

Michigan Office of Administrative Hearings and Rules

Administrative Rules Division (ARD)

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**REGULATORY IMPACT STATEMENT
and COST-BENEFIT ANALYSIS (RIS)**

Agency Information:

Department name:

Licensing and Regulatory Affairs

Bureau name:

Bureau of Construction Codes

Name of person filling out RIS:

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Rule Set Information:

ARD assigned rule set number:

2021-99 LR

Title of proposed rule set:

Carnival and Amusement Safety

Comparison of Rule(s) to Federal/State/Association Standard

1. Compare the proposed rules to parallel federal rules or standards set by a state or national licensing agency or accreditation association, if any exist.

There are no federal rules or standards that are set by a state or national licensing agency or accreditation association.

A. Are these rules required by state law or federal mandate?

These rules are required by state law, but are not federally mandated.

B. If these rules exceed a federal standard, please identify the federal standard or citation, describe why it is necessary that the proposed rules exceed the federal standard or law, and specify the costs and benefits arising out of the deviation.

There are no federal rules or standards that are set by a state or national licensing agency or accreditation association for this rule set.

2. Compare the proposed rules to standards in similarly situated states, based on geographic location, topography, natural resources, commonalities, or economic similarities.

The proposed rules incorporate by reference the 2020 editions of the National Fire Protections Code Association (NFPA 70) and the American National Standards Institute (ANSI) Safety Standard B77.1 2017 with Michigan amendments, additions, or deletions. All the surrounding Great Lake's states have rules that are a little similar to Michigan's. Wisconsin's rules are a lot stricter when it comes to Wire Rope Clips. Ohio's amusement rules are a lot like Michigan's. They cover operating permits, annual reports, and the owner's duties.

A. If the rules exceed standards in those states, please explain why and specify the costs and benefits arising out of the deviation.

The Michigan rules do not exceed the standards of any of the other Great Lake states.

3. Identify any laws, rules, and other legal requirements that may duplicate, overlap, or conflict with the proposed rules.

There are no laws, rules, or other legal requirements that may duplicate, overlap, or conflict with these proposed rules.

A. Explain how the rules have been coordinated, to the extent practicable, with other federal, state, and local laws applicable to the same activity or subject matter. This section should include a discussion of the efforts undertaken by the agency to avoid or minimize duplication.

Accordingly, no coordination is necessary to ensure that duplication was avoided or minimized.

4. If MCL 24.232(8) applies and the proposed rules are more stringent than the applicable federally mandated standard, provide a statement of specific facts that establish the clear and convincing need to adopt the more stringent rules.

There are no federal rules or standards that regulate this rule set.

5. If MCL 24.232(9) applies and the proposed rules are more stringent than the applicable federal standard, provide either the Michigan statute that specifically authorizes the more stringent rules OR a statement of the specific facts that establish the clear and convincing need to adopt the more stringent rules.

There are no federal rules or standards that regulate this rule set.

Purpose and Objectives of the Rule(s)

6. Identify the behavior and frequency of behavior that the proposed rules are designed to alter.

Carnival- Amusement Safety Act , Act 225 of 1966, 408.656 states that the “ department shall promulgate and formulate definitions, codes, and rules for the safe installation, repair, maintenance, use, operation and inspection of all carnival- amusement rides as the department finds necessary for the protection of the general public who use carnival amusement rides.” The proposed rules will update the Amusement rules with amendments, deletions, and additions deemed necessary for the use in Michigan and to bring the current rules up to date.

A. Estimate the change in the frequency of the targeted behavior expected from the proposed rules.

The proposed rules will include deletions and additions that are designed to mandate compliance with the following: National Fire Protection Association, NFPA 70 (2020), ASTM volume 15.07 (November 2022), and the American National Standards institute Safety (ANSI) B77.1 (2017). This new ruleset will help Carnival - amusement rides and devices be up to date with current regulations.

B. Describe the difference between current behavior/practice and desired behavior/practice.

The new proposed rules provide the latest standards, which will help protect the safety and welfare of the people by regulating daily inspections, the control and operation of the rides and devices, and the operational training and emergency training that is required.

C. What is the desired outcome?

The desired outcome of adopting the new standards is for Michigan Carnival and Amusement owners to protect the health, safety, and welfare of the public by remaining current with industry laws and rules.

7. Identify the harm resulting from the behavior that the proposed rules are designed to alter and the likelihood that the harm will occur in the absence of the rule.

The proposed rules are intended to protect persons enjoying amusement and carnival rides or devices. By updating these rules, we are protecting the public with operation of the rides and devices, the operational training as well as emergency training, and the daily inspection regulations up to date with laws and rules.

A. What is the rationale for changing the rules instead of leaving them as currently written?

The rationale for changing these rules and not leaving them as written is to modernize the rules and bring Michigan Carnival and Amusement rules up to date with current practices.

8. Describe how the proposed rules protect the health, safety, and welfare of Michigan citizens while promoting a regulatory environment in Michigan that is the least burdensome alternative for those required to comply.

The proposed rules enhance regulatory oversight over carnival and amusement rides and devices by regulating compliance with updated rules. Those practices ensure customer safety, which is important to maintain a welcoming and safe environment for patrons.

9. Describe any rules in the affected rule set that are obsolete or unnecessary and can be rescinded.

The following rules are obsolete and can be rescinded because they are outdated: R 408.833, R 408.838 and R 408.843.

Fiscal Impact on the Agency

Fiscal impact is an increase or decrease in expenditures from the current level of expenditures, i.e. hiring additional staff, higher contract costs, programming costs, changes in reimbursements rates, etc. over and above what is currently expended for that function. It does not include more intangible costs for benefits, such as opportunity costs, the value of time saved or lost, etc., unless those issues result in a measurable impact on expenditures.

10. Please provide the fiscal impact on the agency (an estimate of the cost of rule imposition or potential savings for the agency promulgating the rule).

There is no fiscal impact associated with this rule promulgation.

11. Describe whether or not an agency appropriation has been made or a funding source provided for any expenditures associated with the proposed rules.

No appropriations or funding has been provided or given. The proposed rules have no fiscal impact.

12. Describe how the proposed rules are necessary and suitable to accomplish their purpose, in relationship to the burden(s) the rules place on individuals. Burdens may include fiscal or administrative burdens, or duplicative acts.

The proposed rules do not place a burden on businesses or the department. The proposed rules are necessary and suitable to help make Carnival and Amusement rides and devices safer for the public.

A. Despite the identified burden(s), identify how the requirements in the rules are still needed and reasonable compared to the burdens.

The proposed rules do not place a burden on businesses or the department. The proposed rules are necessary and suitable to help make Carnival and Amusement rides and devices safer for the public.

Impact on Other State or Local Governmental Units

13. Estimate any increase or decrease in revenues to other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Estimate the cost increases or reductions for other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Include the cost of equipment, supplies, labor, and increased administrative costs in both the initial imposition of the rule and any ongoing monitoring.

The rules affect carnival and amusement owners and operators. The rules do not affect state or local government revenue or costs.

14. Discuss any program, service, duty, or responsibility imposed upon any city, county, town, village, or school district by the rules.

The rules do not impose any program, service, duty, or responsibility on any city, county, town, village, or school district.

A. Describe any actions that governmental units must take to be in compliance with the rules. This section should include items such as record keeping and reporting requirements or changing operational practices.

The proposed rules do not require any additional or new responsibilities on behalf of government units to be in continued compliance with the rules. Any city, town, school district, village, or county that owns and operates a Carnival or Amusement device shall comply with the rules. There is no other Authority Having Jurisdiction (AHJ) for Carnival and Amusement devices in Michigan. Therefore, no city, town, school district, village, or county imposes any program, service, duty, or responsibility in addition to the rules.

15. Describe whether or not an appropriation to state or local governmental units has been made or a funding source provided for any additional expenditures associated with the proposed rules.

These rules do not require any additional funds for state or local governmental units.

Rural Impact

16. In general, what impact will the rules have on rural areas?

The proposed rules will apply throughout Michigan. Carnivals and Amusements can be located in rural areas sometimes, but the rules will have no direct effect on rule areas that will not exist in urban areas as well. The proposed rules are necessary to protect the health and safety of patrons visiting Carnivals and Amusement parks.

A. Describe the types of public or private interests in rural areas that will be affected by the rules.

The proposed rules do not have any impact on public or private interest in rural areas.

Environmental Impact

17. Do the proposed rules have any impact on the environment? If yes, please explain.

The rules focus on safety for Carnival and Amusement rides and devices and will have little, if any, impact on the environment.

Small Business Impact Statement

18. Describe whether and how the agency considered exempting small businesses from the proposed rules.

Small businesses would not be exempt from these rules. Small businesses functioning as owners and operators of Carnival and Amusement devices in Michigan cannot be exempted from the rules because these small businesses are responsible for compliance with the rules in order to ensure safe operations for the riding public.

19. If small businesses are not exempt, describe (a) the manner in which the agency reduced the economic impact of the proposed rules on small businesses, including a detailed recitation of the efforts of the agency to comply with the mandate to reduce the disproportionate impact of the rules upon small businesses as described below (in accordance with MCL 24.240(1)(a-d)), or (b) the reasons such a reduction was not lawful or feasible.

Small businesses are not anticipated to be adversely affected by this rule set. The changes within these rules do not put any kind of financial strain on small businesses. The only differences with these rules that will affect all carnival and amusement businesses are more reporting in R 408.815 and R 408.816.

A. Identify and estimate the number of small businesses affected by the proposed rules and the probable effect on small businesses.

Generally, the department does not expect small businesses to be greatly affected by these proposed rules.

B. Describe how the agency established differing compliance or reporting requirements or timetables for small businesses under the rules after projecting the required reporting, record-keeping, and other administrative costs.

It is not practical to establish differing compliance or requirements for small businesses. Small businesses are not expected to be adversely affected by these rules. There is no additional administrative costs associated with the implementation of the proposed rules.

C. Describe how the agency consolidated or simplified the compliance and reporting requirements for small businesses and identify the skills necessary to comply with the reporting requirements.

The compliance and reporting requirements are the same for small and big businesses. The agency did not consolidate or simplify the compliance and reporting requirements for these rules.

D. Describe how the agency established performance standards to replace design or operation standards required by the proposed rules.

The agency did not establish performance standards to replace design or operation standards.

20. Identify any disproportionate impact the proposed rules may have on small businesses because of their size or geographic location.

The proposed rules have no disproportionate impact on small businesses because of their size or geographic location.

21. Identify the nature of any report and the estimated cost of its preparation by small businesses required to comply with the proposed rules.

There are no anticipated reports or increased costs to small businesses that are required to comply with the proposed rules.

22. Analyze the costs of compliance for all small businesses affected by the proposed rules, including costs of equipment, supplies, labor, and increased administrative costs.

Small businesses are not expected to be adversely affected by the proposed rules. There is no significant cost increase for equipment, supplies, labor, or any increased administrative costs that will adversely affect small businesses.

23. Identify the nature and estimated cost of any legal, consulting, or accounting services that small businesses would incur in complying with the proposed rules.

There are no legal, consulting, or accounting services or costs to small businesses that would be incurred in complying with the proposed rules.

24. Estimate the ability of small businesses to absorb the costs without suffering economic harm and without adversely affecting competition in the marketplace.

There are no additional costs or harm anticipated with the proposed rules.

25. Estimate the cost, if any, to the agency of administering or enforcing a rule that exempts or sets lesser standards for compliance by small businesses.

The proposed rules do not exempt or set lesser standards for compliance by small businesses. There are no additional costs to the agency beyond current operational costs.

26. Identify the impact on the public interest of exempting or setting lesser standards of compliance for small businesses.

Exempting or setting lesser standards of compliance for small businesses with respect to these rules may have a negative effect on the health, safety, and welfare of the citizens of the State of Michigan.

27. Describe whether and how the agency has involved small businesses in the development of the proposed rules.

The bureau involved small businesses through the following rulemaking processes: the drafting process, advisory meeting, and Code Proposal Forms processes.

A. If small businesses were involved in the development of the rules, please identify the business(es).

Small businesses that participated on the development of these rules include carnival and amusement park owners.

Cost-Benefit Analysis of Rules (independent of statutory impact)

28. Estimate the actual statewide compliance costs of the rule amendments on businesses or groups.

The rules will not result in statewide compliance costs of these rule amendments on businesses or groups.

A. Identify the businesses or groups who will be directly affected by, bear the cost of, or directly benefit from the proposed rules.

The businesses or groups that would possibly be affected by these rule sets are amusement parks and carnival companies that want to operate in the State of Michigan.

B. What additional costs will be imposed on businesses and other groups as a result of these proposed rules (i.e. new equipment, supplies, labor, accounting, or recordkeeping)? Please identify the types and number of businesses and groups. Be sure to quantify how each entity will be affected.

The proposed rules will not add any additional costs on businesses or other groups. The changes within the rule set are more geared around reporting changes than any costly changes.

29. Estimate the actual statewide compliance costs of the proposed rules on individuals (regulated individuals or the public). Include the costs of education, training, application fees, examination fees, license fees, new equipment, supplies, labor, accounting, or recordkeeping.

There are no additional compliance costs for this rule set for individuals, businesses, or small groups. The biggest changes within the rule set are small changes to the reporting of the devices. These changes are not significant enough to cause any type of compliance cost for businesses, individuals, or groups.

A. How many and what category of individuals will be affected by the rules?

The only individuals that could be affected by these rules would be amusement parks and carnival companies operating within the State of Michigan. Michigan has approximately 100 permanent locations of amusement rides and approximately 600 locations where transient carnivals operate. The bureau currently oversees the operation of approximately 212 carnival/amusement companies and 889 carnival rides.

B. What qualitative and quantitative impact do the proposed changes in rules have on these individuals?

The proposed rules will not have a qualitative or quantitative impact on individuals.

30. Quantify any cost reductions to businesses, individuals, groups of individuals, or governmental units as a result of the proposed rules.

There are no cost reductions to businesses, individuals, groups of individuals, or governmental units as a result of the proposed rules.

31. Estimate the primary and direct benefits and any secondary or indirect benefits of the proposed rules. Please provide both quantitative and qualitative information, as well as your assumptions.

The proposed rules will provide a greater clarity for business owners and an increase in safety to the citizens of the State of Michigan and its visitors.

32. Explain how the proposed rules will impact business growth and job creation (or elimination) in Michigan.

The proposed rules will not inhibit business growth or job creation in Michigan.

33. Identify any individuals or businesses who will be disproportionately affected by the rules as a result of their industrial sector, segment of the public, business size, or geographic location.

The bureau does not expect any business or individuals to be disproportionately affected by these proposed rules.

34. Identify the sources the agency relied upon in compiling the regulatory impact statement, including the methodology utilized in determining the existence and extent of the impact of the proposed rules and a cost-benefit analysis of the proposed rules.

The bureau worked with many owners in the Carnival and Amusement industry and had an advisory meeting with stakeholders involved to help compile the regulatory impact statement, including determining the existence and extent of the impact of the proposed rules and the cost benefit analysis of these proposed rules.

A. How were estimates made, and what were your assumptions? Include internal and external sources, published reports, information provided by associations or organizations, etc., that demonstrate a need for the proposed rules.

The bureau relied on the Carnival and amusement owners and stakeholders when determining the existence and extent of the impact of the proposed rules.

Alternative to Regulation

35. Identify any reasonable alternatives to the proposed rules that would achieve the same or similar goals.

No reasonable alternatives to the proposed rules have been identified that would achieve the same or similar goals.

A. Please include any statutory amendments that may be necessary to achieve such alternatives.

There are no reasonable alternatives to the proposed rules that have been identified.

36. Discuss the feasibility of establishing a regulatory program similar to that proposed in the rules that would operate through private market-based mechanisms. Please include a discussion of private market-based systems utilized by other states.

The bureau is unaware of similar programs or private marketed based system in other states. These rules are required by state law, Carnival- Amusement Safety Act of 1966, Act 225 and are established for the safety of Michigan citizens and visitors.

37. Discuss all significant alternatives the agency considered during rule development and why they were not incorporated into the rules. This section should include ideas considered both during internal discussions and discussions with stakeholders, affected parties, or advisory groups.

There were no significant alternatives presented for the bureau to consider.

Additional Information

38. As required by MCL 24.245b(1)(c), please describe any instructions regarding the method of complying with the rules, if applicable.

There are no instructions regarding the method of complying with the rules.