

## AMUSEMENT PARKS AND RIDES

## CHAPTER 61

## ADMINISTRATION OF IOWA CODE CHAPTER 88A

[Prior to 9/24/86, Labor, Bureau of [530]]

[Prior to 10/21/98, see 347—Ch 61]

**875—61.1(88A) Scope.** 875—Chapters 61 through 63 do not apply to the following:

**61.1(1)** A water park or water park attraction including, but not limited to, a water slide, wave action pool, and lazy river. This subrule does not apply to an amusement ride that propels patrons using a power source other than gravity even though water is present.

**61.1(2)** A live-animal ride.

**61.1(3)** A vessel inspected pursuant to Iowa Code chapter 462A.

**61.1(4)** An amusement structure in which the patrons navigate on their own power and the patrons do not ride, climb, or walk on a mechanical component.

**61.1(5)** A device that meets all of the following criteria:

- a. Was designed and built to be operated by a coin, card, or token;
- b. Was designed and built to be operated by the patron rather than an attendant;
- c. Operates on self-contained wiring that was installed by the manufacturer;
- d. Operates on less than 120 volts of electrical power; and
- e. Is within or is part of a structure subject to a state or local building code.

**61.1(6)** Playground equipment owned, maintained, and operated by any political subdivision of this state.

**61.1(7)** A concession booth, amusement device, or amusement ride that meets all of the following:

- a. Is owned and operated by a nonprofit organization or school; and
- b. Is located in a building subject to inspection by the state fire marshal or a local government.

**61.1(8)** Nonmechanized physical fitness and playground equipment unless a fee is charged to use the equipment.

**61.1(9)** Physical fitness equipment that does not meet the definition of “amusement device.”

**61.1(10)** A tramway used as a ski lift.

**61.1(11)** A scenic railway operating on standard-gauge rails.

**61.1(12)** A zip line or climbing wall located at a camp or retreat owned or operated by a nonprofit religious, educational or charitable institution or association.

[ARC 2428C, IAB 3/2/16, effective 4/6/16; see Delay note at end of chapter]

**875—61.2(88A) Definitions.** The definitions in this rule apply to 875—Chapters 61 through 63.

“*Air-supported structure*” means an amusement device that employs a high-strength fabric or film that achieves its strength, shape and stability from internal air pressure provided by a mechanical device such as an air blower or fan.

“*Amusement device*” means a climbing wall utilizing an auto-belay system; a bungee jump as defined in 875—Chapter 63; a device allowing a patron to jump on a trampoline while attached to one or more bungee cords; a dry slide; a mechanical bull; a zip line that does not allow the rider to touch the ground at all times; and an air-supported structure.

“*ANSI*” means the American National Standards Institute.

“*Assistant*” means a paid or volunteer person working under the direct supervision of an attendant or operator.

“*ASTM*” means the ASTM Standards on Amusement Rides and Devices published by ASTM International.

“*Attendant*” means a paid or volunteer person who controls patron restraints or the operation, starting, stopping, or speed of covered equipment.

“*Carnival*” means an enterprise offering amusement or entertainment to the public in, upon, or by means of amusement devices or rides or concession booths.

“*Certificate of noncompliance*” means:

1. A certificate of noncompliance issued by the child support recovery unit, department of human services, pursuant to Iowa Code chapter 252J;
2. A certificate of noncompliance issued by the college student aid commission pursuant to Iowa Code chapter 261; or
3. A certificate of noncompliance issued by the centralized collection unit, department of revenue, pursuant to Iowa Code chapter 272D.

“*Commissioner*” means the labor commissioner or the labor commissioner’s authorized designee.

“*Concession booth*” means a structure that is powered by electricity and offers amusements to the public at more than one fair or carnival, or at one fair or carnival for more than seven consecutive days. A structure or enclosure offering only goods, food or beverages, rather than amusements, is not a “concession booth.”

“*Covered equipment*” means an amusement ride, amusement device, concession booth or related electrical equipment that is covered by Iowa Code chapter 88A.

“*Fair*” means an enterprise principally devoted to the exhibition of products of agriculture or industry in connection with the operation of covered equipment.

“*Major breakdown*” means stoppage of operation from any cause that results in damage, failure, or breakage in a stress-bearing part of covered equipment.

“*Major modification*” means any change to the structure of or to an operational characteristic, capacity, classification, or mechanism of covered equipment. “Major modification” includes, but is not limited to, changing the mode of transportation from non-wheeled to a truck or flat-bed mount or changing the mode of assembly or other operational functions from manual to mechanical or hydraulic.

“*NFPA*” means the National Fire Protection Association.

“*Operator*” means a person, or the agent of a person, who owns or controls or has the duty to control the operation of covered equipment at a carnival or fair. “Operator” includes an agency of the state or any of its political subdivisions. “Operator” shall include a person who leases covered equipment and controls or has the duty to control its operation at a carnival or fair.

“*Related electrical equipment*” means a portable generator, blower, or other equipment necessary to the operation of an amusement ride, amusement device, or concession booth.

“*Reportable incident*” means an event described by one or more of the following:

1. Damage, failure or breakage of a stress-bearing part of an amusement ride or amusement device;
2. Cessation of covered equipment for more than 20 minutes with at least one rider aboard;
3. An occurrence that nearly resulted in personal injury; or
4. An occurrence that caused the operator to cease operations unexpectedly to avoid an injury or illness.

“*Rope lay*” means the length along the rope in which one strand makes a complete revolution around the rope.

“*Walkway*” means a public passage through a carnival, fair, or park.

[ARC 2428C, IAB 3/2/16, effective 4/6/16; see Delay note at end of chapter]

**875—61.3(88A) Owner and operator requirements.** No person shall operate covered equipment at a carnival or fair unless the person holds a current operating permit and the covered equipment has passed an Iowa inspection.

**61.3(1) Operating permit.** No later than May 1 and at least 14 days before operation begins each calendar year, the operator of covered equipment shall apply to the commissioner for an operating permit. Application shall be made on a form provided by the commissioner. Each of the following shall be submitted with the completed operating permit application:

- a. The applicable fee;
  - b. A certificate of insurance issued by an insurance company authorized to do business in Iowa.
- The certificate of insurance shall:

(1) Certify a policy in the minimum amount of \$1 million for bodily injury, death, or property damage in any one occurrence;

- (2) List the specific pieces of equipment that are covered and, if applicable, those that are not covered; and
- (3) Include “Division of Labor Services—Amusements” as a certificate holder;
  - c. The operator’s itinerary identifying the covered equipment to be operated and the dates and locations where each will be operated;
  - d. General design criteria, safety factors, materials utilized, and stress analysis unless the amusement ride or amusement device was granted an Iowa amusement inspection sticker during the previous calendar year;
  - e. Certification of compliance with applicable training and maintenance requirements;
  - f. With an application submitted after May 1, proof that the applicant could not have reasonably complied with the May 1 deadline and proof that the application was filed immediately after need for the permit was known;
  - g. Separately for each bungee jump:
    - (1) A site operating manual;
    - (2) A report which is prepared and sealed by a professional engineer who is licensed in Iowa and which certifies that the design and construction of the equipment and structure are suitable for the intended use and conform to Iowa law, recognized engineering practices, procedures, standards and specifications;
    - (3) Site plan drawings depicting the preparation area, the jump space, the landing area, the recovery area and other features to be included in the approved operating site;
    - (4) Specifications of equipment and structures; and
    - (5) Depictions of the location, specifications, dimensions, and type of air bag, pool or body of water where the jumper will land.

**61.3(2) *Changes to information submitted with application.*** The operator shall immediately notify the commissioner of any changes to the operator’s itinerary. The operator shall promptly notify the commissioner of other changes to information provided with the operating permit application.

**61.3(3) *Leases.*** The requirements of this subrule apply when covered equipment is leased for use at a fair or carnival.

a. The owner shall notify the commissioner within 48 hours of leasing the covered equipment. The notification shall include the name, address, and contact information for the lessee and lessor, a description of the covered equipment, and the dates and location of its intended operation.

b. The lessor shall give the lessee a copy of the manual for the leased covered equipment and shall train the lessee or the lessee’s designated representatives on the use of the equipment.

c. The lessee shall obtain an operating permit.

**61.3(4) *Personal injuries and deaths.***

a. The operator shall immediately report by telephone any accident that results in death or medical care beyond first aid.

b. Within 48 hours after an operator is notified of a claim or report to the operator’s insurance provider, the operator shall submit a duplicate copy of the report or claim to the commissioner.

c. The commissioner may require that the scene of an accident be secured and not disturbed to any greater extent than necessary for removal of the deceased or injured person. If covered equipment is removed from service by the commissioner, the covered equipment shall be returned to service only upon the commissioner’s authorization.

**61.3(5) *Major breakdown report.*** The operator shall report a major breakdown of covered equipment to the commissioner immediately and provide a detailed report in writing within 48 hours. The commissioner may order the covered equipment to be withheld from operation, and in such case, the commissioner shall conduct an immediate investigation. The covered equipment shall be released for repair and operation only after the commissioner’s investigation is complete.

**61.3(6) *Advance notice of major modification.*** The operator shall notify the commissioner in writing at least ten days prior to a major modification. If requested by the commissioner, the operator shall provide plans, diagrams, and ride analysis documentation consistent with ASTM F2291-15.

**61.3(7) Technical data.** If requested by the commissioner, the operator shall provide an English language version of the following:

*a.* Data concerning constant, reversible, or eccentric forces generated by acceleration, deceleration, wind, centrifugal action, or inertia.

*b.* Stress analysis and other data pertinent to the structural materials, design, structure, factors of safety or performance characteristics.

[ARC 2428C, IAB 3/2/16, effective 4/6/16; see Delay note at end of chapter; ARC 3685C, IAB 3/14/18, effective 4/18/18]

**875—61.4(88A) Inspections.** Pursuant to Iowa Code chapter 88A, covered equipment must pass an inspection at least annually. Inspections will be performed according to the rules set forth and standards adopted in 875—Chapters 61 to 63.

**61.4(1) Inspection types.** In addition to the inspections listed below, an inspection may be conducted by the commissioner at any time. The fee schedule for annual inspections set forth in Iowa Code section 88A.4 shall apply to all inspections performed by division of labor services inspectors. No person shall operate covered equipment at a fair or carnival unless the covered equipment has passed an inspection in the current calendar year.

*a. Annual inspection by owner.* At the discretion of the commissioner, the owner of an air-supported structure may be designated by the commissioner to perform the annual inspection of the owner's air-supported structure, blower, and related electrical equipment. An owner designated pursuant to this paragraph shall perform the inspection according to applicable standards. The owner shall submit in the format required by the commissioner an affidavit attesting to the performance of the inspection, correction of code violations, and other required information. A designation pursuant to this paragraph shall terminate on December 31 of the year of issuance.

*b. Annual inspection by a division of labor services inspector.* Unless an inspection is waived pursuant to Iowa Code section 88A.13, or the inspection is performed by the owner pursuant to paragraph 61.4(1) "a," a division of labor services inspector shall inspect covered equipment prior to operation.

*c. Major modification inspection.* After covered equipment has undergone a major modification, the covered equipment must pass an inspection by a division of labor inspector before it is put back into use.

**61.4(2) Safety order.** If the division of labor services inspector finds a code violation, the inspector will issue a safety order requiring that the condition be corrected. The deadline for correction of the code violation shall be set forth in the safety order. If the inspector finds one or more code violations pertaining to more than one-half of the seating capacity of an amusement ride, the amusement ride shall not be operated until the violations are corrected. If code violations pertain to one-half or less of the seating capacity of an amusement ride, the amusement ride may be shut down at the discretion of the inspector.

**61.4(3) Cessation order.** If the inspector identifies covered equipment that is hazardous or unsafe, the inspector shall issue a cessation order. The commissioner shall establish that the code violation is corrected before operation of the covered equipment is resumed.

[ARC 2428C, IAB 3/2/16, effective 4/6/16; see Delay note at end of chapter; ARC 3685C, IAB 3/14/18, effective 4/18/18]

**875—61.5(88A) Amusement inspection sticker.** Covered equipment shall not be operated without a current sticker.

**61.5(1)** After covered equipment has passed an annual inspection by the division of labor services inspector, the division of labor services inspector shall affix an amusement inspection sticker to a basic part of the covered equipment in such a manner as to be readily accessible by the inspector.

**61.5(2)** After the commissioner receives satisfactory proof of inspection from an owner designated by the labor commissioner pursuant to paragraph 61.4(1) "a," the commissioner shall mail the sticker to the owner. The owner shall properly affix the sticker to a basic part of the air-supported structure or blower before operation.

**61.5(3)** After covered equipment passes a major-modification inspection, a new amusement inspection sticker will be issued.

**61.5(4)** Before covered equipment is sold, the seller shall remove the amusement inspection sticker. If a current amusement inspection sticker is no longer legible, the operator may request a replacement sticker.

[ARC 2428C, IAB 3/2/16, effective 4/6/16; see Delay note at end of chapter]

**875—61.6(88A,252J,261,272D) Termination, denial, suspension, or revocation of an operating permit.**

**61.6(1)** All active operating permits shall terminate automatically on December 31 of the year of issuance.

**61.6(2)** The commissioner may suspend or revoke an operating permit for any of the following reasons:

- a. Negligence in the operation of covered equipment;
- b. Repeated failure to perform or document proper daily inspections;
- c. Misrepresentation of material information required as a part of the operating permit application package;
- d. Failure to comply with a safety order or cessation order issued by the commissioner;
- e. Operation of covered equipment in disregard of public health, safety and welfare;
- f. Termination of the required insurance coverage;
- g. Failure to pay a liquidated debt owed to the commissioner;
- h. Receipt by the commissioner of a certificate of noncompliance;
- i. Failure of an operator to comply with the proper procedures;
- j. Failure of an operator to provide an adequate number of properly trained and qualified assistants and attendants; or
- k. Submission of a false affidavit of annual inspection by the owner of an air-supported structure.

**61.6(3)** The commissioner may deny an application for an operating permit if the application packet is inadequate or for any reason set forth as grounds for suspension or revocation of an operating permit.  
[ARC 2428C, IAB 3/2/16, effective 4/6/16; see Delay note at end of chapter]

**875—61.7(17A,88A,252J,261,272D) Procedures for revocation, suspension, or denial of an operating permit or amusement inspection sticker.** The procedures set forth in this rule govern the revocation, suspension or denial of an operating permit or amusement inspection sticker.

**61.7(1)** If the commissioner initiates revocation, suspension or denial due to the receipt of a certificate of noncompliance, the applicable procedures of Iowa Code chapter 252J, 261, or 272D shall apply.

**61.7(2)** In the event that immediate action is required due to imminent danger to the public health, safety or welfare, the following procedures shall apply:

- a. The commissioner shall prepare a safety order describing the hazardous condition and shall give the operator, or the operator's representative on site, a copy of the safety order.
- b. The commissioner shall remove the amusement inspection sticker or stickers from covered equipment as necessary to protect the public health, safety or welfare.
- c. The commissioner shall proceed as quickly as feasible to give the operator an opportunity for a hearing as set forth in subrule 61.7(3).

**61.7(3)** In all other cases, the following procedures shall apply:

- a. The commissioner shall serve a notice by restricted certified mail to the address listed on the operating permit application or by other service as permitted by Iowa Code chapter 17A.
- b. The operator shall have 20 days to file a written notice of contest with the commissioner. If the operator does not file a written notice of contest within 20 days of receipt of the notice, the action stated in the notice shall automatically be effective.
- c. The hearing procedures in 875—Chapter 1 shall govern.
- d. Within five business days of final agency action revoking or suspending an operating permit, the operator shall forfeit the operating permit to the commissioner.

[ARC 2428C, IAB 3/2/16, effective 4/6/16; see Delay note at end of chapter]

**875—61.8(88A) Payments.** All fees are nonrefundable. Cash is not accepted. Based on reasonable justification, the commissioner may notify an individual operator that the operator's check will not be accepted.

[ARC 2428C, IAB 3/2/16, effective 4/6/16; see Delay note at end of chapter; ARC 3685C, IAB 3/14/18, effective 4/18/18]

These rules are intended to implement Iowa Code chapters 17A, 88A, 252J, 261, and 272D.

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[Filed ARC 3685C (Notice ARC 3539C, IAB 1/3/18), IAB 3/14/18, effective 4/18/18]

<sup>1</sup> April 6, 2016, effective date of the rescission of former Chapter 61 and the adoption of new Chapter 61 herein [ARC 2428C] delayed 70 days by the Administrative Rules Review Committee at its meeting held March 4, 2016; delay lifted at the meeting held April 8, 2016.