

COMMUNITY AFFAIRS

Division Of Codes And Standards

Carnival and Amusement Rides

Qualifications of Those Performing Maintenance, Repairs Erection and Assembly of Amusement Rides

Adopted Amendments: N.J.A.C. 5:14A-1.2, 4.6, 4.7, 9.3, 9.7, 9.11 and 9.24

Adopted New Rules: N.J.A.C. 5:14A-2.17 and 2.18

Adopted Repeal and New Rule: N.J.A.C. 5:15A-9.5

Proposed: September 15, 2008 at 40 N.J.R. 5095(a)

Adopted: 2009 as R. 2009 d. , **with a technical change** 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:, 2009

Expiration Date: May 19, 2013.

JOSEPH V. DORIA, JR., Commissioner

Summary of Public Comments and Agency Responses: Comments were received from Lary I. Zucker, Counsel, New Jersey Amusement Association; Keith Inners, Manager, Majestic Midways. In addition, an identical form letter comment was received from Mark Zeintek, New Jersey Party Works; Frank N Fraument, New Jersey

Party Works; Jim Winthel, New Jersey Party Works; Jim Havens, New Jersey Party Works; Carlos Rivera, New Jersey Party Works; James Donnelly, New Jersey Party Works and Stacey Lehm, New Jersey Party Works, and another identical form letter comment was received from Mark Zeintek, New Jersey Party Works; Frank N Fraument, New Jersey Party Works; Jim Winthel, New Jersey Party Works; Jim Havens, New Jersey Party Works; Carlos Rivera, New Jersey Party Works; James Donnelly, New Jersey Party Works; Stacey Lehm, New Jersey Party Works; Debbie Henderson, Air Castles and Slides; Brian Koshefsky, Amazing Amusements; Anthony Casale, The Fun Factory; Dennis Schifter, Aardvark Amusements; Gary Pincus, Send in the Clowns; Mike Pulliza, NY Fun Factory; John Elio, C&C Amusements; Mark Roland, NY Party Works; Rick Distefano, The Party People; Antonio Amoruso, Total Jump, Inc; Ed Gilmore, Backyard Entertainment; Bob Kramarik, Jr., Bobby K. Entertainment; George Columbo, Forest Lodge; Dr. Stephen M. Poretskin, Magical Enterprises; Maurice and Debbie Sabloff, Maurices Original Party Animals Inc.; Domonick Yodice, Mickey's Rides "N" More; Nicholas B. Deninno, Parties to Go Event Services; James Fichera, Party Vision LLC; Stan Levy, Unirec Inc.

COMMENT: Responsible Operators of Amusement Rentals (ROAR) certification should be recognized in the rule as a method of becoming certified similar to AIMS and NAARSO. ROAR training is recognized by the Outdoor Amusement Business Association and students who pass the ROAR training are eligible for Continuing Education credit through Old Dominion University.

RESPONSE: The Department does not accept ROAR training because it has been unable to determine whether the ROAR training is equivalent to NAARSO or AIMS. There are

several areas where the Department was unable to determine equivalency. They ranged from questions about the organizational structure of ROAR to the methods used and people involved with the development of the program, to questions about the development and maintenance of the test, to the content and confidentiality of the test and to the status of the ROAR training as a nationally recognized program. Because of these unanswered questions, the Department chose not to use ROAR as a source for certification.

COMMENT: ROAR training is recognized as allowable training under the grandfather provisions. It should therefore also be recognized for those first applying for a certification.

RESPONSE: The Department believes that there is a large difference in the standard that should be used to grandfather people who have significant experience compared to those who do not have the necessary experience. There was considerable discussion by the industry when the rule was drafted that many of the people who are currently supervising the maintenance workers may have difficulty passing the test to become NARSO or AIMS certified. The Department compromised by allowing people with five years of experience to be grandfathered provided that they participated in training. The Department decided that it would not mandate specific courses for that training, but would rather let students select training that was relevant to their work. In that ROAR training is relevant for a particular segment of the industry the Department included it. However, the Department does not believe that the ROAR training program is equivalent to the NAARSO or AIMS programs and therefore does not believe that it is appropriate to use outside of the grandfather provision. The commenter should recognize that

grandfather provisions by their nature are a relaxed standard, therefore it is appropriate to recognize ROAR training in the context of the grandfather provision.

COMMENT: The Department recognizing NAARSO and AIMS could be interpreted as the Department endorsing those organizations. Using only two groups is not sufficient. ASTM regulations require at least three sources and the Department should follow suit.

RESPONSE: The Department has not limited the certification to AIMS or NAARSO. The rule contains language that any other program that demonstrates that it is equivalent to NAARSO or AIMS will also be considered.

COMMENT: NAARSO and AIMS provide limited training opportunities within the State, therefore limiting the availability of programs needed to become a Recognized Certified Maintenance Technician. There may not be sufficient training opportunities.

RESPONSE: The Department does not anticipate problems with training opportunities. AIMS training is available online. As demand for NAARSO training increases the Department believes that there will be additional training opportunities. NAARSO has not run seminars in New Jersey traditionally because the only group that required it was State inspectors. As more training is needed, the Department is confident that more seminars will be run.

COMMENT: NAARSO and AIMS training has not been widely available in New Jersey. The expense of traveling to attend training could be significant. The Department should ensure that adequate training is available.

RESPONSE: AIMS training is available online. As discussed above the Department is confident that additional training will be available when the rule becomes effective.

COMMENT: ROAR training is less expensive than AIMS or NAARSO training and would be an economic benefit to smaller companies.

RESPONSE: While the Department appreciates the desire of the industry to have the most economic training available, the intent of the rule is to ensure that those working on amusement rides have training necessary to produce competent workers. The Department will not sacrifice the minimum standards of the certification for the sake of cost.

COMMENT: In the proposed regulations there is a 60-day limit to replace a Recognized Certified Maintenance Technician. A seasonal business may have trouble replacing an RCMT during the six months of the year that they are not operating because of shortfalls in cash flow.

RESPONSE: There are several options available to the operator. The operator can contract with a "third party" RCMT to supervise or perform the work on a job-by-job basis. Alternately, may simply choose to alter their off season repair schedule. The operator need only have an RCMT on staff when rides are being repaired. Therefore if no repairs are to be made during the off-season there is no need to have an RCMT on staff. However, operators should be aware, that in almost all cases, when repairs are needed they must be completed before the ride is operated.

COMMENT: ROAR has many years of experience in training people on the maintenance and operation of amusement rides and should therefore be recognized for both certification and continuing education credit.

RESPONSE: As discussed above the Department does not believe that ROAR provides the same level of expertise as NAARSO or AIMS which the Department regards as the minimum necessary level of certification.

COMMENT: A separate ride classification should be developed for the rental industry. Rental industry rides are much simpler than other larger rides found as part of carnivals and fixed amusement parks. Based on this, they should not require the same level of regulation in general and should not require a RCMT with the same level of knowledge.

RESPONSE: The Department is willing to discuss this option further with the commenter. The problem in the past has been trying to define the smaller rental rides in a manner that is clear, concise and distinct.

COMMENT: ROAR stands for Responsible Operators of Amusement Rentals not Responsible Operators of Amusement Rides as listed in the proposal.

RESPONSE: The Department thanks the commenter for the correction and has made the correction on adoption.

COMMENT: The grandfather provisions of the proposal do not go far enough to recognize the practical experience of maintenance workers who have been maintaining amusement ride for five years or more. N.J.A.C. 5:14A – 2.18 should be amended to define an RCMT as a maintenance technician with five or more years of documented relevant experience.

RESPONSE: The Department's intent is to ensure that those performing work are qualified to do so. The Department feels the best way to ensure a minimum level of qualification is to require a certification. While experience is certainly valuable, the Department does not believe that it should be the sole determining factor to decide if

someone is qualified. The Department believes that the grandfathering provision should only be used as a means to deal with those people who have been in the job title for a number of years and could be adversely affected by the rule. People without sufficient experience on the effective date of the rule should be required to obtain the certification.

COMMENT: People other than electricians may be qualified to do the electrical work on rides. Significant electrical training is available through both NAARSO and AIMS.

RESPONSE: The rule does not preclude a person with NAARSO, AIMS or another certification recognized by the Department from performing electrical work on rides, though it should be noted, that the licensing rules of the Board of Examiners of Electrical Contractors Licensing apply. The rule affirmatively allows someone with an electrical contractor's license to do electrical work on rides without having a NAARSO, AIMS or equivalent certification.

COMMENT: There appears to be some inconsistency between N.J.A.C. 5:14A- 9.3(a) and N.J.A.C. 5:14A – 9.3(e). N.J.A.C. 5:14A – 9.3(a) prohibits rides from opening without having all applicable maintenance and operation inspections including recording of results while N.J.A.C. 5:14A – 9.3(e) allows maintenance log entries to be made within forty eight hours of performing work.

RESPONSE: The sections do not conflict because one section discusses recording the results of the maintenance inspection while the other discusses the recording who performed the maintenance in the maintenance log. N.J.A.C. 5:14A – 9.3(a) discusses the inspections that must take place before a ride is run. Before the ride is run a maintenance and operational inspection need to be done to ensure that the ride can safely be run and the documentation of those safety inspections (maintenance and operational

checklist) need to be recorded. Before the ride is run it is critical that the ride be inspected and the results of that inspection documented. Section 5:14A – 9.3(e) addresses a different concern. Recording when and what maintenance was performed and who performed the work is not a pre-operational requirement. It is important to know who performed what maintenance so that there is accountability and so when an individual makes errors other rides can be checked for similar errors. However, it is the maintenance and operational inspections that are used to judge if the ride is okay to operate. Therefore, they need to be documented right away.

COMMENT: The commenter wonders if the record-keeping requirements in the rules are becoming excessive. The concern is that the paperwork requirements may become more of a priority than the actual safety inspections of the rides for both the operator and the Department.

RESPONSE: The paperwork requirements in the rules help to ensure that the necessary physical inspections have been done. Therefore, the Department does not believe that the record-keeping requirements will lessen the safety inspections of either the Department or the ride owner/operator. In addition, such paperwork is a valuable tool when performing accident investigations because it helps to identify recent work that was performed and whether the necessary safety checks were done prior to the ride operating.

Agency initiated changes: At N.J.A.C. 5:14A–2.18(a) 5.iii., “Amusement Industry Manufacturers and Equipment Suppliers” has been changed to “Amusement Industry Manufacturers and Suppliers” to reflect the current name of the organization.

Federal Standards Statement

No Federal Standards analysis is required because the proposed amendments are not being adopted under the authority of, or 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.

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

5:14A–2.18 Qualifications of recognized certified maintenance technicians

(RCMTs)

(a) A RCMT shall be qualified by one of the following means:

1- 4. (No change.)

5. Holding a valid Recognized Certified Maintenance card issued by the Department. Such certification shall be renewed biennially. An applicant is eligible for Certification by the Department if the following conditions are met:

i. - ii. (No change.)

iii. Prior to applying, the applicant must have completed at least 40 hours of training sponsored by The Amusement Industry Manufacturers and *[Equipment]* Suppliers, National Association of Amusement Ride Safety Officials, International Association of Amusement Parks and Attractions, Responsible Operators of Amusement *[Rides]* ***Rentals*** or an equivalent approved by the Department that is relevant to the maintenance of amusement rides and was completed within the 5 years prior to the date of application. For each of two year renewal period after the original issuance, the

applicant must complete 32 hours of training relevant to amusement ride maintenance sponsored by a group as described above.

iv. (No change.)

6. (No change.)

(b) (No change.)