below are adopted and incorporated as part of this chapter. In the event that any provision in any of the following standards conflicts with a provision of this chapter, this chapter shall govern.

1. (No change.)

2. The following standards are adopted and are available from [the] ASTM International, 100 Barr Harbor Drive, PO Box C700, W. Conshohocken, PA 19428-2959:

i.-xxii. (No change.)

xxiii. ASTM F 2960-15, “Practice for Permanent Amusement Railway Ride Tracks and Related Devices”; [and]

xxiv. ASTM F 2974-15, “Guide for Auditing Amusement Rides and Devices”;

and

xxv. ASTM F 2959-16, “Practice for Aerial Adventure Courses”;

3.-7. (No change.)

SUBCHAPTER 15. AERIAL ADVENTURE COURSES

5:14A-15.1 Title; intent; scope

(a) This subchapter, adopted pursuant to authority of the Carnival-Amusement Rides Safety Act and entitled "Aerial Adventure Courses," shall be known and may be cited throughout the rules as N.J.A.C. 5:14A-15, and when referred to in this subchapter may be cited as "this subchapter."

(b) The scope of this subchapter shall be to set forth specific rules applicable to aerial adventure courses. The rules in this subchapter shall be in addition to the general provisions of the rules governing carnival and amusement rides in this chapter. Where a specific provision covering aerial adventure courses conflicts with the general provisions of this chapter, the provision set forth in this subchapter shall govern.

5:14A-15.2 Definitions

The words and terms found in Section 3 of ASTM F 2959, as amended at N.J.A.C. 5:14A-15.5, when used in this subchapter, shall have the meanings stated therein, unless the context clearly indicates otherwise.

5:14A-15.3 Design and construction

(a) The intent of this section is to establish minimum criteria for the design, construction, and major modification of aerial adventure course rides and shall include, but not be limited to, all components required for use by, and protection of, the user.

(b) Design shall facilitate conformance with provisions of N.J.A.C. 5:14A-15.5.

(c) Design and construction shall be in accordance with N.J.A.C. 5:14A-7, where applicable.

(d) An aerial adventure course shall not require:

- 1. An "operator presence device"; or**
- 2. An "emergency stop" and/or "category 0 stop."**

5:14A-15.4 Operation

(a) Operation of an aerial adventure course shall comply with applicable requirements of N.J.A.C. 5:14A-9.

(b) Patrons shall be supervised at all times.

(c) Only patron equipment approved by the manufacturer or acceptable to the Department shall be permitted for use.

(d) Access to an aerial adventure course shall be restricted to prevent accidents and injury to patrons.

- 1. Each aerial adventure course shall have a system for controlling patron access.**

2. Each patron shall be given instructions for the safe use of the aerial adventure course before being permitted access to the course. At a minimum, this instruction shall include that required or recommended in the operation manual.

5:14A-15.5 Adoption as amended of ASTM F 2959-16

(a) The Standard Practice for Aerial Adventure Courses, designated by the American Society for Testing Materials (ASTM) as F 2959-16, is adopted herein by reference, as amended, and made part of this subchapter and shall be enforced as part of this subchapter.

(b) Notwithstanding any provisions stated in the standard, where specific provisions of the standard conflict with the provisions expressly set forth in this subchapter, the provisions set forth in this subchapter shall govern.

(c) The following sections of the standard are modified as follows:

1. Section 1, entitled Scope shall be amended as follows:

i. In Section 1.1, “which occur(s) after the effective date of publication of this document except as noted in 1.3” shall be deleted.

ii. Section 1.2.6 shall be deleted in its entirety.

iii. Section 1.3 shall be deleted in its entirety.

2. Section 2, entitled Referenced Documents, shall be amended as follows:

i. In Section 2.1, the following amendments shall be made:

“F 747” shall be deleted and “F 747-15” inserted in its place.

“F 770” shall be deleted and “F 770-15” shall be inserted in its place.

“F 846 Guide for Testing Performance of Amusement Rides and Devices” shall be deleted.

“F 1193” shall be deleted and “F 1193-16” shall be inserted in its place.

“F 1487 Consumer Safety Performance Specifications for Playground Equipment for Public Use” shall be deleted.

“F 1772” shall be deleted and “F 1772-99” shall be inserted in its place.

“F 1957” shall be deleted and “F 1957-99” shall be inserted in its place.

“F 2137” shall be deleted and “F 2137-15a” shall be inserted in its place.

“F 2291” shall be deleted and “F 2291-14” shall be inserted in its place.

“F 2375” shall be deleted and “F 2375-09” shall be inserted in its place.

“F 2974” shall be deleted and “F 2974-15” shall be inserted in its place.

ii. In Section 2.2, “ANSI B77” shall be deleted and “ANSI B77.1-2011” shall be inserted in its place.

iii. In Section 2.3, “EN12277” shall be deleted and “EN12277-2015” shall be inserted in its place.

iv. In Section 2.5, “UIAA 105” shall be deleted and “UIAA 105-2004” shall be inserted in its place.

3. Section 5, entitled Ownership, Operation, Maintenance, Inspection, and Training Requirements, shall be amended as follows:

i. Section 5.9, entitled “Patron Responsibility” shall be deleted in its entirety.

ii. Section 5.10 entitled “Classification of Injuries and Illnesses,” shall be deleted in its entirety.

iii. Section 5.11 entitled “Transfer of Ownership,” shall be deleted in its entirety.

4. Section 6, entitled “Testing and Performance,” shall be deleted in its entirety.

5. Section 7, entitled Auditing, shall be deleted in its entirety.

6. Section 11, entitled “Design Requirements,” shall be amended as follows:

i. In Section 11.1.9.1, in the second line, “designer/engineer’s” shall be deleted and “licensed professional engineer” shall be inserted.

ii. In Section 11.1.11.1(2), in the second line, “qualified person” shall be deleted and “licensed professional engineer” shall be inserted.

iii. Add new Section 11.1.12.6 as follows: “Practice F 2291, add new Subsection 13.8 as follows: ‘13.8 *Patron Safety Restraint*. 13.8.1 Once connected to the patron safety restraint system, all patrons of the Aerial Adventure Course shall remain in constant connection with the safety restraint system until arrival at the loading/unloading area.’”

(d) The ASTM standard F 2959-16 may be obtained from:

American Society for Testing Materials

100 Barr Harbor Drive

West Conshohocken, PA 19428-2959