

**5:14A-5.4 Amended type certification**

(a) The manufacturer shall submit an application for an amended type certification, in accordance with the requirements of N.J.A.C. 5:14A-2.6, for any modification to a ride that has a current type certification. The application package shall identify the differences from the information provided for the type certification.

(b) Amended type certification shall be valid for a period of three years and may be renewed every three years provided that the manufacturer continues to support the ride within the full meaning of this chapter.

(c) If, as determined by the Department, an amusement ride is materially rebuilt or so modified as to change its original action, then a new type certification or individual approval shall be required as if it were a new ride.

**5:14A-5.5 Quality assurance manual**

For rides being issued a type certified or individual approval, the manufacturer shall provide a quality assurance manual that is in compliance with ASTM F 1193-97.

**5:14A-5.6 Retention of documents, drawings and calculations**

All required quality assurance documents including, but not limited to, material certifications, test reports, inspection reports, drawings and calculations shall be retained by the manufacturer for at least the design life of the ride or 20 years from the date of last manufacture, whichever is longer, or until all such rides have been destroyed or scrapped. This shall include any ride that uses the documentation in question. The Department shall be notified six months prior to the destruction of such documents.

**5:14A-5.7 Notification, bulletins and other information as required by the Department**

(a) When the manufacturer is notified by an owner of an incident, whether in this State or elsewhere, involving a serious injury or a critical structural or mechanical component of a ride, the manufacturer shall promptly evaluate the information in that notification and, if necessary, provide, in the form of a safety bulletin, the results of that evaluation, together with any recommendations to eliminate or prevent the situation that created the incident, to the Department and to all known owners of the ride in the State.

(b) The manufacturer of a ride shall also provide to the Department and to all known owners of the ride in the State:

1. All bulletins, and notifications on type certified rides;
2. Information as necessary for those rides that have individual approval or supplemental modification certification based on the manufacturer's documentation supplied by the owner or responsible person; and

3. Other documents requested by the Department as a result of an incident involving a ride supported by the manufacturer, either directly or indirectly.

**SUBCHAPTER 6. VIOLATIONS, PENALTIES, REMEDIES AND INVESTIGATIONS****5:14A-6.1 Title; scope; intent**

(a) This subchapter, adopted pursuant to authority of the Carnival-Amusement Rides Safety Act and entitled "Violations, Penalties, Remedies and Investigations," shall be known and may be cited throughout the rules as N.J.A.C. 5:14A-6, and when referred to in this subchapter may be cited as "this subchapter."

(b) This subchapter establishes the procedures for owners, operators or manufacturers to follow upon receipt of an order of the Commissioner and establishes the amount of penalties and reasons for action and provides information on Department investigations.

(c) A violation of the Act occurs whenever an owner, manufacturer, officer, agent, employee or person interferes in any manner with the implementation of, or otherwise fails to comply with, the provisions of the Act or rules promulgated pursuant to the Act.

**5:14A-6.2 Revocation of carnival-amusement ride permit, certification or approval**

(a) Any owner may have his or her amusement ride permit or individual approval revoked for:

1. Incompetence;
2. Negligence;
3. Continuing to operate an amusement ride without the Department's authorization when an incident as described in N.J.A.C. 5:14A-4.13 occurs;
4. Failure to notify the Department of any incident as required by N.J.A.C. 5:14A-4.13;
5. The discovery of false, invalid, incorrect or fraudulent information related to the design of the ride or its safe operation;
6. Knowingly submitting false, invalid or fraudulent information that is not related to the design of the ride or its safe operation; or
7. Failure to comply with the Carnival-Amusement Ride Safety Act, N.J.S.A. 5:3-31 et seq., orders of the Commissioner, or this chapter.

(b) Any owner who has an amusement ride permit revoked pursuant to this section shall not operate the affected

amusement ride until such permit is restored by the Department through the regular application process.

(c) Any manufacturer may have a type certification or amended type certification revoked for:

1. Failure to report incidents as required by N.J.A.C. 5:14A-5.7;
2. Repeated failure to issue safety bulletins required by the Department;
3. Repeated failure to supply requested engineering analyses;
4. The discovery of or knowingly submitting false, invalid, incorrect or fraudulent information related to the design or manufacture of a ride; or
5. Failure to comply with the Carnival-Amusement Ride Safety Act, N.J.S.A. 5:3-31 et seq., orders of the Commissioner, or this chapter.

(d) Any manufacturer who has a type certification or amended type certification revoked, after exhaustion of all available remedies at law, shall be prohibited to sell, erect, use or install that carnival-amusement ride in this State.

#### 5:14A-6.3 Administrative penalties

(a) The Commissioner or the Commissioner's designee is authorized to assess and collect an administrative penalty in the amount of up to \$5,000 for each violation.

(b) In determining the amount of the penalty, the following factors shall be considered:

1. Whether there has been a good faith attempt at full compliance;
2. The seriousness of the violation;
3. The past history of violations or non-compliance with orders;
4. Whether the violation was willful;
5. Whether the violation did cause or could have caused injury or bodily harm;
6. Whether the violation poses an imminent hazard to public health and safety; and
7. Any other appropriate factors.

(c) Each day in which the owner, operator or manufacturer operates a ride in violation of an order issued by the Department or allows a violation to continue, shall be considered a separate violation.

(d) Except as otherwise set forth in this section, no administrative penalty shall be levied pursuant to this section unless the alleged violator is provided with a notice and order to abate the violation, the amount of any penalty, and an opportunity to request an administrative hearing. Penalties may be issued without prior notice to abate for the following violations:

1. Operating a ride without a permit;
2. Modification of a ride without approval by the Department;
3. Operating a ride in a manner likely to cause injury;
4. Submission or maintenance of false, invalid or fraudulent information;
5. Failure to cease operation after a serious incident;
6. Failure to report an incident; or
7. Failure to comply with an order of the Commissioner that is in the form of an express condition of a permit, individual approval, type certification, or amended type certification.

#### 5:14A-6.4 Appeals and hearings

(a) A request for an administrative hearing shall be submitted, in writing, within 10-calendar-days following the receipt of the notice or order. Hearing requests shall be addressed to: Hearing Coordinator, Department of Codes and Standards, PO Box 802, Trenton, New Jersey 08625-0802. All hearings shall be conducted pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(b) When an aggrieved person fails to request a formal hearing within the 10-calendar-day period specified in (a) above, his or her right to a formal hearing shall be deemed waived and the agency action shall become final.

(c) Recipients of an administrative penalty assessment may request the initiation of a settlement conference at the time that a hearing request is made. If a party requests a settlement conference, or the Department determines that a settlement conference might be useful, a settlement conference shall be scheduled and conducted by the Department within 30 days of the receipt of the hearing request.

(d) If a settlement is not agreed upon or no settlement conference is scheduled and a hearing has been requested, the matter shall be transmitted to the Office of Administrative Law (OAL) for hearing.

(e) Payment of the penalty shall be due when a final agency determination is issued or when a notification becomes a final decision because no appeal has been filed.