

Federal Standards Statement

A Federal standards analysis is not required because the amendment is not being adopted under the authority of, or in order to implement, comply with, or participate in, any program established under Federal law or under a State statute that incorporates or refers to a Federal law, standards, or requirements.

Full text of the adoption follows:

SUBCHAPTER 1. GENERAL PROVISIONS

5:18-1.6 Container markings

(a)-(d) (No change.)

(e) Prior to filling any cylinder of four to 40 pounds LP-Gas capacity, except fork lift cylinders, the operator of the fill plant or distribution plant shall affix a label to the collar of the cylinder that includes the following warning printed in English and in Spanish: "Flammable Gas—Never Use or Store Indoors/Gas Inflammable—Nunca Se Use o Guarde Adentro." In addition to this written warning, a label that graphically depicts the prohibition on bringing a cylinder indoors shall be affixed to the collar of the cylinder.

(a)

DIVISION OF CODES AND STANDARDS**Carnival-Amusement Rides****Definition of Super Ride, Update of Standards, Professional Engineer Equivalent, Operating on Last Year's Permit, and Accident/Incident Reporting****Adopted Amendments: N.J.A.C. 5:14A-1.2, 1.3, 2.4, 2.5, 2.6, 2.7, 2.10, 2.11, 2.14, 2.15, 4.13, 5.5, 7.1, 7.7, 7.8, 9.11, 10.7, 10.8, 13.3, 13.8, 13.9, and 14.5**

Proposed: August 7, 2017, at 49 N.J.R. 2319(a).

Adopted: November 17, 2017, by Charles A. Richman, Commissioner, Department of Community Affairs.

Filed: December 11, 2017, as R.2018 d.020, **with non-substantial changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 5:3-36.

Effective Date: January 16, 2018.

Expiration Date: March 25, 2022.

Summary of Public Comments and Agency Responses:

Comments were received from Mitchell Malec, a retired former employee of the Department of Community Affairs; Lawrence P. Powers, Esq., General Counsel at the New Jersey Society of Professional Engineers; and James Valenti, Esq., PE, President of the State Board of Professional Engineers and Land Surveyors.

1. COMMENT: The commenter indicates that the proposed amendment includes an error related to the title of ANSI B77.1.

RESPONSE: The Department of Community Affairs (Department) made a correction on adoption at both N.J.A.C. 5:14A-1.3 and 7.1.

2. COMMENT: The commenter questions why the Department is using the ANSI/IAF-9 standard, and advises that the International Aquatic Foundation was incorporated into the Association of Pool and Spa Professionals. The commenter recommends the Department avoid using the Association of Pool and Spa Professionals (APSP) standard, and instead should consider adopting the International Swimming Pool and Spa Code (ISPSA), 2015 edition, Chapter 6 Aquatic Recreation Facilities.

RESPONSE: The Department thanks the commenter for the suggestion, but as the reference mentioned by the commenter is in N.J.A.C. 5:14A-12, it is beyond the scope of this rulemaking; however, the Department will consider updating the standard when it performs a comprehensive review that subchapter.

3. COMMENT: The commenter requests an explanation as to why the Department has not yet updated the editions of ASTM F1487, F1773, F1957, F2007, F2291, F2376, and asks why the Department is adopting a withdrawn standard, such as ASTM F1775.

RESPONSE: The standards referenced by the commenter are for go-karts, water parks, and climbing walls. Each of these areas is covered by a specific subchapter in the rules. The references by the commenter are not addressed in this rulemaking, and are, therefore, beyond the scope of this rulemaking. The Department plans to undertake a review of these subchapters and at that time will consider updating the standards in them. The Department is not adopting ASTM F1775, as it already exists as a standard; it is relocating it from existing N.J.A.C. 5:14A-1.3(a)5xxv in an effort to list the standards in numerical order for ease of reference.

4. COMMENT: The commenter claims that the referenced standards editions in N.J.A.C. 5:14A-7.2 conflict, in several cases, with the proposed updated editions of the standards. The commenter makes references to ASTM F770 and ASTM F1193. The commenter also asked why the Department did not update standards within the rules such as 11.4, 12.5, and 12.7.

RESPONSE: The Department agrees that ideally all versions of the standards referenced in the rules would match; however, that is not always possible. The Department's goal is to use the most up-to-date versions of the standards available. The Department performs a comprehensive review of ASTM F2291 prior to its adoption and uses it as the primary design basis for amusement rides. The Department has not performed this review for the 2017 version of the standard at this time. In order to avoid potential conflicts, the Department has retained the versions of the standards that were in effect at the time that ASTM approved ASTM F2291-14 in N.J.A.C. 5:14A-7.2. For other than design, the Department is adopting the most up-to-date versions of ASTM F770 and F1193. The Department, at this time, has not updated the standards referenced in subchapters for specific types of rides such as go kart operations, climbing wall amusement rides, and water amusement rides. The Department intends to perform a comprehensive review of these sections and will update the standards in these subchapters at that time.

5. COMMENT: The commenter recommends that the Department utilize the USA standards for artificial climbing walls in lieu of the European standards.

RESPONSE: As the only amendment to Subchapter 14 was to delete the year from a document reference at N.J.A.C. 5:14A-14.5(f), as it was redundant of incorporation information codified at N.J.A.C. 5:14A-1.3, the commenter's suggestion is beyond the scope of this rulemaking. However, the Department will be conducting a comprehensive review of the standards referenced in Subchapter 14 of the rules in the future and will take the commenter's suggestion under advisement.

6. COMMENT: The commenter indicates that the proposed amendment includes a minor misspelling related to the title of NFPA 261.

RESPONSE: The Department has made a correction on adoption at N.J.A.C. 5:14A-1.3.

7. COMMENT: The commenter requests that the Department explain its intent with respect to updating certain standards, including ASTM F2291-14, F1159-11, ANSI B11.TR3 (2000), and NFPA 101 (2009).

RESPONSE: The Department agrees with the commenter that the use of the most current standards is preferable and will continue to work to update the standards throughout the rules.

8. COMMENT: The commenter recommends that the Department include the complete definition of "high speed" in the revised definition of "super ride" or that the Department consider using metric units within the definition.

RESPONSE: The Department agrees that the metric equivalent could be helpful to users of the rules and has included the metric equivalent and the rest of the existing definition of "high speed" upon adoption.

9. COMMENT: The commenter asked if the reference to N.J.A.C. 5:14A-7.2 is necessary in the definition of "super ride" since it is not clear that any amendment to the way the accelerometer test is performed is made in that section.

RESPONSE: At N.J.A.C. 5:14A-7.2(c)2i(4) the Department specifies the edition of ASTM F2137 to be used to perform the accelerometer test. That is the purpose of the reference to N.J.A.C. 5:14A-7.2.

10. COMMENT: The commenter requests that the Department elaborate on its accelerometer testing requirements.

RESPONSE: The proposed amendment is to include the criteria for high speed into the definition of super ride, simplifying the use of the rules by not having a definition rely on another definition. There are no amendments proposed to the accelerometer requirements.

11. COMMENT: Commenters request that the Department explain the extent to which it consulted the New Jersey Board of Professional Engineers and Land Surveyors (Board) to establish the proposed standards. The commenters state that the jurisdiction to establish standards and equivalency should be held by the Board, given that it relies on its extensive professional expertise to conduct such evaluations.

RESPONSE: The enabling statute states that the information submitted for review of a carnival or amusement ride must be “prepared by a licensed professional engineer or other qualified person acceptable to the department.” (See N.J.S.A. 5:3-42, 43, and 45.) “Department” in this statute is defined as the Department of Community Affairs. The proposed standards reflect the fact that the statute confers on the Department of Community Affairs the authority to accept rides designed outside New Jersey, as many of these rides are. In the context of these rules, the Department is not making a determination as to whether the designer meets the criteria for licensure as a professional engineer in New Jersey.

12. COMMENT: Commenters express doubt as to whether the licensing requirements are clear and sufficient. The commenters question what the precise meaning of “substantial equivalence” is and suggest that such language may have the unintended consequence of permitting the unlicensed practice of engineering. The commenters express concern over permitting out-of-State practitioners to submit plans if, as the proposal states, they have “substantially equivalent credentials.”

RESPONSE: When plans are received for rides that are not designed in the United States, the Department researches the credentials that are submitted with the plans. As long as the person has a professional engineering credential that enables him or her to perform the work in that country, those credentials are generally considered substantially equivalent.

Federal Standards Statement

A Federal standards analysis is not required because the adopted amendments are not being adopted under the authority of, or in order to implement, comply with, or participate in, any program established under Federal law or under a State statute that incorporates or refers to Federal law, standards, or requirements.

Full text of the adopted amendments follows (additions to proposal indicated in boldface with asterisks ***thus***; deletions from proposal indicated in brackets with asterisks ***[thus]***):

SUBCHAPTER 1. GENERAL PROVISIONS

5:14A-1.2 Definitions

...

“Super ride” means a ride designed to propel riders at high speed (speed greater than 37.5 mph*, **55 ft/sec**, or **16.8 m/sec***), required to have a class-five restraint by ASTM F 2291 or found to have accelerations in excess of 75 percent of the limits specified in ASTM F 2291, as amended by N.J.A.C. 5:14A-7.2.

...

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. The following standards are adopted and are available from the American National Standards Institute, 25 West 43rd Street, New York, NY 10036:

- i. ANSI B77.1-2011, “American National Standard for Passenger ***[Ropeways, Aerial]*** ***Ropeways—Aerial*** Tramways, Aerial Lifts, Surface Lifts, Tows and Conveyors—Safety Requirements”;
- ii. (No change in text.)

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. ASTM E 84-16, “Test Method for Surface Burning Characteristics of Building Materials”;
- ii. ASTM E 543-15, “Specification for Agencies Performing Nondestructive Testing”;
- iii. ASTM F 747-15, “Terminology Relating to Amusement Rides and Devices”;
- iv. ASTM F 770-15, Practice for Ownership, Operation, Maintenance, and Inspection of Amusement Rides and Devices”;
- v. ASTM F 1159-15b, “Practice for Design of Amusement Rides and Devices that are Outside the Purview of Other F24 Design Standards”;
- vi. ASTM F 1193-16, “Practice for Quality, Manufacture, and Construction of Amusement Ride and Device”;
- vii. ASTM F 1292-13, “Specification for Impact Attenuation of Surfacing Materials Within the Use Zone of Playground Equipment”;
- viii. ASTM F 1487-01, “Consumer Safety Performance Specification for Playground Equipment for Public Use”;
- ix. ASTM F 1772-12, “Specification for Harnesses for Rescue, Safety, and Sport Activity”;
- x. ASTM F 1773-97, “Standard Terminology Relating to Climbing and Mountaineering Equipment”;
- xi. ASTM F 1774-13, “Standard Specifications for Climbing and Mountaineering Carabiners”;
- xii. ASTM F 1775-97, “Standard Specification for Labeling of Climbing and Mountaineering Equipment”;
- xiii. ASTM F 1918-12, “Standard Safety Performance Specification for Soft Contained Play Equipment”;
- Recodify existing xi.-xii. as xiv.-xv. (No change in text.)
- xvi. ASTM F 2137-15a, “Practice for Measuring the Dynamic Characteristics of Amusement Rides and Devices”;
- xvii. ASTM F 2291-14, “Practice for Design of Amusement Rides and Devices”;
- xviii. ASTM F 2374-10, “Practice for Design, Manufacture, Operation, and Maintenance of Inflatable Amusement Devices”;
- xix. ASTM F 2375-09, “Practice for Design, Manufacture, Installation and Testing of Climbing Nets and Netting/Mesh used in Amusement Rides, Devices, Play Areas and Attractions”;
- xx. ASTM F 2376-06, “Standard Practice for Classification, Design, Manufacture, Construction, and Operation of Water Slide Systems”;
- xxi. ASTM F 2460-11, “Practice for Special Requirements for Bumper Boats”;
- xxii. ASTM F 2461-09, “Practice for Manufacture, Construction, Operation, and Maintenance of Aquatic Play Equipment”;
- xxiii. ASTM F 2960-15, “Practice for Permanent Amusement Railway Ride Tracks and Related Devices”;
- xxiv. ASTM F 2974-15, “Guide for Auditing Amusement Rides and Devices”;

3. The following standards are adopted and are available from the American Welding Society, 550 N.W. LeJeune Road, Miami, Florida 33126:

- i. ANSI/AWS D1.1/D1.1M (2015), “Structural Welding Code—Steel”;
- and
- ii. ANSI/AWS D14.4 (2012) “Specification for Welded Joints in Machinery and Equipment”;

4. The following standards are adopted and are available from the European Committee for Standardization, Central Secretariat, rue de Stassart 36, B-1050 Brussels, Belgium:

Recodify existing viii.-xii. as i.-v. (No change in text.)

5. IBC-NJ edition, the edition of the “International Building Code” is adopted as the building subcode of the Uniform Construction Code (N.J.A.C. 5:23-3.14) and available from the International Code Council, Inc., 4051 West Flossmoor Road, Country Club Hills, Illinois 60478-5795;

6. The following standards are adopted and are available from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269-9101:

- i. NFPA 10 (2013), “Portable Fire Extinguishers”;
- ii. NFPA 70 (2014), “National Electrical Code”;

- iii. NFPA 79 (2015), “Electrical Standard for Industrial Machinery”;
 - iv. NFPA 261 (2013), “Standard Method of Test for Determining Resistance of *[Mock Up]* *Mock-Up* Upholstered Furniture Material Assemblies to Ignition by Smoldering Cigarettes”;
 - v. NFPA 701 (2015), “Methods of Fire Tests for Flame Propagation of Textiles and Films”;
 - vi. NFPA 705 (2013), “Recommended Practice for a Field Flame Test for Textiles and Films”;
 - and
 - vii. NFPA 101 (2015), “Life Safety Code”; and
7. (No change in text.)

SUBCHAPTER 2. GENERAL ADMINISTRATIVE PROVISIONS

5:14A-2.4 Type certification

- (a) (No change.)
- (b) An application for a type certification for a new ride shall contain the following:
 - 1.-2. (No change.)
 - 3. One complete set of ride design calculations signed and sealed by a professional engineer licensed to practice in the State of New Jersey or, when the design is performed out-of-State, another qualified individual with substantially equivalent credentials. These ride design calculations shall include:
 - i.-iv. (No change.)
 - 4.-9. (No change.)
- (c)-(e) (No change.)

5:14A-2.5 Individual approval

- (a) (No change.)
- (b) An application for an individual approval for a new ride shall contain the following:
 - 1.-2. (No change.)
 - 3. One complete set of ride design calculations signed and sealed by a professional engineer licensed to practice in the State of New Jersey or, when the design is performed out-of-State, another qualified individual with substantially equivalent credentials. These ride design calculations shall include:
 - i.-iv. (No change.)
 - 4.-9. (No change.)
- (c)-(h) (No change.)

5:14A-2.6 Amended type certification

- (a) (No change.)
- (b) The application for an amended type certification shall include the following:
 - 1.-2. (No change.)
 - 3. One full set of drawings, designs, specifications, and other construction documents, signed and sealed by a professional engineer licensed to practice in the State of New Jersey or, when the design is performed out-of-State, another qualified individual with substantially equivalent credentials, that demonstrate compliance with the design requirements of N.J.A.C. 5:14A-7, that comply with N.J.A.C. 5:14A-2.12, and are necessary for full and complete review of the major modification;
 - 4.-5. (No change.)
- (c)-(d) (No change.)

5:14A-2.7 Supplemental modification certification

- (a) (No change.)
- (b) The application for a supplemental modification certification shall include the following:
 - 1.-2. (No change.)
 - 3. One full set of drawings, designs, specifications, and other construction documents, signed and sealed by a professional engineer licensed to practice in the State of New Jersey or, when the design is performed out-of-State, another qualified individual with substantially equivalent credentials, that demonstrate compliance with the design requirements of N.J.A.C. 5:14A-7, that comply with N.J.A.C. 5:14A-2.12, and are necessary for full and complete review of the major modification;
 - 4.-5. (No change.)

(c) Within 30 calendar days of receipt of a complete application, the Department shall send to the applicant either a supplemental modification certification, temporary supplemental modification certification, or a denial of the application.

- 1.-2. (No change.)
- (d) (No change.)

5:14A-2.10 Annual permit and serial number plate

(a) An annual permit shall be issued for the current calendar year or for a period of one year from the expiration of the last permit. No amusement ride shall be operated without a current, valid annual permit, except when:

1. The ride has a valid annual permit from the prior year, the owner of the ride has applied for an annual permit in the current year, there are no outstanding orders against the ride, all required documentation and fees have been received, reviewed, and accepted, and an annual inspection by the Department has been requested for a date prior to operation, but the Department cannot accommodate that request and a later date is scheduled. The Department may refuse to allow an owner to operate on the prior year permit where there may be conditions that affect the safety of the ride, such as outstanding manufacturer’s bulletins, known or suspected damage to the ride, or an accident or incident involving a ride of the same type. In such cases, it shall be the Department’s responsibility to notify the owner in writing that they may not operate on the prior year permit; or

2. An application for an annual permit for the ride has been submitted in the current year, there are no outstanding orders against the ride, all required documentation and fees have been received, reviewed, and accepted, and the ride has passed an annual inspection by the Department, but the operator has not received the permit.

(b)-(e) (No change.)

(f) For rides without a New Jersey serial number:

1. An application for an annual permit shall include the following information and shall be submitted on a form provided by the Department:

i.-iii. (No change.)

iv. A copy of certification that the manufacturer has tested the ride in accordance with ASTM F 1193 and determined that the ride is satisfactory. (Certification of testing from the ride owner shall be acceptable for a used ride, when the ride manufacturer does not provide a certificate.);

v.-vii. (No change.)

2.-3. (No change.)

(g)-(l) (No change.)

5:14A-2.11 Inspections

(a)-(b) (No change.)

(c) Annual inspection: Except as provided for in N.J.A.C. 5:14A-2.10(a)1, an annual inspection shall be performed before a ride operates each year. The annual inspection shall include, but not be limited to:

1.-6. (No change.)

(d)-(g) (No change.)

5:14A-2.14 Manuals

(a) For each ride for which type certification/amended type certification, individual approval/supplemental modification certification, or an annual permit application is submitted, the applicant shall provide maintenance requirements, maintenance schedules, inspection requirements, and inspection schedules, each in a checklist format, as follows:

1. Operation Manual as per ASTM F 1193;

2. Maintenance Manual as per ASTM F 1193;

3. (No change.)

4. A quality assurance manual as per ASTM F 1193.

(b)-(d) (No change.)

5:14A-2.15 Non-destructive testing requirements and reports

(a) An application for a type certification/amended type certification or individual approval/supplemental modification certification shall include a copy of the non-destructive testing plan and operating instructions provided by the manufacturer. The non-destructive testing plan shall identify the components to be tested and the frequency for

testing. The non-destructive testing requirements and schedules shall be in a checklist format and shall contain, at a minimum, the information required at N.J.A.C. 5:14A-9.24. All documentation submitted shall comply with ASTM F 1193.

- 1.-2. (No change.)
- (b)-(c) (No change.)

SUBCHAPTER 4. OWNER RESPONSIBILITY

5:14A-4.13 Accident, incident, or mechanical breakdown reporting

(a) Shut down and report: When any incident occurs involving a death or serious injury, ejection from the ride, or failure of a critical structural or mechanical component, regardless of cause, the owner shall:

- 1.-3. (No change.)

4. Prepare a written incident report and send it to the Department by telefacsimile at the telefacsimile number or electronic mail at the e-mail address provided for this purpose within 24 hours of the incident.

- i. (No change.)

(b) Report within 24 hours: When any incident occurs involving any mechanical malfunction, or an emergency evacuation of the ride, the owner shall:

1. Report the incident to the Department within 24 hours of the incident by telephone, telefacsimile, or electronic mail at the numbers/e-mail address provided for this purpose;

2. Prepare a written incident report and send it to the Department by facsimile at a number provided for this purpose within five days of the incident or by mail at PO Box 816, Trenton, NJ 08625 postmarked within five days of the incident or by electronic mail at an address provided for this purpose. The written incident report shall be on a form designed by the Department and shall include a description of any planned corrective action and a time frame for its completion; and

- 3.-4. (No change.)

- (c) (No change.)

SUBCHAPTER 5. MANUFACTURER RESPONSIBILITY

5:14A-5.5 Quality assurance manual

For rides being issued a type certified or individual approval, the manufacturer shall provide a quality assurance manual that is in compliance with ASTM F 1193.

SUBCHAPTER 7. DESIGN AND CONSTRUCTION

5:14A-7.1 Title; scope; intent

- (a)-(c) (No change.)

- (d) The scope of this subchapter shall not include:

- 1.-2. (No change.)

3. Soft-play equipment, subject to this chapter because of its location with other amusement rides, which shall meet ASTM F 1918, Standard Safety Performance Specification for Soft Contained Play Equipment, and all applicable rules.

4. Passenger ropeways, which shall comply with ANSI B77.1, "American National Standard for Passenger Ropeways—Aerial Tramways, Aerial Lifts, *Surface Lifts,* Tows*[,]* and Conveyors—Safety Requirements."

- (e)-(f) (No change.)

5:14A-7.7 Identification, data plates, and manufacturer's information

(a) Amusement rides and devices shall be identified and have an Information Plate as required by ASTM F 1193.

- (b) (No change.)

5:14A-7.8 Quality assurance program

(a) The quality assurance program for manufacture, assembly, erection, modification, or reconditioning, shall contain, at a minimum, all of the following:

- 1.-6. (No change.)

7. Testing shall be performed, in accordance with ASTM F 1193, on the ride, and subassemblies and parts, if necessary; and

- 8. (No change.)

SUBCHAPTER 9. OPERATION

5:14A-9.11 Maintenance and repair

- (a) (No change.)

(b) Rides shall be operated and maintained in compliance with the manufacturer's specifications for fatigue loading. No holes shall be drilled into tubing that might compromise the integrity of the structure without written permission from the manufacturer. In the event the manufacturer does not exist, a professional engineer licensed to practice in the State of New Jersey or, when the design is performed out-of-State, another qualified individual with substantially equivalent credentials shall review and approve, in writing, the actions and reasons for said actions. The manufacturer or the professional engineer shall show, from materials standards or from the maintenance manual, that the proposed hole sizes and locations will not compromise the integrity of the structure.

(c) No structural shaft may be cross-drilled or welded without the written permission of the manufacturer. In the event the manufacturer does not exist, a professional engineer licensed to practice in the State of New Jersey or, when the design is performed out-of-State, another qualified individual with substantially equivalent credentials shall review and approve, in writing, the actions and reasons for said actions.

- (d)-(f) (No change.)

(g) Any and all work performed by a machine shop, repair facility, or a third party of any kind for any reason shall be done to the documented specifications of the manufacturer or of a professional engineer licensed to practice in the State of New Jersey or, when the design is performed out-of-State, another qualified individual with substantially equivalent credentials, as appropriate, based on the approved written repair plan.

- (h)-(j) (No change.)

SUBCHAPTER 10. SPECIAL PROVISIONS FOR BUNGEE JUMPING OPERATIONS

5:14A-10.7 Engineering review

(a) Before an engineering review can be conducted, the following shall be submitted to the Department:

1. One complete set of ride drawings signed and sealed by a professional engineer licensed to practice in the State of New Jersey or, when the design is performed out-of-State, another qualified individual with substantially equivalent credentials;

2. One complete set of ride design calculations signed and sealed by a professional engineer licensed to practice in the State of New Jersey or, when the design is performed out-of-State, another qualified individual with substantially equivalent credentials, including local environmental conditions;

- 3.-4. (No change.)

5:14A-10.8 Engineering certification

- (a) (No change.)

(b) An application for an engineering certification for a bungee jumping operation shall include two copies of the following documents, signed and sealed by a professional engineer licensed to practice in the State of New Jersey or, when the design is performed out-of-State, another qualified individual with substantially equivalent credentials:

- 1.-8. (No change.)

9. A definitive statement by a professional engineer licensed to practice in the State of New Jersey or, when the design is performed out-of-State, another qualified individual with substantially equivalent credentials that the bungee jumping operation is safe and acceptable to operate with the equipment identified in the submittal.

SUBCHAPTER 13. INFLATABLE RIDES

5:14A-13.3 Type certification

- (a)-(b) (No change.)

(c) Manufacturers shall submit the following documentation for each inflatable ride:

- 1.-4. (No change.)

5. Design calculations per inflatable ride, or class of ride if the wind load areas are comparable, indicating the number of anchorage points

and anchor size based upon live and wind loads. The calculations shall be signed and sealed by a professional engineer licensed to practice in the State of New Jersey or, when the design is performed out-of-State, another qualified individual with substantially equivalent credentials; and

6. (No change.)

5:14A-13.8 Ride loading and unloading

(a) (No change.)

(b) For completely enclosed, dark structures:

1. Exits shall be marked by readily visible signs in compliance with Section 1013 of the building subcode, Uniform Construction Code of New Jersey (N.J.A.C. 5:23), in all cases where it is not immediately visible to the riders;

2.-4. (No change.)

(c) (No change.)

5:14A-13.9 Materials

(a) (No change.)

(b) Foam padding shall meet the requirements of ASTM F 1918, Section 12.5.2.

SUBCHAPTER 14. CLIMBING WALL AMUSEMENT RIDES

5:14A-14.5 Design and construction

(a)-(e) (No change.)

(f) Design of an artificial climbing wall shall be in accordance with EN 12572, Artificial climbing structures—Protection points, stability requirements, and test methods.

(g)-(k) (No change.)

(a)

DIVISION OF CODES AND STANDARDS

Uniform Construction Code

Adopted Amendments: N.J.A.C. 5:23-2.2, 2.6, 2.7, 2.14, 2.15, 2.15A, 2.20, 2.23, 2.35, 2.37, 3.2, 3.4, 3.8, 3.14, 3.15, 3.22, 4.26, 5.3, and 12.8

Proposed: February 21, 2017, at 49 N.J.R. 306(a).

Adopted: October 30, 2017, by Charles A. Richman, Commissioner, Department of Community Affairs.

Filed: December 11, 2017, as R.2018 d.021, **with non-substantial changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3) **and with N.J.A.C. 5:23-2.15(b) and 2.15A(b)4 not adopted, but still pending.**

Authority: N.J.S.A. 52:27D-124.

Effective Date: January 16, 2018.

Expiration Date: March 25, 2022.

Summary of Public Comments and Agency Responses:

Comments were received from Charles B. Barbee, Director of Recommendations, U.S. Chemical Safety and Hazard Investigation Board; Eric DeGesero, Executive Director, New Jersey Independent Electrical Contractors; Jeffrey Kolakowski, Vice President of Government Affairs, New Jersey Builders Association; Mitchell Malec, retired former employee of the Department of Community Affairs; and Ben Shapiro, Local Government and Regulatory Affairs Manager, New Jersey Realtors.

1. COMMENT: The U.S. Chemical Safety and Hazard Investigation Board recognizes that the Department's proposal at N.J.A.C. 5:23-2.2 to declassify "equipment, process, or operations that involve dust explosion hazards" as manufacturing, production, or process equipment—and thereby make it clear that such equipment is regulated by the Uniform Construction Code (UCC)—directly addresses the findings from the commenter's investigation of a flash fire in East Rutherford. The commenter encourages the Department to promulgate the proposed amendment as written.

RESPONSE: The Department thanks the commenter for this expression of support.

2. COMMENT: The commenter disagrees with the proposed amendment at N.J.A.C. 5:23-2.2(a)1 relating to the declassification of "equipment, process, or operations that involve dust explosion hazards" as manufacturing, production, or process equipment. According to the commenter, the Department should follow the guidelines set by the Occupational Safety and Health Administration (OSHA), which facilitate the use of recognized and generally accepted good engineering practices. The commenter suggests that local code enforcing agencies and the Department will be less prepared to adequately review dust collection systems than specialized engineers and recommends that the Department exempt dust collection systems designed by engineers that follow recognized and generally accepted good engineering practices provisions.

RESPONSE: The Department disagrees. This proposed amendment implements a suggestion made by the U.S. Chemical Safety and Hazard Investigation Board, and a design professional's services are required for all such applications.

3. COMMENT: The commenter notes that the proposed amendment at N.J.A.C. 5:23-2.2(a)1 does not include a matching amendment to the Uniform Fire Code, and suggests that the Uniform Fire Code is the key source of process equipment compliance. The commenter asks if the Department has considered the impact that the proposed amendment would have on the Uniform Fire Code.

RESPONSE: No corresponding amendment to the Uniform Fire Code is required. N.J.A.C. 5:70-3, the State Fire Prevention Code, requires equipment installed in accordance with the Uniform Construction Code to be properly maintained.

4. COMMENT: The commenter disagrees with the Department's definition of combustible dust particles, and claims that larger particles may pose a deflagration hazard. The commenter recommends that the Department regulate combustible particulate solids, which include dust particles, among other things. The commenter also suggests a definition of combustible dust.

RESPONSE: The Department thanks the commenter for these suggestions. The instant rule is limited to combustible dust as described and, therefore, the suggested changes are beyond the scope of this rulemaking but the Department will take those suggestions under advisement and will consider future proposals if warranted.

5. COMMENT: The commenter suggests that the regulation of combustible dust implies that other aspects of equipment, process, and operations should also be regulated, and provides a list of these cases.

RESPONSE: The instant rule addresses only the combustible dust issue. The Department will take this suggestion under advisement, but as it is beyond the scope of this rulemaking, no change will be made.

6. COMMENT: The commenter suggests that the Department designate combustible dust at N.J.A.C. 5:23-3.11, which applies to enforcement activity reserved to the Department.

RESPONSE: The Department does not believe that the enforcement should be reserved to the Department. To the contrary, the Department has confidence in the ability of those employed by local enforcing agencies to enforce this provision.

7. COMMENT: The commenter is opposed to the amendment at N.J.A.C. 5:23-2.7(c)3i, citing concerns related to the alleged reduction in safety. The commenter states that extending ordinary maintenance to lighting fixtures and "parts thereof" increases the likelihood that non-licensed personnel will perform such services, which would increase risk. Additional considerations related to LED lighting further complicate the associated electrical work.

8. COMMENT: The commenter alleges that because the amendment at N.J.A.C. 5:23-2.7(c)3i removes the voltage limit with respect to the electrical fixtures being replaced, the voltage may increase to potentially hazardous levels, such as 277 and 480 volts, which may be worked on by unlicensed personnel.

RESPONSE TO COMMENTS 7 AND 8: The question of whether a permit is required and the question of whether a licensed contractor must perform the work are separate. This rulemaking addresses only the permitting requirements of the Uniform Construction Code. The Department does not agree that safety is compromised.