

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio Department of Agriculture

Regulation/Package Title: Ride Safety – Bungee Jump – 2018 5YR

Rule Number(s): 901:9-1-(21-41)

Date: May 9, 2018

Rule Type:

- | | |
|---|---|
| <input type="checkbox"/> New | <input checked="" type="checkbox"/> 5-Year Review |
| <input checked="" 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 Rescinded |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 Ohio Department of Agriculture, Division of Amusement Ride Safety inspects all amusement rides, including bungee jump amusement rides, that operate in the state of Ohio. The Department's inspectors work to assure compliance with Ohio's laws and rules and to ensure that rides are have been assembled and are being operated in a safe manner. The rules in this package regulate bungee jump amusement rides in the state. These rules have been reviewed in accordance with Chapter 119 of the Revised Code and are being proposed as follows:

901:9-1-21 establishes that the purpose of Ohio Administrative Code (OAC) rules 901:9-1-21 to 901:9-1-41 is to set standards that must be met for the operation of bungee jumps. There are no changes proposed to this rule.

901:9-1-22 outlines the definitions as used in rules 901:9-1-(21-41). The rule is being amended to include definitions for "ANSI" and "ASTM". Further, these definitions outline where individuals may find the location of these standards thereby complying with the incorporation by reference standards. Finally, the definition of "two-block damage prevention feature" has been moved in order to maintain alphabetization of the rule.

901:9-1-23 outlines the requirements for a permit application. The rule is being amended to make a small stylistic change which does not impact the substance of the rule.

901:9-1-24 regulates the amount of safety space between the bottom of the jump zone and the ground or water level. There are no changes proposed to this rule.

901:9-1-25 outlines the safe working load of the jump platform. There are no changes proposed to this rule.

901:9-1-26 sets forth requirements for the operation of a bungee jump lowering system. There are no changes proposed to this rule.

901:9-1-27 outlines the safety regulations for cranes used in the bungee jump operation. The rule is being amended to make clarifying corrections which should aid in the comprehension of the rule.

901:9-1-28 outlines safety regulations for suspended personnel platforms which are used as bungee jump platforms. The rule is being amended to conform the rules regarding incorporation by reference.

901:9-1-29 outlines bungee cord safety requirements. The rule specifically requires that all cords used in the bungee jump operations have a minimum safety factor of five. Additionally, the rule outlines safety tests to ensure there are no defects in the ropes and the practice of retiring rope should there be any defects found. There are no changes proposed to this rule.

901:9-1-30 outlines safety requirements for jumper harnesses and hardware. The rule is being amended to conform with the rules regarding incorporation by reference.

901:9-1-31 sets forth testing and inspection requirements for jump rigging, harnesses, lowering systems, and safety gear. There are no changes proposed to this rule.

901:9-1-32 requires replacement parts for certain pieces of equipment to be on site at all times. There are no changes proposed to this rule.

901:9-1-33 sets forth identification requirements of equipment, rigging, bungee cords, and other safety equipment. There are no changes proposed to this rule.

901:9-1-34 sets forth safety regulations for the landing area of all bungee jump operations. The rule outlines the size of the landing area in reference to the height of the jump. It further sets requirements regarding the space around the landing area in order to ensure the safety of the jumper. There are no changes proposed to this rule.

901:9-1-35 outlines the requirements of the bungee jump site. This includes communication requirements between staff and jumpers and similarly between management and staff. Additionally, this rule requires adequate storage to be maintained at the jump site to protect equipment from the elements. There are no changes proposed to this rule.

901:9-1-36 establishes physical requirements of the jumper. There are no changes proposed to this rule.

901:9-1-37 outlines educational and training requirements of the jump master and staff. There are no changes proposed to this rule.

901:9-1-38 sets forth the requirements of the site operating manual. The site operating manual is to contain descriptions of each part of the operation, from the site plan to the description of maintenance procedures. There are no changes proposed to this rule.

901:9-1-39 outlines requirements for emergency provisions and procedures. There are no changes proposed to this rule.

901:9-1-40 sets forth prohibited activities at a bungee jump operation. There are no changes proposed to this rule.

901:9-1-41 outlines safety requirements for nets as used in bungee jump operations. It is being amended to update the ANSI standard listed in the rule.

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 bungee jump operations in Ohio.

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

All bungee jump operations 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. On April 25, 2018, the rules were emailed to the Council to review to be prepared to discuss at the May 8, 2018 meeting. The current composition of the Council is:

Ohio Department of Agriculture, Director David Daniels

Tim Bowers – Insurance Industry

Tammy Chapman - Inflatables

John Gannon – Amusement Park

Doug Guinsler - OFMA

Monty Jasper – Amusement Park

Jeffrey Kline - Inflatables

Frank Newlon – General public

Bill Prowant - GOSA

Frank Welsh – Ohio Festivals and Events

Don Woodward – Amusement Park

Cynthia Emerick-Whitson - Engineer

Virgil Strickler/Luis Perez – General manager of Ohio State Fair/designee

Chris Small – General public

Further, on April 25, 2018, the rules were also sent to the Greater Ohio Showman's Association (GOSA). The GOSA is a non-profit organization dedicated to the improvement and perpetuation of the outdoor amusement business in the State of Ohio.

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

The Advisory Council as matter of course reviews and requests changes to rules. These rules were reviewed in accordance with the five-year rule review requirements. The Advisory Council approved the rules as proposed.

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), the American National Standards Institute (ANSI) and, the International Mountaineering and Climbing Federation (UIAA) 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 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 bungee jump operations to educate and inform them on the safety regulations. 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 operators of bungee jump amusement rides in the state of Ohio.

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

All bungee jump 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.

Each operating site must maintain a site operating manual which includes, but not is limited to: site plans, descriptions of safety and rescue equipment, standard operating procedures, emergency procedures, equipment and maintenance inspections, and the inspection log.

A daily log book for inspections and repairs must be kept on site. All jump rigging, harness equipment, lowering systems, and safety gear shall be regularly tested and recorded in the log book. At each new set-up, suspended personnel platforms must be tested prior to operation. All bungee cords used in the operations are required to have a minimum safety factor of five and be strength tested. All bungee cord ends shall be tested every day for wear, slippage, or any other abnormalities. All equipment used in the operation must be uniquely tagged and recorded in the site operating manual.

Each operating site must have adequate storage to protect equipment from physical, chemical, and ultra violet ray damage. All sites must have a public address system in operation during regular business hours.

Each operating site must have an emergency plan which has been reviewed and approved by the local emergency service.

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

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“representative business.” Please include the source for your information/estimated impact.

As stated in section 1711.53 of the Ohio Revised Code, bungee jump operations must obtain an amusement ride permit which costs \$150 and be inspected by the Division of Ride Safety prior to operation which costs \$450. Both must be renewed annually.

The site operating manual requires employer time for compliance. The operating manual must be updated when there are changes to the operation.

The daily log book requires time and record keeping for compliance. Safety tests must be completed daily to ensure that the equipment is safe for operation. Equipment that is not safe for operation may not be used and must be replaced.

There must be a storage place on site to house equipment from damage. The cost of the storage system depends on the size of the operation and the amount of equipment. This requirement can be satisfied with a variety of containers from ultra violet ray resistant bins to a physical structure.

Developing an emergency plan requires time for its creation. Generally, the local emergency service (ie. Police, Fire, etc.) will review and approve the plan at no cost.

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. Due to the nature of the risk involved with all bungee jump operations, the adverse impacts are considered 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. Training and seminars are also available.