

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #3

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AUG 4 10 05 AM '99
OFFICE OF THE SECRETARY OF STATE
STATE OF WEST VIRGINIA

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: West Virginia Division of Labor TITLE NUMBER: 42

CITE AUTHORITY WV Code 21-10-3

AMENDMENT TO AN EXISTING RULE: YES X NO

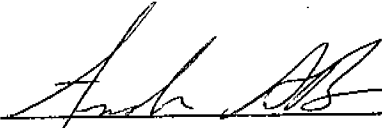
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 17

TITLE OF RULE BEING AMENDED: Amusement Rides and Amusement
Attractions Safety Act

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED:

TITLE OF RULE BEING PROPOSED:

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC
COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH
THE SECRETARY OF STATE AND THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE FOR
THEIR REVIEW.


Authorized Signature

DATE:

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: West Virginia Division of Labor

LEGISLATIVE RULE TITLE: Amusement Rides & Amusement Attraction Safety Act

1. Authorizing statute(s) citation WV Code 21-10-3

2. a. Date filed in State Register with Notice of Hearing

June 30, 1999 (Public Comment Period ONLY)

b. What other notice, including advertising, did you give of the hearing?

- None -

c. Date of Hearing(s) N/A

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached No comments received none

e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

August 4, 1999

f. Name and phone number(s) of agency person(s) to contact for additional information:

Andrew A. Brown, Asst. to the Commissioner

(304) 558-7890

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

N/A

b. Date of hearing: N/A

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

N/A

d. Attach findings and determinations and reasons:

Attached None

WEST VIRGINIA
SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #2

JUN 30 2 02 PM '99
OFFICE OF THE SECRETARY OF STATE
SECRET

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: West Virginia Division of Labor TITLE NUMBER: 42

RULE TYPE: Legislative; CITE AUTHORITY WV Code 21-10-3

AMENDMENT TO AN EXISTING RULE: YES X NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 17

TITLE OF RULE BEING AMENDED: Amusement Rides and Amusement Attractions
Safety Act

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED:

TITLE OF RULE BEING PROPOSED:

RECEIVED

JUN 30 1999

**Legislative Rule Making
Review Committee**

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON August 3, 1999 AT 4:30 p.m. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

Andrew A. Brown, Asst. to the Commissioner

West Virginia Division of Labor

Room 319, Building #3

State Capitol Complex

Charleston, WV 25305

(304) 558-7890

THE ISSUES TO BE HEARD SHALL BE
LIMITED TO THIS PROPOSED RULE.



Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

WEST VIRGINIA DIVISION OF LABOR

319 Building Three, Capitol Complex • Charleston, West Virginia 25305

Phone (304) 558-7890 • Fax (304) 558-3797

CECIL H. UNDERWOOD
Governor



STEVEN A. ALLRED
Commissioner

Facts and Circumstances

During the 1999 regular session of the West Virginia Legislature, Senate Bill 166 was passed. This was an amendment to WV Code §21-10, Amusement Rides and Amusement Attractions Safety Act. The bill added two new definitions to the Code, increased the annual permit fee and added a new annual inspection fee. The primary purpose of this rule amendment is to incorporate those changes and to provide some clean-up to the rule.

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Amusement Rides and Amusement Attractions Safety Act
Type of Rule: X Legislative Interpretive Procedural
Agency West Virginia Division of Labor
Address Room 319, Building #3
State Capitol Complex
Charleston, WV 25305

1. Effect of Proposed Rule

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
<u>ESTIMATED TOTAL COST</u>	\$ -0-	\$ -0-	\$49,035	\$52,488	\$54,562
PERSONAL SERVICES	-0-	-0-	43,085	45,240	47,502
CURRENT EXPENSE	-0-	-0-	5,950	6,248	6,560
REPAIRS & ALTERNATIONS	-0-	-0-	-0-	-0-	-0-
EQUIPMENT	-0-	-0-	-0-	500	-0-
OTHER	-0-	-0-	-0-	500	500

2. Explanation of above estimates:

The above estimates reflect current expenditures plus five percent increases for each future year.

3. Objectives of these rules:

To amend this rule into conformity with the provisions of WV Code 21-10, as amended by Senate Bill 166, 1999 Regular Session.

Rule Title: Amusement Rides and Amusement Attractions Safety Act

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

Expenditures will remain unchanged. Revenues will increase from about \$10,000 annually to approximately \$60,000. This is a result of S.B.166, not this rule.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of Citizens.

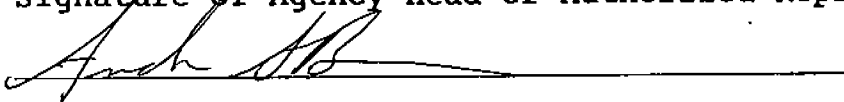
Device owners will see an annual fee increase of \$105.00 per device. This is a result of S.B. 166, not this rule.

C. Economic Impact on Citizens/Public at Large.

- none -

Date: 6/30/99

Signature of Agency Head or Authorized Representative



WEST VIRGINIA DIVISION OF LABOR

319 Building Three, Capitol Complex • Charleston, West Virginia 25305

Phone (304) 558-7890 • Fax (304) 558-3797

CECIL H. UNDERWOOD
Governor



STEVEN A. ALLRED
Commissioner

Summary of Changes

§42-17-2. Definitions. Three definitions, Amusement device (or ride), Permanent amusement device (or ride) and Temporary amusement device (or ride) were all deleted from the rule. These definitions are contained in the statute and are unnecessarily repeated in the rule. As these were deleted, the elements of the section were re-numbered.

§42-17-10. Permit Application Requirements.

10.1. Existing rule requires that an application for permit must be submitted at least seven days prior to the first intended use of a device in the state. Senate Bill 166 changed this time frame from seven days to fifteen days. This rule amendment reflects that change.

10.3. The word "temporary" has been changed to "mobile" to be consistent with the definition of mobile device adopted by Senate Bill 166.

§42-17-11. Fee Schedule. Senate Bill 166 raised the annual permit fee from twenty dollars to twenty-five dollars and imposed a new annual inspection fee of one-hundred dollars. This rule amendment reflects those changes.

TITLE 42
LEGISLATIVE RULE
DIVISION OF LABOR

SERIES 17
AMUSEMENT RIDES AND AMUSEMENT ATTRACTIONS
SAFETY ACT

FILED
MAY 4 10 02 AM '99
OFFICE OF THE SECRETARY OF STATE

§42-17-1. General.

1.1. Scope. -- W. Va. Code §21-10 et seq. provides that the commissioner of labor promulgate regulations to guard against personal injuries to the general public in the assembly, disassembly, and use of amusement devices at carnivals, fairs and amusement parks and to assure that the owner(s) of such devices and/or attraction maintain sufficient levels of liability insurance to protect the public in the event of accident. It is the purpose of these regulations to set minimum acceptable safety standards for design, construction, operation, maintenance and inspection of such amusement devices. These regulations shall set procedures for the traceability of amusement devices to include registration, inspection, issuance of permits, collection of annual fees and maintenance of annual usage schedules.

1.2. Authority. -- W. Va. Code §§21-10-3 and 29A-1-1.

1.3. Filing Date. -- ~~June 15, 1989.~~

1.4. Effective Date. -- ~~June 15, 1989.~~

§42-17-2. Definitions.

2.1. Accepted engineering practice. That which conforms to accepted principles, tests, or standards of nationally recognized technical or scientific authorities. References given include, Occupational Safety and Health Administration (§29 CFR 1900-1910) and American National Standards Institute (ANSI) Safety Standards.

~~2.2. Amusement device. An amusement ride or amusement attraction which is a mechanical device or combinations of devices which carries or conveys passengers on, along, around, over or through a fixed or restricted course or within a defined area; and shall include a building or structure around, over, or through which people may move or walk, without the aid of a mechanical device integral to the building or structure; for the purpose of providing people with amusement, pleasure, thrills or excitement.~~

~~2.3.~~ 2.2. Amusement park. A tract or area of land used principally as a permanent location for amusement devices or structures.

~~2.4.~~ 2.3. Animal rides. Any ride utilizing live animals to convey humans.

~~2.5.~~ 2.4. Carnival. An itinerant enterprise consisting principally of portable temporary amusement devices and/or mechanical rides operated to provide entertainment or amusement to the public. A carnival may also include animal rides.

~~2.6.~~ 2.5. Commissioner. The Commissioner of the West Virginia Division of Labor or his or her designated representatives.

~~2.7.~~ 2.6. Division. The West Virginia Division of Labor to include all its sections and personnel.

~~2-8.~~ 2.7. Emergency number(s). Telephone numbers of local ambulance, fire department, police department and physician(s) that will respond to the scene of any emergency.

~~2-9.~~ 2.8. Employee. Any person hired by an owner, operator, or owner/operator's agent, on a temporary or permanent basis to perform any task/work/act for the owner, operator or owner/operator's agent, in the day-to-day, on-going operations of a carnival, fair, or amusement park, and who receives monies, goods, or services as remuneration/compensation for services rendered.

~~2-10.~~ 2.9. Fair. An enterprise principally devoted to the exhibition of the products of agriculture or industry and at which amusement devices or temporary structures are provided for use by the public.

~~2-11.~~ 2.10. First-aid kit. A weatherproof container with individual sealed packages for each type of item contained therein as approved by a consulting physician.

~~2-12.~~ 2.11. Full identifying data. Full name, date and place of birth, permanent home of record/residence and telephone number, business address, employer and telephone number; for amusement devices the name, manufacturer, serial number, operating speeds, passenger loads, etc.

~~2-13.~~ 2.12. Immediate site of operation. The exact physical location of and where the amusement device is being operated.

~~2-14.~~ 2.13. Imminent danger. A practice, or condition which exists due to a design, mechanical, structural, or electrical defect which presents an excessive and immediate danger of serious injury to ride passengers, ride operators and/or the general public.

~~2-15.~~ 2.14. Independent owner/operator. Anyone owning/operating an amusement device or animal ride at a carnival, fair or amusement park on a profit sharing or flat fee basis, and who normally does not travel with or is considered to be, a permanent part of any carnival, fair or amusement park. For purposes of these regulations independent owner/operator shall be considered synonymous with owner/operator and has equal responsibilities under the law.

~~2-16.~~ 2.15. Non-destructive testing (N.D.T.). Assorted testing methods used to disclose latent defects during which test the physical or chemical state of the material is not altered.

~~2-17.~~ 2.16. Operator. The person having direct control of the starting, stopping, or speed of an amusement ride.

~~2-18.~~ 2.17. Operational tests. Measurements of safety devices which do not come into play during the routine operation of any amusement device.

~~2-19.~~ 2.18. Owner. Any person, corporation, partnership, or association who owns an amusement device or, in the event that the amusement device is leased, the lessee.

~~2-20.~~ Permanent amusement device. A device which is used, or intended to be used, as an amusement device that is erected to remain a lasting part of the premises.

~~2-21.~~ 2.19. Qualified. The owner/operator/agent shall permit only those employees qualified by training or experience to operate any amusement device, equipment or machinery common and/or related to normal use by and at any carnival, fair, or amusement park. Proof of qualification(s) shall be documented and made immediately available to the commissioner, the division or special inspector upon request.

~~2-22.~~ 2.20. Ride operator assistant(s). Anyone assisting the ride operator in the operation of any amusement device to include but not be limited to on-off loading of ride passengers; screening ride

passengers for signs of intoxication or other anti-social activities or behavior and ride passengers with physical handicaps which could endanger themselves and other ride passengers; maintaining ride equipment guards and fences for the safety of ride passengers and spectators; ensuring that all ride passengers are safely secured and all safety devices are in place and functioning before the ride is started. And once started, to constantly observe the ride and ride passengers in order to immediately warn the ride operator of any ride malfunction or danger to any ride passenger or the general public.

~~2.23.~~ 2.21. Safety coordinator. A person suited by training or experience and designated (in writing) by the owner or operator of an amusement park, fair or carnival as being in charge of the safety of all amusement devices located at the park, fair or carnival.

~~2.24.~~ 2.22. Serious injury. An injury that results in death, loss of consciousness, or required medical treatment, other than first aid, by a physician or other medical professional for which a record is created.

~~2.25.~~ 2.23. Special inspector. An inspector licensed by the Commissioner and not employed by the Division.

~~2.26. Temporary amusement device. A device which is used as an amusement device that is regularly relocated from time to time, with or without disassembly.~~

§42-17-3. Rules and Regulations.

3.1. All owners/operators/agents shall maintain the following physical information at the immediate site of operation of all amusement devices in West Virginia. All required information shall be in English and legible.

3.1.a. Name plate. A unique identifying name plate shall be permanently affixed to each amusement device and will specify location of manufacture by manufacturer, city, state and country. The name plate shall also have the serial number, device model number and date of manufacture.

3.1.b. Static and dynamic information. Each owner/operator/agent shall maintain at the immediate site of operation of the amusement device the following information: height, width, diameter and weight of the amusement device when in a non-operational state with no passengers and in a fully operational state with passengers.

3.1.c. Speed. Where the proper speed is essential to the safe operation of the amusement device, each owner/operator/agent shall maintain at the immediate site of operation of the amusement device the following information:

3.1.c.1. Maximum revolutions per minute, or

3.1.c.2. Maximum feet per second or mile per hour.

3.1.d. Direction of travel. When the proper direction of travel is essential to the design operation of the amusement device, the manufacturer shall designate the direction of travel, including reference point for the designation, and the owner/operator/agent shall maintain this information at the immediate site of operation of the amusement device.

3.1.e. Power requirements. Each owner/operator/agent shall maintain at the immediate site of operation of the amusement device the following information:

3.1.e.1. Electrical. Total electrical power required to operate the amusement device designated in watts, volts and amperes, including minimum and maximum voltage limits.

3.1.e.2. Mechanical. A minimum horse power necessary to operate the amusement device safely.

3.1.f. Passenger capacity. Each owner/operator/agent shall maintain at the immediate site of operation of the amusement device, the following specifications of the manufacturer(s):

3.1.f.1. Maximum total passenger weight, or

3.1.f.2. Maximum number of passengers by carrier unit and amusement device total.

3.1.g. Recommended balance of passenger loading or unloading. When passenger distribution is essential to the safe operation of the amusement device, the appropriate loading and unloading procedure with respect to weight distribution shall be maintained at the immediate site of operation of the amusement device.

3.1.h. Recommended passenger restrictions. Where applicable, any passenger limitations such as, but not limited to, height, weight, age, passenger placement, physical condition, or other appropriate restrictions shall be printed in English in letters large and legible enough to be read at a reasonable distance (5-10 feet) and shall be posted in full public view at each amusement device's immediate site of operation. The operator/ride operator's assistant(s) shall have the right and obligation to refuse access to an amusement device to any person (the commissioner, the Division and special inspector(s) excluded), where the operator/ride operator's assistant(s) believes that access by these person(s) may jeopardize the safety of the rider or of any other person or the public in general.

3.1.i. Environmental restrictions. Specifications for operation restrictions relating to environmental conditions such as, but not limited to, wind, rain, corrosive atmosphere, and extreme heat or cold shall be maintained at the immediate site of operation of the amusement device by the owner/operator/agent.

3.1.j. Fastener schedule. A manufacturer's issued schedule for the correct (required) grade, or better, torque, and placement of all critical fasteners used in the assembly, or erection or both, of the amusement device shall be maintained by the owner/operator/agent at the immediate site of operation of the amusement device.

3.1.k. Manufacturer's operational, maintenance, field inspection guides, manuals, etc. All amusement devices shall have the manufacturer's operational, maintenance, field inspection guidelines to include service bulletins available at the immediate site of operation of the amusement device. These documents shall be in English and those in a foreign language shall be translated to English and certified by the translator with his/her full identifying data, home/business address and telephone number, as being a true and totally complete translation of those documents. Both language editions shall be immediately available to the commissioner, the Division or the special inspector.

3.2. All information required by this Section shall be made available to the commissioner, his or her inspectors, his or her agents or his or her designees immediately upon request.

§42-17-4. Operation Procedures for Amusement Devices Owner/ Operator's/Agent's Responsibility.

4.1. Each amusement device owner/operator/agent shall obtain, read and become completely familiar with the contents of the amusement device manufacturer's recommended operating instructions. Each owner/operator/agent shall prepare an operating fact sheet. This fact sheet shall be provided to each operator and ride operator's assistant(s) of the amusement device. This fact sheet and documentation that it has been provided each amusement device operator and operator assistant(s) shall be made available to the commissioner, the division or special inspector upon request. The owner's fact sheet(s), on a device-by-device basis, shall include but not be limited to:

4.1.a. Specific amusement device operation policies and procedures with pertinent information from the manufacturer's instructions.

4.1.b. Description of the amusement device operation.

4.1.c. Specific duties assigned to the position of the amusement device operator and the amusement device operator's ride assistant(s).

4.1.d. General safety procedures.

4.1.e. Additional recommendations of the owner/operator/agent.

4.1.f. Specific emergency procedures in the event of an abnormal condition or an interruption of service.

4.2. Amusement device operator's and their assistant(s) shall be qualified. The owner/operator/agent shall provide training and instruction for each operator and operator assistant(s) of an amusement device. Documentation by full name, date and place of birth, permanent residence and telephone number of all formal and informal training of amusement device operator's and operator assistant(s) shall be required and shall be made immediately available to the commissioner, the Division or special inspector upon request. The training shall include, but not be limited to, the following:

4.2.a. Instruction of amusement device operating procedures following instructions set forth by the amusement device's manufacturer.

4.2.b. Instructions on specific duties of each assigned position for the normal/emergency and safe operation of the amusement device.

4.2.c. Instructions on general safety procedures.

4.2.d. Instructions on emergency procedures.

4.2.e. Demonstration of the operation of the amusement device.

4.2.f. Supervised observation of the amusement device's operator's and operator's assistant(s) physical operation of the device.

4.2.g. Additional instructions deemed necessary by the owner/operator/agent.

§42-17-5. Operational Testing.

5.1. The owner/operator/agent of an amusement device shall use manufacturer's specific operation tests along with manufacturer's recommended intervals for these tests to be performed to determine whether a given device is operating within operational limits as recommended by the manufacturer. Where manufacturer's guidelines for operational tests are not available, the owner/operator/agent shall use operational test based on available guidelines for devices similar in design and function. When not available, the owner shall provide, in writing, a certification from the ride manufacturer that these guidelines are not available and the reason why.

5.2. Nondestructive testing (N.D.T.). N.D.T. testing shall be required as recommended by the manufacturer. In addition, any hidden shaft in an amusement device may be required to undergo N.D.T. at the owner's expense after written notice to the owner/operator/agent by the commissioner, the Division, or special inspector. The notice will state a date by which the N.D.T. shall be completed.

Proof of required N.D.T. testing will be provided by the owner/operator/agent to the commissioner, the division or special inspector.

5.3. The owner/operator/agent of an amusement device shall conduct the tests developed under Section 5.1-2 of this rule at the manufacturer's recommended intervals but may conduct the tests on a more frequent basis should the owner/operator/agent desire to do so. Testing directed by the commissioner, the Division or special inspector will be at owner's expense and in addition to those required by the manufacturer or owner/operator/agent.

5.4. Failure to comply will result in the commissioner not issuing, or revoking a permit to operate and the amusement device operation being terminated until such time as the owner/operator/agent complies with the testing requirements to include providing the results to the commissioner, the Division or special inspector.

§42-17-6. Maintenance Procedures for Amusement Devices.

6.1. Each owner/operator/agent of an amusement device shall read and become completely familiar with the contents of the manufacturer's recommendations, and shall develop and implement a program of maintenance and inspections providing for the duties and responsibilities necessary in the care of each amusement device. This program of maintenance shall include a checklist provided to each person performing the regularly scheduled maintenance on each device. These inspections shall be fully documented and the inspection sheets shall contain the full identifying date of the amusement device and the inspector to include full name, date and place of birth, permanent residence address and telephone number, of the person(s) conducting the maintenance and inspections of device-by-device basis. These shall be considered permanent records and shall be retained seven (7) years past the date that the amusement device was permanently removed from operation. The owner's/operator's/agent's checklist (on a device-by-device basis) shall include, but not be limited to:

6.1.a. Description of preventive maintenance assignments to be performed with frequency no less than that recommended by device manufacturer.

6.1.b. Description of inspections to be performed with frequency.

6.1.c. Special safety instructions, where applicable.

6.1.d. Any additional recommendations of the owner/operator/agent.

6.2. The owner/operator/agent of the amusement device shall provide training for each person performing the regularly scheduled maintenance on the device, pertaining to their assigned duties. This training shall be fully documented and the training sheets shall contain the full identifying data of the amusement device the training was conducted on, a device-by-device basis, and the trainee to include full name, date and place of birth, permanent residence address and telephone number. This training shall include, but not be limited to the following:

6.2.a. Instruction on inspection and preventative and required maintenance procedures not less than the manufacturer's recommendations.

6.2.b. Instruction on the specific duties of the assigned position.

6.2.c. Instruction on general safety procedures.

6.2.d. Demonstration of the physical performance of the assigned performance of his/her assigned regularly scheduled duties and inspections.

6.2.e. Supervised observation of the maintenance person's physical performance of that person's assigned regularly scheduled duties and inspections.

6.2.f. Additional instructions deemed necessary by the owner.

6.3. Prior to carrying passengers, the owner/operator/agent shall conduct or cause to be conducted, a daily pre-opening inspection based on provided instructions to insure the safe operation of the device. The owner/operator/agent shall maintain a legible, written record of the daily inspection, signed, dated and with full identifying data as to the device and the person(s) performing the inspection(s). These records shall be kept for a period of not less than seven (7) years. The inspection program shall include, but not be limited to the following:

6.3.a. Inspection of all passenger-carrying equipment, including restraint equipment and latches.

6.3.b. Visual inspection of entrances, exits, stairways, and ramps.

6.3.c. Visual inspection of grounds around and/or inside device.

6.3.d. Functional test of all communication equipment necessary for the operation of the device.

6.3.e. Inspection or test of all automatic and manual safety equipment.

6.3.f. Inspection or test of the brakes, including service brakes, emergency brakes, parking brakes, and back stops.

6.3.g. Visual inspection of any fencing, guarding, and barricades.

6.3.h. Visual inspection of the device structure.

6.3.i. Visual inspection of electrical equipment and wiring.

6.3.j. Visual inspection to ensure that all belts, sprockets, gears, pinch points, open holes, etc., are guarded in accordance with §29 CFR 1910.219 (Mechanical Power Transmission Apparatus).

6.3.k. The device shall be operated for a minimum of two (2) complete operating cycles. A complete cycle shall include operation of all passenger-carrying equipment. If the amusement device's manufacturer requires more than the minimum of two (2) complete operating cycles, the manufacturer's requirements shall be followed.

6.3.l. Visual inspection of all pins and fasteners.

6.3.m. Visual inspection of all blocking and shoring.

6.4. Following any unscheduled cessation of operation necessitated by malfunction, adjustment, environmental conditions, mechanical, electrical, operational or structural modification, the device shall be unloaded and the device or the specifically affected element shall be appropriately inspected and operated without passengers to determine that the cause for cessation of operation has been corrected and does not create an operational or safety hazard.

6.4.a. These incidents shall be fully documented and contain not only the full identifying data of the device and operator(s) involved, but shall also include the nature of the incident, date, time, weather, location, ride speed, passenger load, passenger loading, etc.

6.4.b. The records involving these incidents shall be retained for a period of not less than seven (7) years from the date of the incident.

6.5. If the commissioner's representative or special inspector finds that the amusement device presents an imminent danger, that person will immediately notify, in writing, the amusement device operator/owner/agent, and sponsor of the fair or carnival or owner of the land upon which the fair or carnival is located. If the device is not immediately removed from service, the inspector will file an immediate report by telephone of the imminent danger with the commissioner. A temporary or permanent restraining order shall be issued where appropriate.

6.6. The owner/operator/agent of any amusement device which, during the course of its operation, is involved in an accident which results in a fatality or serious injury shall report the injury to the commissioner within twenty-four (24) hours of occurrence. The report shall include the full identifying data of the injured parties, the hospital where treatment was rendered, type of injuries, device involved, owner/operator/agent and device operator and assistant(s) and any other information pertaining to the events leading up to, the nature of and the outcome of the accident as well as the status of the device involved in the accident.

6.6.a. Any device which has caused, contributed to, or has been damaged during an accident in which a fatality or serious injury occurs shall not be removed from the accident site until written permission to do so is given by the commissioner. Any amusement device that is involved in an accident in which a fatality or serious injury occurs shall immediately be shut down and the accident scene left intact as at the time of the accident. The owner/operator/agent will collect the information required by Sections 6.1 through 6.6 of this rule and ensure the availability of the operator/operator assistant(s) operating the device at the time of the accident to the commissioner, the division or special inspector.

6.6.b. Dismantling the device involved in the accident, removing the device and/or any part thereof will be regarded as destruction of evidence and will be viewed as evidence of negligence on the owner/operator/agent's part and no excuse for such will be accepted by the commissioner, the Division or special inspector.

6.6.c. Altering, removing, destroying or in any way modifying any record required by these regulations may result in permanent revocation of a permit to operate by the commissioner.

6.6.d. The records involving these accidents shall be retained for a period of not less than seven (7) years from the date of the accident.

§42-17-7. Miscellaneous Safety Requirements for Amusement Devices.

7.1. Electrical systems.

7.1.a. The following wiring systems will be acceptable:

7.1.a.1. Three Phase Five Wire System grounded at the power source and constructed in accordance with the 1984 National Electrical Code. Compliance with the requirements of any later edition of the National Electrical Code shall be accepted by the Commissioner as compliance with this Section.

7.1.a.2. Single Phase Four Wire System grounded at the power source and constructed in accordance with the 1984 National Electrical Code. Compliance with the requirements of any later edition of the National Electrical Code shall be accepted by the Commissioner as compliance with this Section.

7.1.b. For amusement devices in which water is a major medium, ground fault interruption circuitry must be provided for wiring systems of 240 volts or less, 30 amps or less.

7.1.c. All electrical equipment and devices are to be guarded against access by unauthorized persons.

7.1.d. Dark rides. The track or buss supplying voltage to the individual cars shall be maintained at 30 volts or less potential.

7.2. Structural.

7.2.a. All rides shall be guarded against access by nonauthorized personnel into the area of operation.

7.2.b. One A B & C fire extinguisher of at least 10 lb. capacity shall be placed on all generator units and fuel-powered rides.

7.2.c. There shall be a minimum of six (6) feet between fences when fence is attached to a portion of a ride containing an electrical device. Where the electrical device is 240 volts or less, 30 amps or less and equipped with ground fault interruption circuitry the minimum distance need not be maintained. Common fences are acceptable under other conditions.

7.2.d. Dark rides. There shall be a minimum of one (1) smoke and fire detector per five hundred (500) square foot area and a ten (10) pound fire extinguisher shall be located at all entrances and exits and at any operator station not located directly at an entrance or exit.

7.3. Ride operation.

7.3.a. The owner/operator/agent shall not allow any ride operator under the influence of any illegal drug, narcotic or alcohol to operate or assist in the operation of the ride. Further, any ride operator or his or her assistant under doctor's care and who has been prescribed any medication that could affect his or her safe operation of the ride shall report this information to his or her employer, immediately.

7.3.b. When requested, the operator must halt a ride and allow passengers desiring to disembark to do so.

7.3.c. The owner shall have no fewer than one (1) operator per ride. However, at no time shall the number of operator(s) be less than that required or recommended by the device manufacturer for the safe operation of the device.

7.3.d. The owner shall not allow an operator to leave the controls during operation of ride and shall not allow assistants to leave their assigned stations during operation of the ride.

§42-17-8. Insurance, Bond, or Other Security.

8.1. Before any permit can be issued, the owner must file with and have accepted by the Commissioner an approved Certificate of Insurance against liability for injury to persons arising out of the use of an amusement device, to be in an amount not less than that specified by W. Va. Code §21-10-12.

8.2. Evidence of insurance may be:

8.2.a. A policy of insurance procured from one or more insurers acceptable to the Insurance Commissioner of West Virginia either:

8.2.a.1. Licensed to transact insurance in West Virginia.

8.2.a.2. Approved as a non-admitted surplus lines carrier for risks located in this State;

8.2.b. Cash or other security acceptable to the Commissioner of Labor.

8.3. The commissioner shall not accept any policy of insurance unless it shall obligate the insurer to give written notice to the Commissioner thirty (30) days before any proposed cancellation, suspension or non-renewal of the policy. The Commissioner shall make available upon request an approved endorsement form.

§42-17-9. Permit Required.

Before beginning operation of any amusement device in West Virginia the owner of the device shall apply in writing to the Commissioner for a permit to operate. A permit to operate is valid for a period of one (1) year from the date of issuance.

§42-17-10. Permit Application Requirements.

10.1. Each application for a permit shall be received by the Commissioner not less than ~~seven (7)~~ fifteen (15) days before the first intended date of use. Amendments to the application shall be received by the commissioner no less than twenty-four (24) hours before the first intended date of use.

10.2. Each permit application shall include the following information:

10.2.a. Name of the owner of the amusement device.

10.2.b. The address of the owner.

10.2.c. The name of the state under whose laws the owner is incorporated (if incorporated).

10.2.d. The make, model, and serial number of the amusement device and name and address of manufacturer.

10.2.e. Acceptable evidence of the liability insurance policy, bond, or other security covering the amusement device. The Commissioner may, at his or her discretion, require submission of the complete copy of insurance.

10.2.f. An inspection report by a special inspector or in the alternative a request for inspection by the Division.

10.2.g. Each application shall be accompanied by a schedule of operation within West Virginia during the effective period of the requested permit. This schedule must include:

10.2.g.1. Location of operation.

10.2.g.2. Setup date.

10.2.g.3. Starting date/time of usage, and

10.2.g.4. Disassembly date.

10.3. In addition, each application for a permit for a ~~temporary~~ mobile device shall include the following information:

10.3.a. Planned schedule of appearances in West Virginia including dates and locations.

10.3.b. Names of sponsor or land owner at each location where use is planned.

§42-17-11. Fee Schedule.

11.1. Upon application for a permit, ~~with the application accompanied by an inspection report by an approved special inspector,~~ an annual permit fee ~~shall be charged at the rate of twenty dollars (\$20.00) of twenty five dollars (\$25.00)~~ shall be charged for the each device, covered by any permit application. Permit applications will not be processed unless the annual permit fee is attached.

11.2. Upon application for a permit, an annual inspection fee of one hundred dollars (\$100.00) shall be charged for each device. The inspection fee must accompany the application for permit. Permit applications will not be process unless the inspection fee is attached. If the permit applicant utilizes the services of an authorized special inspector, the annual inspection fee shall be paid to the special inspector. A copy of the special inspector's inspection report which certifies that the inspection fee has been paid shall be attached to the permit application.

§42-17-12. Qualifications of Approved Special Inspectors.

12.1. A special inspector shall have the following qualifications:

12.1.a.1. At least five years experience in amusement device maintenance and safety and completion of approved courses in materials inspection and testing and in fasteners, or in the alternative.

12.1.a.2. A four (4) year college degree in engineering or architecture with a minimum of twelve (12) semester hours of course work in the area of mechanics and strength of materials.

12.1.b. Evidence of successful completion of an approved Rides Safety Inspection course within the previous two (2) calendar years.

12.2. Each applicant for approval as a special inspector shall submit with his or her annual application evidence of insurance against errors and omissions in an amount of not less than one hundred thousand dollars (\$100,000.00) per occurrence, procured from one or more insurers licensed to transact insurance in West Virginia or approved as a non-admitted surplus lines carrier for risks located in this State.

12.3. Each application for approval as a special inspector shall submit with his annual application a license fee in the amount of fifty dollars (\$50.00).

12.4. Applications for approval as a special inspector shall be made annually on a form to be provided by the Commissioner.