

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio Department of Agriculture

Regulation/Package Title: Ride Safety – Multiple Vehicle Safety Systems

Rule Number(s): 901:9-1-51

Date: May 23, 2014

Rule Type:

- | | |
|----------------------------------|---|
| <input type="checkbox"/> New | <input checked="" type="checkbox"/> 5-Year Review |
| <input type="checkbox"/> Amended | <input type="checkbox"/> Rescinded |

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

Regulatory Intent

1. Please briefly describe the draft regulation in plain language.

The rule in this package amplifies the statutory authority of the Department to regulate amusement rides. Specifically, this rule relates to safety regulations for all permanent, portable, and water coasters operating a multiple vehicle safety system. Multiple vehicle safety systems (MVSS) are computer based systems which prohibit another set of roller coaster cars from being released until the set of cars released prior to it reaches a certain point in the track which would prohibit the two cars from colliding.

This rule has been reviewed in accordance with the five year rule review process. As such, the Department has taken the opportunity to reach out to stakeholders regarding this rule. The following rule has is being renewed as requiring no change:

901:9-1-51 outlines the use of multiple vehicle safety systems for all permanent, portable, and water coasters. The rule outlines specific safety standards when an MVSS is installed in the coaster. It is being renewed as requiring no change.

2. Please list the Ohio statute authorizing the Agency to adopt this regulation.

R.C. 1711.53

3. 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.

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

Not Applicable.

5. 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 Department's purpose for these regulations is to ensure continued public safety on amusement rides by setting minimum safety standards for all coaster operations in Ohio.

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

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All roller coasters in the state of Ohio are inspected and any complaints regarding unsafe operations are investigated. 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.

Development of the Regulation

7. 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.

Ohio's amusement ride industry is heavily involved in the drafting of these rules and keeping them updated as the technology of the industry changes. The Advisory Council on Amusement Ride Safety is a statutory body that meets throughout the year to discuss and advise the Department on matters pertaining to the amusement industry and items that need to be addressed through rules. The current composition of the council is:

Mr. Geary Bates - Bates Brothers Amusements, Inc

Mr. Monty Jasper - Corporate VP of Safety & Engineering - Cedar Point LP

Mr. Tim Bowers - Associated Insurance Agencies, Inc.

Mr. Doug Kramer (Chairperson) – Cedar Fair Kings Island

Ms. Cynthia Emerick-Whitson - Represents Engineering Industry

Mr. Bill Prowant - Durant Enterprises, Inc.

Mr. Doug Guinsler - Ohio Fair Managers Association

Mr. Chris Small - American Testing Services Ltd

Mr. Virgil Strickler - Ohio State Fair

Mr. Frank Newlon – General Public

Mr. Frank Welsh – Ohio Festivals & Events

Mr. Don Woodward - Erieview Park, Inc.

<http://www.agri.ohio.gov/divs/rides/forms/Amusement%20Ride%20Safety%20Advisory%20Council.pdf>

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

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The Advisory Council as matter of course reviews and requests changes to rules. The rule was reviewed in accordance with the five year rule review requirements. The Advisory Council agreed that the rule in this package did not require any amendments as it is currently working efficiently and effectively. Violations of this rule can result in the crash of roller coaster cars which has a high likelihood of death. The Advisory Council was aware of this fact when electing to maintain the rule in its current form.

9. 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.

10. 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 in order to ensure the safety of all individuals who elect to participate. The standards that are contained in these rules are based on scientific research and in most cases are nationally accepted. Stakeholder participation in this rule package has indicated to the Department that this is the best regulatory scheme at this time. For those reasons, no other regulatory alternatives were considered.

11. 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.*

As these regulations set minimum safety standards to protect the public, performance-based regulations are not appropriate.

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

The Department is given the sole regulatory authority over these devices through R.C. 1711.53.

13. 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.

These rules are already implemented within the industry and the Department works with all roller coaster operations to educate and inform them on the safety regulations. Additional education and outreach will be performed with the affected communities of the changes by

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the Ride Safety Division. The staff members of the Ride Safety Division ensure that all ride operators in Ohio are treated in a similar manner.

Adverse Impact to Business

14. 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;

All permanent, portable, and water coasters which utilize a MVSS.

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

All roller and water coaster operations must obtain an amusement ride permit and be inspected by the Division of Ride Safety prior to operation. The cost for both the permit and inspection are stated in section 1711.53 of the Ohio Revised Code.

The rule prohibits ride operators from switching a mode of operation in order to reinitiate the operation of the ride. It requires employer time for compliance by requiring a separate action, typically a ride engineer reviewing the issue, to reinitiate the ride. This may result in a ride being closed for a period of time.

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.

As stated in section 1711.53 of the Ohio Revised Code, roller and water coaster operations must obtain an amusement ride permit which costs \$150 and be inspected by the Division of Ride Safety prior to operation which costs \$950. Both must be renewed annually.

The inability to switch modes to continue operation may present a loss of operational time for each coaster. The amount of the adverse impact would vary depending on the coaster and the amount of time it would be temporarily closed.

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

The regulatory intent of the statute and rules is to protect public safety by establishing minimum safety standards for these business communities. This rule is directly aimed at preventing roller coaster cars from colliding with each other which may cause serious injury and death. Due to the substantial risk involved, the adverse impacts are considered to be justified.

Regulatory Flexibility

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

As the primary purpose of these rules is public safety, exemptions for a smaller operator would not be applicable.

17. 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?

Paperwork violations rarely reach the enforcement stage so long as the operator is willing to correct the violation and has no history of prior violations. First-time offenders are also routinely offered settlements that are appropriate to the circumstances of the violation, and in almost all cases have their fines waived or settled for small fines.

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

The Department has online resources and has field staff available through a 24 hour helpline to provide assistance. Training and seminars are also available.