

## **RULE IMPACT STATEMENT**

Pursuant to the Administrative Procedures Act, Section 303(D) of Title 75 of the Oklahoma Statutes, the Oklahoma Department of Labor (“ODOL”) hereby submits the following Rule Impact Statement for **PERMANENT** rule proposals for OAC Title 380, Department of Labor, Chapter 55, Amusement Ride Safety Rules.

### **Brief Description of the Purpose of the Proposed Rules:**

The purpose of the proposed amendment to OAC 380:55-13-1 is to establish initial administrative rules as required by newly enacted legislation, Oklahoma Statutes Title 40, Section 471, effective July 1, 2008. The rules address the certification requirements applicable to the qualification and certification of amusement ride operators; identify national standards applicable to amusement ride operators; provide definitions; establish program administrative procedures; and identify testing requirements.

OAC 380:55-13-2 is amended to establish standards for the quality of water used in amusement rides. The proposed rules adopt the standards already in use by the Oklahoma Department of Health. The proposed amendments to 380:55-1-2 and 380:55-5-5 define terms necessary for the administration of the Amusement Ride Safety Act and include some non-substantive changes to correct spelling errors. The amended definitions of “kiddie rides,” “major rides,” and “other rides” will clarify how the fee structure created in 40 O.S. §463 will be applied to inflatable rides, water park rides, and the water quality of water park rides.

### **Description of the classes of persons who most likely will be affected by the proposed rule, including classes that will bear the cost of the proposed rule, and any information on cost impacts received by the agency from any private or public entities:**

All citizens of the state of Oklahoma who may have cause to ride an amusement ride will most likely be affected by the proposed amendment to OAC 380:55-13-1. Owners and operators of amusement rides in Oklahoma will likely be affected. However, the impact on amusement ride owners and operators of compliance with the proposed rules is expected to be slight, as amusement ride owners are already required to train operators in accordance with these standards. These rules will allow the ODOL to more effectively ensure these existing training requirements are being followed. Additional cost to amusement ride owners and operators is expected to be minimal, as the rules do not require a fee for the certification of operators.

The agency has received a few comments regarding the cost impact of the rules for the certifications of operators. Some comments expressed concern that the agency did not have adequate resources to implement these rules. The provisions for certified trainers alleviate some of this burden. One comment claimed costs will increase if rides do not open in time due to the certification requirements. However, the rules provide for rides to be opened to the public and operated even if the Department has not had the opportunity to certify the operator. Another comment regarded concern over the addition of fees in the future. No fees are created by these rules. If fees are proposed in the future, this concern could be addressed at that time. One commenter claimed uncertainties in the language of the proposed rules will create additional

costs. However, no explanation was given regarding which provisions were uncertain or how costs would increase as a result of those provisions.

The amendment to OAC 380:55-13-2 will affect all owners and operators of amusement rides utilizing water. However, the proposed amendment adopts the same standard for water quality adopted by the Oklahoma Department of Health which owners and operators of amusement rides have been required to follow in the past. Therefore, the cost of compliance is expected to be minimal. No information on the cost impact of this provision has been received by the agency from any private or public entities at this time.

The amended definitions in OAC 380:55-1-2 and OAC 380:55-5-5 may affect all owners and operators of amusement rides by clarifying the Amusement Ride Safety Act and rules promulgated pursuant to the act. The amended definitions of “kiddie rides,” “major rides,” and “other rides” in OAC 380:55-5-5 will clarify how the fee structure created in 40 O.S. §463 will be applied to inflatable rides, water park rides, and the water quality of water park rides. The ODOL has been interpreting “kiddie rides” to include inflatable rides and “major rides” to include water park rides and has already been charging the applicable fees under previous rule. Therefore, no economic impact is expected for these groups. The ODOL has not conducted any water quality tests, so the inclusion of water quality testing into “other rides” may have an economic impact. No information on the cost impact of this provision has been received by the agency from any private or public entities at this time.

**Description of the classes of persons who will benefit from the proposed rule:**

All citizens of the state of Oklahoma who may have cause to ride an amusement ride will benefit from the proposed rules. The amendment to OAC 380:55-13-1, which is required by the newly enacted 40 O.S. §471, will help ensure the safety of these Oklahomans by enforcing the existing requirement that amusement ride operators be trained according to the most current edition of the American Society for Testing of Materials (ASTM) standards, entitled "ASTM Standards for Amusement Rides and Devices". In 2007, the only amusement ride fatality in Oklahoma was caused by operator error. Further, almost one-third (1/3) of all amusement ride injuries were caused by operator error. By ensuring the training requirements are being met, we can reduce the number of amusement ride accidents and ensure the safety of the citizens of Oklahoma. The amendment to OAC 380:55-13-2 will benefit anyone who rides a water park ride by ensuring the water quality meets applicable standards.

**Description of the probable economic impact of the proposed rule upon affected classes of persons or political subdivisions, including a listing for all fee changes and, whenever possible, separate justification for each fee change:**

The amendment to OAC 380:55-13-1 is not expected to have a significant economic impact on any affected classes of persons or political subdivisions. No fees will be charged for certificates. Amusement ride owners will not be required to provide any additional training which is not currently required. Therefore, the ODOL does not anticipate that amusement ride operators will incur any significant cost beyond the cost currently incurred.

Likewise, the amendment to OAC 380:55-13-2 is not expected to have a significant economic impact on any affected classes of persons or political subdivisions. The proposed amendment adopts the same standard for water quality adopted by the Oklahoma Department of Health which owners and operators of amusement rides have been required to follow in the past. Therefore, the cost of compliance is expected to be minimal.

Although no actual fee changes are made in these proposed rules, the amended definitions of “kiddie rides,” “major rides,” and “other rides” in OAC 380:55-5-5 will clarify how the fee structure created in 40 O.S. §463 will be applied to inflatable rides, water park rides, and the water quality of water park rides. The ODOL has been interpreting “kiddie rides” to include inflatable rides and “major rides” to include water park rides and has already been charging the applicable fees under previous rule. Therefore, no economic impact is expected for these groups. The ODOL has not conducted any water quality tests, so the inclusion of water quality testing into “other rides” may have an economic impact. The charge for “other rides” is set by 40 O.S. §463 at \$100 per hour. It is anticipated that water quality testing for large water parks can be completed within approximately four hours. Water quality testing for small water parks can likely be completed within one hour. Therefore, it is anticipated that no water park will be charged more than approximately \$400 per year and the majority will likely not be charged more than \$100 per year. Some of these small water parks are owned and operated by political subdivisions. However, since political subdivisions are exempt from payment of fees under the Amusement Ride Safety Act, no economic impact is anticipated for political subdivisions.

**The probable costs and benefits to the agency and to any other agency of the implementation and enforcement of the proposed rule, the source of revenue to be used for implementation and enforcement of the proposed rule, and anticipated effects on state revenues, including a projected net loss or gain in such revenues if it can be projected by the agency:**

The amendment to OAC 380:55-13-1 is not expected to provide any significant loss or gain in agency revenue or the state’s general revenue. The rules for the certification of operators will be enforced through existing funding sources budgeted for the Safety Standards Division and Administration.

The amendment to the definition of “kiddie rides” and “major rides” is not expected to provide any significant loss or gain in agency revenue or the state’s general revenue. The ODOL has previously been interpreting the definitions to include inflatable rides and amusement park rides. Therefore, there would be no change to agency revenue or the state’s general revenue.

The inclusion of water quality testing in the definition of “other rides” is expected to increase the state’s general revenue. The ODOL estimates that there are approximately twenty-five water parks in the state. Of these twenty-five parks, it is anticipated that most will require approximately one hour of time. The expected increase in the state’s general revenue is \$4,000. Since ODOL will already be traveling to and from these parks to inspect the structure of the water park rides, the only additional anticipated cost to the agency is the slight increase in inspection time, which is estimated at approximately 40 hours per year.

**A determination of whether implementation of the proposed rule will have an economic impact on any political subdivision or require their cooperation in implementing or enforcing the rule:**

No economic impact on political subdivisions is anticipated, nor will they be required to cooperating in implementing or enforcing this rule. Initially, a small economic impact on political subdivisions was expected because some political subdivisions have amusement rides or water slides. However, upon further review of 40 O.S. §463, political subdivisions are exempt from payment of fees under the Amusement Ride Safety Act. Therefore, no economic impact on political subdivisions is anticipated.

**A determination of whether implementation of the proposed rule may have an adverse economic effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act:**

The ODOL does not collect information regarding the size of the businesses who own amusement parks. However, it is anticipated that most amusement ride owners and operators who do business in the state employ less than 50 full time or part time employees. Therefore, a majority of amusement ride owners and operators affected by these rules are expected to be small businesses. However, as stated above, the economic impact is expected to be minimal.

**An explanation of the measures the agency has taken to minimize compliance costs and a determination of whether there are less costly or nonregulatory methods or less intrusive methods for achieving the purpose of the proposed rule:**

Other jurisdictional authorities and members of the amusement ride industry were consulted during the development of the rules to ensure that the most effective rules were developed. No fees will be charged for the certification of operators under these rules. The inspection fees for inflatable rides and water park rides have previously been interpreted to fall within the fee structure established by the Oklahoma Legislature. The minimal fee of \$100 per hour for water quality testing is expected to cover only the actual costs of the testing. There is no less costly non-regulatory method available.

**A determination of the effect of the proposed rule on the public health, safety and environment and, if the proposed rule is designed to reduce significant risks to the public health, safety and environment, an explanation of the nature of the risk and to what extent the proposed rule will reduce the risk:**

The proposed rules will enhance public safety by reducing the risk of injury that may be associated with amusement rides. In 2007, the only amusement ride fatality in Oklahoma was caused by operator error. Further, almost one-third (1/3) of all amusement ride injuries were caused by operator error. These rules help ensure the safety of these Oklahomans by enforcing the existing requirement that amusement ride operators be trained according to the national standards. By ensuring the training requirements are being met, we can reduce the number of amusement ride accidents and ensure the safety of the citizens of Oklahoma.

**A determination of any detrimental effect on the public health, safety and environment if the proposed rules are not implemented:**

If the proposed rules are not implemented, there will be a detrimental effect on public health, safety and environment, as there will be no guidance on how to execute the newly enacted Oklahoma Statute Title 40, Section 471. The percentage of amusement ride accidents caused by operator error is alarmingly high and can be expected to increase as amusement rides become bigger, faster, and more complex in the future. Without rules allowing the ODOL to more effectively ensure compliance with the existing training requirements, the safety and health of all citizens of Oklahoma who ride amusement rides will continue to be at risk.

**Date the rule impact statement was prepared and the date modified:**

Prepared: January 14, 2009  
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