FOR THE CASE OF
Elevator & Amusement Device

TRANSCRIPT OF
Proceedings
March 1, 2016
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For questions, call (615) 268-1244 or send an email to nangeorge@stoneandgeorge.com
The above-styled cause came on for hearing on this the 1st day of March, 2016, before
The Elevator & Amusement Device Safety Board at
5. 220 French Landing Drive, TOSHA Hearing Room, 1st
Floor, Nashville, Tennessee, when and where the
following proceedings were had, to wit:

Robert A. Warner, Warner Haunts, LLC
2. Chris Cannon, Department of Labor and Workforce Development
3. Stephen Clevenger, ZIPStrea Fall Creek Falls
4. Sarah Wyatt, Holston Home for Children
5. Anthony Curtis, Adventure Designs
6. David Sells, Space Walk Party and Event Rental
7. Tony Arwell, Jump Jump Bounce
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**AGENDA**

1. **Call Meeting to Order**
2. **Introductions**
3. **Pledge**
4. **Announcements**
5. **Annual Conflict of Interest Policy, Acknowledgement and Disclosure**
6. **Elevator Unit's Report**
7. **Amusement Device Unit's Report**
8. **Old Business**
   - 16-01
9. **New Business**
   - 16-01
10. **Discussion Items:**
    - Procedures required to adopt new standards/guidelines not currently in the Amusement Device rules.
    - Procedures for amending Amusement Device rules to remove the year from current ASTM references. Chapters 0800-03-04.02; 0800-03-04-.12; 0800-03-04-.13 0800-03-04-.14; 0800-03-04-.18, etc.
    - Required verbiage when a third-party inspector submits an inspection report stating devices are safe and operable and meet ASTM standards.
    - Permit Application Fees/Device Fees Chapter 0800-03-04-.25
    - LULA Lift Update - Rule 0800-03-04-.02
11. **Announcement of Next Meeting**

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**PROCEEDINGS**

CHAIRMAN FOX: Good morning. We will call the March 1st, 2016 Elevator and Amusement Device Safety Board Meeting to order. If we could go around the room starting with Carlene and let's do some quick introductions.

- **MS. BENNETT:** Hi --
- **MR. FARMER:** Chris Farmer, Elevator Inspector Supervisor.
- **MS. O'CONNOR:** Kelly O'Connor, Board member, representing Public at Large.
- **MR. HALE:** David Hale, Board member, representing the Tennessee Association of Fairs.
- **CHAIRMAN FOX:** Robbie Fox representing Fixed Parts.
- **MR. BURCH:** Perry Burch representing manufacturers.
- **MR. MOORE:** Larry Moore representing the owners and the lessee.
- **MR. MOORER:** Lewis Moorer, member at large.

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Elevator & Amusement Device Safety Board meeting will be held in the first floor TOSHA Hearing Room at 9:00 a.m. (CT) on Tuesday, June 7, 2016 at the State of Tennessee, Department of Labor and Workforce Development building, located at 220 French Landing Drive, Nashville, Tennessee.

XI. Adjournment

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MR. FINKS: Mark Finks, Assistant Administrator for the Workplace Regulations and Compliance Division.

- **MR. BAILEY:** Dan Bailey, legal counsel.
- **CHAIRMAN FOX:** Sir, let's start with the gentleman here in the corner. I hate to pick on you but you just look nice, and I just thought I'd ask you to introduce yourself. But just go back that way and then start from the back and come forward. You don't have to come all -- no. No, no, no. Just introduce yourself.
- **MR. FARMER:** Just introduce yourself, David.
- **MR. PLUMMER:** Sorry, gotcha.
- **CHAIRMAN FOX:** Hi, David. Who are you?
- **MR. PLUMMER:** David Plummer. I'm an architect for Eccentric Architecture here regarding a possible elevator remodel at the State Capitol.
- **CHAIRMAN FOX:** Okay.
- **MR. ATWELL:** Tony Atwell, Jump Jump Bounce.
- **MR. SELLS:** David Sells with Space Walk Party and Event Rental.

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1. MR. CURTIS: Anthony Curtis, Adventure Designs.
2. MS. HALVERSON: Jennifer Halverson, Adventureworks.
3. MR. CARROLL: Robert Carroll, Local 572.
4. MR. MAYO: Chris Mayo, Local 572.
5. MR. CLEVENGER: Steve Clevenger, ZIPstream Aerial Adventure Parks.
7. MS. WYATT: Sarah Wyatt, Holston Home for Children.
8. MS. GIPSON: Gabrielle Gipson, Gipson Mechanical.
9. MR. WILSON: David Wilson, Gipson Mechanical.
10. MR. KING: Stephen King, Gipson Mechanical.
11. MR. CANNON: Chris Cannon, Department of Workforce and Labor.
12. MS. KELSEY: Melinda Kelsey, Commissioner's Office, Department of Labor and Workforce Development.
13. MS. DOWER: Jann Dower, Commissioner's Office.
15. MS. POWERS: Mary Audrey Powers, Navitat Canopy Adventures.
17. MR. STOCK: Don Stock, the Adventure Guild ZIPstream Aerial Adventures.
18. MR. ANDREWS: Scott Andrews, Association for Challenge Course Technology.
19. MR. SMITH: Mike Smith, ZIPStream Fall Creek Falls.
21. CHAIRMAN FOX: Okay. Folks, if you will, please stand. I'd ask Mr. Hale to lead us in the pledge.
22. MR. HALE: Please address the flag. (Pledge of Allegiance recited by all.)
23. CHAIRMAN FOX: Mr. Hale, you did that.

1. with conviction, and I appreciate that.
2. MR. HALE: Thank you.
3. CHAIRMAN FOX: Okay. An announcement: In the event of an emergency or natural disaster, security personnel will take attendees to a safe place in the building or direct them to exit the building on the Rosa Parks side. Mr. Finks, will you -- which way are we going when we leave here if that happens?
4. CHAIRMAN FOX: The Rosa Parks side is that way.
5. MR. FINKS: The Rosa Parks side is straight out?
6. MR. FINKS: Uh-huh.
7. CHAIRMAN FOX: Go into the lobby and straight out, if that happens, right?
8. MR. FINKS: Yes.
9. CHAIRMAN FOX: Okay. Thank you very much. All right. Ms. Bennett, has everyone signed their conflict of interest? Or we got people signing them right now, I think.
10. MS. BENNETT: The only person now would be Mr. Edens.
11. CHAIRMAN FOX: Okay. And I'm assuming as soon as he gets better, he'll be back.

1. MS. BENNETT: Right. Right.
2. CHAIRMAN FOX: Okay. Mr. Farmer.
3. MR. FARMER: Yes, sir.
4. CHAIRMAN FOX: The Elevator Unit's report.
5. MR. FARMER: All right. I'll just go over some numbers for where we're at this year from where we were this time last year. This year, we've done 3,226 inspections. It's down a little bit from last year of 3,579. We've done 88 acceptance inspections, and that's up from 46 from this time last year. We have at -- 96 permit applications this year versus 68 last year at this time. We currently have 24 inspectors, including myself, and we're in the process of hiring four new inspectors and hope to get them in here by March 16th. There'll be one East Tennessee inspector and three Middle Tennessee inspectors. We're going to be doing our recertification for QEI April 5th through the 8th in Gatlinburg. And anybody is welcome to come, if they want to.
6. CHAIRMAN FOX: Where is it?
7. MR. FARMER: April 5th through the 8th. It'll be at the Creekside in Gatlinburg. And...
1. I believe --
2. MR. BURCH: Can I ask a question
3. about that? Is it in a NAESA? Can I come to that?
4. MR. FARMER: Yes, you can. It
5. counts.
6. MR. BURCH: Okay.
7. MR. FARMER: So if you want to get
8. with them, just get with me after and I can give you
9. you the contact numbers.
10. MR. BURCH: Appreciate it.
11. MR. FARMER: So -- and I believe
12. that's all I got for you.
13. CHAIRMAN FOX: May I ask a question?
14. MR. FARMER: Sure.
15. CHAIRMAN FOX: You're going to hire
16. four inspectors.
17. MR. FARMER: Yes, sir.
18. CHAIRMAN FOX: Do you hire those
19. already certified or -- me being a non-certified
20. person, if I were to come to work for you --
21. MR. FARMER: Most --
22. CHAIRMAN FOX: -- how long -- would
23. you consider me, first of all, and then second of
24. all, if you did, how long would it take me normally?
25. MR. FARMER: Yeah. We do not -- we

1. take elevator personnel, people that have
2. experience. They're not always certified but they
3. do have elevator knowledge. There is a minimum of
4. three years in the elevator business. We get them
5. in and we train them and we give them a state-issued
6. test, and once they pass that test, they're able to
7. go out and do certain parts of the job until they
8. get a full year in and then they become QEI
9. certified. And then they're free to do whatever we
10. need them to. So --
11. CHAIRMAN FOX: Okay. So there's sort
12. of an apprentice period?
13. MR. FARMER: Yeah. Well, we don't
14. call it apprenticeship, but it's like an
15. apprenticeship. It's a -- you know, they know
16. elevators. They know mechanical. They don't know
17. how to inspect elevators. So we teach them how to
18. apply their knowledge to the inspection process.
19. CHAIRMAN FOX: Okay. All right.
20. Thank you, sir.
21. MR. FARMER: And we've got four good
22. candidates. They all have elevator experience and I
23. hope they hit the ground running. So we need them.
24. CHAIRMAN FOX: Okay. Mr. Finks, are
25. you going to report on the elevator -- or excuse me,
MS. BENNETT: No. The job descriptions haven't been written yet, but it was my understanding that potentially it might be difficult to attract certified people because of the salaries that could be offered.

So there may be a case, like Chris mentioned, to where we could get somebody with experience and then give them time to become certified. But I don't think it's a requirement for them to hire on as being certified. But there again, that's something left up to Kim and the administration when they did the job description.

CHAIRMAN FOX: One of the things that we put in the job description when we're looking at hiring someone who works for my team is that you must obtain or seek a certification in either NAARSO or AIMS. You must obtain that in two years. That's one of the contingencies of working for the team that I'm on. Is it possible to put that in the job description, or furthermore, would it be possible for us to see the job descriptions before they're posted?

MR. FINKS: As far as your second question, seeing the job descriptions before they're posted, absolutely. That'll be -- they'll be public record when they're posted. When job descriptions are posted, it'll be public information. And so we can certainly furnish that to this Board, furnish you, Mr. Fox, Chairman Fox, the description on that to provide to the Board members.

CHAIRMAN FOX: All right.

MR. FINKS: As far as the other requirement -- whether it'd be a requirement, that would be something we'd have to look at. I don't know at this point in time whether that is something that Ms. Jefferson and the Administration would want to do or not. I don't know at this time, but we'd have to look at that.

CHAIRMAN FOX: Okay. Is it possible -- is it proper for this Board to have input into that job description?

MR. FINKS: Yes, sir. You make comments and we'll take it -- take -- to review the comments and come up with the job description, and that would certainly be appropriate.

CHAIRMAN FOX: Okay.

MS. O'CONNOR: Mr. Chairman, may I say something?

CHAIRMAN FOX: Please.

MS. O'CONNOR: I would just like to say something?

CHAIRMAN FOX: Okay.

CHAIRMAN FOX: Please.

MS. O'CONNOR: I would just like to thank the Administration and the Commission for getting this in the budget. This is something that I think unanimously this Board has felt very strongly about getting for a long time. Thank you for getting that in the budget, and we'll do everything that we can, I think, to talk to any committee members so that this can actually happen. So thank you.

MR. FINKS: You're welcome.

CHAIRMAN FOX: I totally agree with you. I -- you know, I applaud the Commissioner and I applaud Ms. Jefferson for taking this -- as we said in the e-mail, taking this through the process.

We're just glad to have them; we think with inspectors or someone who's providing oversight to our rides and attractions, we think that that makes Tennessee safer. That's our goal, and that's what we want to do. And again, thank you. Anything else, Mr. Finks?

MR. FINKS: No, sir.

CHAIRMAN FOX: All right. Thank you very much. Item Number 7, Old Business. There be any old business to come before the Board? Okay.

You had mentioned something about --

MR. FARMER: Yes. I'll let Mr. Plummer get up and speak. They're doing a renovation at the State Capitol and the elevators they're looking to install would need a variance, but he just wanted to come before the Board and just kind of give a scope of his work of what they're planning on doing. So if you want to --

MR. PLUMMER: Thank you, Mr. Farmer.

CHAIRMAN FOX: Sir, may I ask you to do one thing for me?

MR. PLUMMER: Yes.

CHAIRMAN FOX: I'm old. I don't hear well. So could you, number one, introduce yourself --

MR. PLUMMER: Yeah.

CHAIRMAN FOX: -- and then speak loud, please. Not real loud but just loud enough that we can hear you.

MR. PLUMMER: No problem. I'll do my best.

CHAIRMAN FOX: Okay.

MR. PLUMMER: My name's David Plummer. I'm an architect here in Nashville with Centric Architecture. We do not have a specific appeal before the Board at this time, but as the State Capitol is, as we all know, one of the oldest
some odd conditions, help us think of the best way to solve these challenges.  
12. He did. We had a very good review and he suggested that I come before the Board just to give you all some information briefly so that we need to file an appeal probably at the next board meeting, you would know what the project is and what's going on.  
13. So the State -- there's currently a project underway which we're leading to renovate the Cordell Hull Building for the new legislative offices. They're currently in Legislative Plaza; they would move to the Cordell Hull. The current elevators serve the Motlow tunnel, which is the tunnel that connects under Charlotte to Legislative Plaza. Our -- part of our project would be to extend those down further to make a new connection to Cordell Hull. But as a function of extending the shaft, making it taller, we need to increase the elevator speed so that we can get all of the legislature from their committee rooms and offices up into the Capitol when it's time to place a vote without creating a 40-minute delay trying to wait on the elevator. And so we just have a few clearance things that we're trying to work through.

11. I've explained to Mr. Farmer -- and I can go into drawing some details and stuff, but I really don't want to take your time, because I don't have an appeal today. But the overhead clearance in the elevator shafts is satisfactory for the current 300-foot-per-minute travel speed but not enough for the proposed 500-foot-per-minute travel speed.

19. Mr. Farmer suggested that we look at the MRL equipment. The way that these cabs are roped is different than the way that MRL cabs are roped. We can make some changes. I'm optimistic that we'll figure out a way to do all of this without needing any variances or appeals just because that's the way I like to work. But

1. existing buildings currently still in the state, the
2. particularities of the elevator shafts and the space for equipment and so on are unique, they're historic, they've been there a long time, and they're in pretty thick stone walls in some cases.
3. So we called Mr. Farmer and asked him to come and walk through those spaces with us to kind of talk through, hey, here's what we're doing, here's the improvements we're trying to make; these are some odd conditions, help us think through the best way to solve these challenges.

5. Mr. Farmer suggested that we look at minute travel speed.
6. but not enough for the proposed 500-foot-per-minute travel speed. A clearance in the elevator shafts is satisfactory for the current 300-foot-per-minute travel speed but not enough for the proposed 500-foot-per-minute travel speed.

15. CHAIRMAN FOX: Okay. Mr. Burch?
16. MR. BURCH: Yes, I have a question.  
17. How many new stops are you going to incur when you do that? Just one.  
18. MR. PLUMMER: One stop per shaft.
19. MR. BURCH: One at the bottom.
20. MR. PLUMMER: Yes, sir. That's exactly right. We're not increasing anything at the top, we're just adding another stop further down.
21. MR. FARMER: Do we know how many feet that is that you're adding?

1. there's some things in the Capitol, specifically, some big, thick stone arches that hold up the cupola that we just can't move. So Mr. Farmer is there anything that I've left out?
5. MR. FARMER: No. Just to tell you what's happening. If they weren't changing the speed or the rise of it, they could do this under A17-3 and it wouldn't be that big a deal. But any time you change any of the characteristics, they have to put it -- it has to go into the new code, and the new code's got the clearance issues for here. So that -- it would need a variance for them when that time comes if that's the avenue they see. You know.

9. You know.
10. MR. FARMER: Do we know how many feet above 300?
11. MR. PLUMMER: About 54 feet plus or minus a few inches.
12. MR. FARMER: Yeah. So it's quite a bit.

13. MR. HALE: And how many shafts?
14. MR. FARMER: Two.
15. MR. BURCH: So what are you anticipating -- how much increase the speed are you above 300?
16. MR. PLUMMER: From 300 to 500.
17. MR. BURCH: Five hundred.
18. MR. PLUMMER: I looked at 700, but --
19. MR. BURCH: Well --
20. MR. PLUMMER: -- they --
21. MR. BURCH: -- I mean --
22. MR. PLUMMER: -- that --
23. MR. BURCH: -- with -- when that's got, what, four stops and five stops, right?
24. MR. PLUMMER: Yes, sir.
25. MR. BURCH: One more not going to do too much to it. You got a good, long 54 feet to travel to. And so --
26. MR. FARMER: Well, that 54 feet of blind hoistway basically is what they'll have.
1. question then.
2. MR. FARMER: Okay.
3. MR. BURCH: Fifty-four feet of blind
4. hoistway, are there -- is there going to be any way
5. to access the hoistway in case of an emergency on 54
6. feet?
7. MR. FARMER: I don't think you have
8. to under 2010 code as long as they have emergency
9. pulse that will actually run the elevator on limited
10. voltage and kill that safety circuit. So --
11. MR. BURCH: Something -- you need
12. to --
13. MR. FARMER: We'll look --
14. MR. BURCH: -- consider --
15. MR. FARMER: Yeah. We'll look into
16. it.
17. MR. BURCH: -- and look at it,
18. because that could --
19. MR. FARMER: Yeah.
20. MR. BURCH: -- have a problem --
21. MR. FARMER: Yeah.
22. MR. BURCH: -- as well. So --
23. MS. BENNETT: Sure.
24. MR. HALE: So I suppose a followup
25. question to that would be, do you anticipate any

1. complications with the Fire Marshal's office and the
2. fire inspection as relates to having 54 feet of
3. blind hoistway or the altering of the system, either
4. one?
5. MR. FARMER: I don't anticipate. We
6. have blind hoistways all over town. So --
7. MR. HALE: Oh. I don't know.
8. MR. FARMER: -- yeah. Yeah. I don't
9. anticipate a problem with it. But --
10. MR. PLUMMER: We have met with the
11. state Fire Marshal's office, with Mr. Bainbridge and
12. his team. Most of our conversations have focused on
13. other elements of this new connector between Cordell
14. Hull and not the elevator shaft in particular.
15. And --
16. MR. BURCH: That's one reason that I
17. pose the question. At the James K. Polk building,
18. we've got blind -- 10 stories of blind hoistway. At
19. Tennessee Towers, we've got about that much blind
20. hoistway for the high rise. That can create a
21. problem if you don't have access to the hoistway. I
22. just -- I mean, you've already got two buildings in
23. the stat that have got that kind of a problem.
24. MR. PLUMMER: Okay. Well --
25. MR. FARMER: We'll work together.

1. With that being said, no more old business. We'll
2. go to New Business. Topic 16-01, Mr. Bill Weaver,
3. Director of Operations, Association for Challenge
4. Course Technology would like to present ANSI/ACCT
5. 03-2016 as an approved American National Standard.
6. MR. ANDREWS: Actually, I'm
7. Scott Andrews and I'm speaking for Bill Weaver and
8. representing ACCT today.
9. MR. HALE: There's a front and back.
10. MR. ANDREWS: It's a front and back,
11. yes. So I'd like to take this opportunity to tell
1. you a little bit about the ANS/ACCT 03-2016 standard, how it came to be, how it currently functions not only here in Tennessee but other places in the United States, Canada, and throughout the world. And I'd like to take the opportunity to answer any questions you have as a board about how that can work within the State of Tennessee and your regulatory structures.

9. The ACCT standard as a collective body was first published in the early 1990s and unless some of the other association members know the date, I don't know the date of the first --

13. MR. BURT: '94.
14. MR. ANDREWS: '94 is the first one?
15. MR. BURT: March.
16. MR. ANDREWS: '94 -- 1994 is the first of those standards, and that standard has been revised nine times now. The ninth revision is the new ANSI standard. The standard's been written by more than 200 people and received more than 1,000 people who've commented on it over the years. More than 250 people commented on the standard the last time it was out for public comment in 2013.

17. It is a comprehensive standard that addresses aerial adventure parks, challenge courses, canopy zipline tours, and is intended to be used by manufacturers, builders, operators, practitioners and trainers. And it does address specifically all of those components in the various chapters.

6. Chapter one of the standards, Design
7. Performance and Inspection Standard addresses how strong should it be, how does it perform, and what do you have to look for when you inspect it? It is a very comprehensive standard with very detailed indications of what should be in an inspection report both as a commissioning document, as an acceptance inspection, and as an annual inspection or more frequent as may be required on some high-volume operations.

16. Chapter two is the operation standard. How do you operate this thing as an effective business and as a safe operation, how do you document that both with the manufacturer and as an operator with the intention of running a safe educational or recreational or therapeutic environment for participants?

23. Chapter Three is training. What is the documentation required to do effective training so that that documentation can help inspectors and operators assure that they're getting what is needed to be safe operations? The standard also addresses in the non -- a portion of it which is not the American National Standard, which has not been through the ANS process: The certification of practitioners. This was seen 10 years ago -- 12 years ago as a very important step in the industry.

9. There are a couple of other things that I'd like to point out about this standard, one of which is its scope. It does address all aspects of the aerial adventure community. The ACCT standard does not make that assumption, which makes it possible for small operations to continue to function. I believe that's a very important distinction to recognize. The other piece in distinction that's important there is in the ACCT standard, the inspection is a third-party process; it is outside the ownership of the facility. In the ASTM, the inspection is an internal process or an external process and the audit, a different process altogether is a third-party process.

The ACCT standards are designed to support an extremely diverse community of programs, and in that are very, very effective. And I'd like you -- to encourage you to consider them as the primary standards you use in regulating this industry. I'd be happy to take
1. questions from the Board.
2. CHAIRMAN FOX: Any questions from the Board?
3. MS. O’CONNOR: I have one. Your --
4. if I understood you correctly, it sounds like
5. ANS/ACCT standard are more comprehensive than the
6. ASTM. My question is: Are they more stringent in
7. what they're -- of likes to likes, are they actually
8. more stringent or no?
9. MR. ANDREWS: Yes and no. There are
10. some areas where they are much more stringent.
11. Around training, they are much, much more stringent.
12. Around operations, they're more detailed, and
13. they're more prescriptive. Around design, they're
14. equivalent.
15. CHAIRMAN FOX: With that be -- I'm sorry.
16. MS. O'CONNOR: No. You're okay.
17. CHAIRMAN FOX: With that being said,
18. on the design in -- most amusement rides are
19. designed by an engineer. Here it says it's by a
20. qualified person. Tell me what a qualified person
21. is.
22. MR. ANDREWS: An engineer.
23. CHAIRMAN FOX: Okay.
24. MR. ANDREWS: In both standards, it
25. actually states a qualified person, and ACCT
26. suggests very strongly in the standard that it
27. should be an engineer who designs anything that is
28. not service proven. One of the pieces in the
29. industry is we do have a significant number of
30. facilities here in Tennessee and in other states
31. that are really old; they've been here a long time.
32. They were built by guys who knew that, if I build
33. this in this way, it's not going to come apart. And
34. for 20 years, it's proven true. And engineers go
35. back and look at it and say, yup, that is much
36. stronger than it needs to be. You don't need my
37. stamp on it and you don't need to pay me to draw a
38. new set of drawings for it.
39. I am aware as a builder/operator that
40. that is a big deal. I own and operate a course
41. that has that very problem. We don't even know
42. who built it. It was built 30 years ago. Whoever
43. built it came into town, built it, it's -- the
44. place has changed hands, the paperwork's been
45. lost. We know it's passed its inspection for 31
46. years. It's been inspected by a third party.
47. So service proven is an important
48. piece of both standards. ASTM makes specific
49. reference in all of the components related to F24
50. and 2959 that service proven is a valuable and
51. appropriate method of assurance.
52. CHAIRMAN FOX: I'm familiar with the
53. ASTM. I've read it. And what you're asking us to
54. do -- you're asking this Board to do is consider
55. passing ANS/ACCT 03-2016; is that what you're asking
56. us to do?
57. MR. ANDREWS: We would love for you
58. to accept that.
59. CHAIRMAN FOX: Okay. And have you
60. furnished Ms. Jefferson or Mr. Finks or Carlene with
61. a full copy of the document?
62. MR. ANDREWS: I believe Ms. Jefferson
63. has a copy. Mr. Finks, I don't believe you do,
64. and --
65. CHAIRMAN FOX: Ms. Bennett.
66. MR. ANDREWS: -- Ms. Bennett, I don't
67. believe you do, as well, but I can make those
68. available to you in about 20 minutes.
69. CHAIRMAN FOX: Well, I think before
70. we would pass it, we'd probably want to really --
71. MR. ANDREWS: I think --
72. CHAIRMAN FOX: -- study it.
73. MR. ANDREWS: -- that'd be a good idea.
74. CHAIRMAN FOX: So if you --
75. MR. ANDREWS: -- Ms. Bennett, I don't
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90. MR. ANDREWS: I think --
91. CHAIRMAN FOX: -- study it.
92. MR. ANDREWS: -- that'd be a good
CHAIRMAN FOX: Then please take the chair. And again, please speak loudly.

MR. GUSTAFSON: Yes, sir.

CHAIRMAN FOX: So this lady can hear.

MR. FARMER: I do have some handouts for the Board. I'm here a little bit -- well, first, thank you for your time. I'm here -- I'm probably will never be with that association as a professional builder and I'm also here as an advisory board member for the Professional Ropes Course Association.

As a personal builder that's over here in Bristol doing the course right now, the kind of wearing two baseball caps. I'm here as a private builder and I'm also here as an advisory language they need.

As my baseball cap for the industry, including ziplines, ropes courses, aerial adventure parks, in March of 2014.

Mr. Gustafson?

As a standards writer, I'd like it to be a lot tighter also, but I will not be able to change the current language that you have adopted regarding certain jurisdictional language over that, and "qualified" language they need.

As your current language is written, then that restrains me from trade or any other.
1. That entire period of time, the ACCT
2. was invited to come along, be a joint standard,
3. but again, there's some dirty laundry there, and
4. we just never got together as associations. And
5. that's kind of a shame, because now we have a
6. competing standard in the new ACCT 2016. There's
7. some issues that are being born out at the ANSI
8. level at their lend through appeals and so forth.
9. But the way ANSI reads, there cannot be a
10. duplicative or competing standard. And with the
11. ACCT standard coming out in 2016, there now is a
12. competing duplicative standard that actually does
13. conflict with the PRCA standards that have been
14. adopted two years ago, both two years ago in
15. March.
16. I heard some questions about
17. standards and qualified people. In the PRCA
18. standards, qualified professional is an engineer.
19. We do seek out engineer input and prefer stamped
20. plans. In the ACCT document, I'm not as fluent
21. with their background; however, I do know the
22. professional vendor members are allowed to
23. override what manufacturer's recommendations are
24. for use of product. For example, there's dead-end
25. devices that are allowed to be used on ropes

1. challenge courses and zipline tours that in
2. 2000 -- in 2007, the manufacturers sent them
3. advisory notices not to use. They're still being
4. used to this day.
5. There's other differences in strength
6. requirements. While the ACCT is an international
7. association, as the PRCA is, they rely on lower
8. strength requirements than the 5,000-pound
9. strength requirement set by the United States.
10. Not just the PRCA but also ASTM, ASEE, and other
11. ANSI standards for fall protection.
12. So we believe the PRCA is a more
13. suitable suggestion and choice for you to look at.
14. Copies of that can obviously be provided, as well,
15. in as such, you know, in just -- in minutes, as
16. well. But the PRCA is more of an association
17. that's open for anybody to practice trade and have
18. access to those same standards, not just have a
19. select voting pool of only 44 vendors that get a
20. run and say of what's in the document and not in
21. the document.
22. So I just kind of dumped a lot of
23. information on you, trying to keep it concise as
24. possible. But do you have any questions I could
25. field for you?

1. have been made by individuals trying to represent
2. themself as trade associations. And in particular,
3. that's occurred in this state in the past.
4. Yeah. I mean, there's nothing to say tomorrow
5. another association couldn't start up. Though I
6. think it would be highly unlikely with ACCT and PRCA
7. sitting in the room.
8. CHAIRMAN FOX: I would agree. Just
9. wanted to make sure. Any questions by the Board?
10. MR. BURCH: I thought I heard him say
11. there are probably five and now I hear it's just two
12. there in the room; is that right?
13. MR. GUSTAFSON: Well, there -- sir,
14. there could be roughly 40 or 50 or 100 builders in
15. the United States. I'm just referencing for
16. ziplines industry and the commercial aspect of the
17. top five, if you will, in the United States, two of
18. them are sitting right here in front of you today.
19. MR. BURCH: But we're talking about
20. standards, right?
21. MR. GUSTAFSON: Correct, sir.
22. MR. BURCH: Okay.
23. MR. GUSTAFSON: Only two standard
24. writing organizations, really; the ACCT and PRCA,
1. that we feel is relevant outside of ASTM.
2. CHAIRMAN FOX: Okay.
3. MR. MOORER: Robbie, question.
4. CHAIRMAN FOX: Sir.
5. MR. MOORER: Mr. Farmer, if you go
6. out and inspect these things, whose standards do you
7. use as precedent?
8. MR. FARMER: Well, I don't inspect
9. amusements, so that would be a third-party answer.
10. It is written in the rules what their standards are.
11. So --
12. MR. MOORER: Okay. Okay. I just
13. didn't know if you got all these standards, some are
14. going to pick this one for this one or this one for
15. this one, you know, and --
16. MR. FARMER: I would think --
17. MR. MOORER: -- you'd have standard
18. that we look at and hold everybody to that.
19. MR. FARMER: I would think if they
20. conflict each other, it'd be tough to inspect by all
21. of them.
22. MR. MOORER: Okay. Okay.
23. MR. FARMER: That's just my thought.
24. I don't know --
25. MR. MOORER: Okay.

<table>
<thead>
<tr>
<th>Page 46</th>
<th>Page 47</th>
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| 1. MR. FARMER: -- how you would do
2. that.
3. CHAIRMAN FOX: Okay.
4. MR. MOORER: I understand.
5. MR. GUSTAFSON: Okay.
6. CHAIRMAN FOX: We'd ask you the same
7. as Mr. Andrews, could you provide us a copy --
8. MR. GUSTAFSON: Yes, sir.
9. CHAIRMAN FOX: -- of the standard
10. you're asking us to consider.
11. MR. GUSTAFSON: Yes, sir.
12. CHAIRMAN FOX: Okay. And as with
13. him, we need time to look at it, digest it, massage
14. it, and we'll get it back on the agenda at some
15. point. I can't tell you when.
16. MR. GUSTAFSON: That's all we can
17. ask.
18. CHAIRMAN FOX: Okay. Anything else,
19. sir?
20. MR. GUSTAFSON: No. I think that
21. concludes it. I just want to keep it short and
22. sweet and to the point.
23. CHAIRMAN FOX: Okay. All right.
24. Thank you very much.
25. MR. GUSTAFSON: Thank you.

<table>
<thead>
<tr>
<th>Page 48</th>
</tr>
</thead>
</table>
| 1. built to initially and to follow that standard as
2. an inspector.
3. I also am a sitting member on the
4. F2461 subgroup and authoring the F2959. And of
5. that here, there are several members of the Board
6. of Directors for ACCT sitting behind me. Many of
7. us participate in that, and we are trying to bring
8. the ACCT standard and the ASTM standard as close
9. and as uniform as we can. One of the challenges
10. and discrepancies with the ASTM standard is that
11. in working to follow the procedures at ASTM, we
12. have had some glitches.
13. Namely, we thought it was authorized
14. and okay to go ahead and cut and paste from all of
15. the other 21 standards that are referenced in
16. F2959, bring them in. We got to that and got to
17. balloting and then were brought back. Much of
18. that new language comes from the ACCT standard.
19. We have just recently, even though
20. that ballot was pulled back, have recently
21. received approval from the lawyers at ASTM to say,
22. yes, in fact, you can bring all of that language
23. in. It would be unfair for any engineer or
24. individual to have to purchase all of these
25. referenced standards. In fact, much of the
<table>
<thead>
<tr>
<th>Page 49</th>
<th>Page 50</th>
<th>Page 51</th>
</tr>
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| 1. language for writers as it applies in the other  
2. standards is very difficult and would be  
3. confusing, we would have to say in the new  
4. standard strike this language; replace it with  
5. this language. And the amount of back and forth  
6. would become very difficult to follow and lead to  
7. a lot of discrepancies.  
8. So in that process, what I would  
9. advocate here, the ACCT standard allows for the  
10. use with challenge courses for educational  
11. purposes and those that ASTM does not cover and is  
12. a more thorough document at this time. I think  
13. that we'll find as we move forward that the ACCT  
14. standard and ASTM standard will become closer and  
15. closer together as we move forward.  
16. I am not a builder myself. I am an  
17. operator. I would take objection to some of the  
18. statements. I'm friends with Mr. Gustafson, but I  
19. would say that I do not believe ACCT is primarily  
20. for builders. We are approximately 2,800 members.  
21. I believe it's greater than that, actually. We  
22. just -- our organizations don't include all of  
23. their members or their employees in that count.  
24. But the vast majority of the members in our  
25. association and the way voting is taken care of  
| 1. now lends itself to the membership at large.  
2. I, in fact, sit on a seat that I was  
3. elected by a builder. I fill a seat on that, but  
4. I am not a builder myself. Dylan Burt, who is  
5. here with us today, who is an operator, fills a  
6. seat for a -- that was elected by our vendor  
7. members. He is not a builder himself. He is an  
8. operator in the state, as well.  
9. And so I think the association has  
10. changed dramatically from a building organization  
11. when we started to an operating organization now.  
12. I think unique in our standard and what we've  
13. really focused on in the last couple years is that  
14. we've had many years to vat the engineering, the  
15. inspection, the design and performance issues that  
16. are coming out.  
17. What we're starting to see with these  
18. newer activities coming -- and I would urge you,  
19. as you look at your inspectors, to think about  
20. this is the design considerations for operation;  
21. that technical inspections are one issue,  
22. operational audits are another. And that is  
23. something that our standard has focused on, and  
24. that is something that is missing in the ASTM  
25. F2959 standard right now.  
| 1. There are a lot of ambiguities  
2. between the difference in how you operate a  
3. challenge course and how you would operate an  
4. amusement park device. And that is one area that  
5. I think our standard really prevails in and  
6. provides clear direction in.  
7. CHAIRMAN FOX: Okay.  
8. MR. HALE: Would it be fair to say  
9. that between the two standards, it seems to me from  
10. what I've read of the two standards, two of the  
11. biggest differences are in the areas of fall  
12. arresting and then strength where the professional  
13. rope requires the 5,000. The ACCT standard seems to  
14. be a little different from that. Would that be a  
15. fair statement to say those are two of the more  
16. prevalent differences?  
17. MR. SMITH: We --  
18. MR. ANDREWS: If I may.  
19. MR. SMITH: Scott.  
20. MR. ANDREWS: No, actually it's not.  
21. Scott Andrews again. In a previous post with ACCT,  
22. I am the standards chair for operations. Intimately  
23. familiar with the document. The question is more  
24. nuanced. In the PRCA standard, all fall restraint,  
25. all protection at height is considered fall  
| 1. protection. In the ACCT standard, anywhere where  
2. the fall is limited, two feet or shorter is  
3. considered fall restraint, which functions under the  
4. same strength conditions as required by OSHA.  
5. There is also positioning in the ACCT  
6. standard. Again, operating under the strength  
7. requirements of OSHA. There is also fall  
8. protections, which is a fall of six feet or  
9. greater, which in the ACCT standard, is the same  
10. as OSHA. It is a more nuanced question, and it is  
11. directly related to effective and appropriate  
12. design of activities.  
13. If there is no way for anyone to ever  
14. fall more than two feet, one needs to ask the  
15. question, why do I need a 5,000 pound lanyard when  
16. one that is 3,500 will do just perfectly fine.  
17. And that is the more nuanced piece that is in the  
18. ACCT standard and the new American National  
19. Standard version. That is also addressed in the  
20. operational documentation, the operational  
21. standards that an organization has specific  
22. operational documentation in policies and  
23. procedures which address assuring that those  
24. conditions are continually met.  
25. MR. HALE: Okay.  

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CHAIRMAN FOX: Any other questions from the Board?

MR. BURCH: I'm a little bit -- excuse me. I'm a little bit confused about the difference between builders and operational.

MR. ANDREWS: Well -- Can you make that a little clearer?

MR. ANDREWS: I believe I can, sir.

MR. BURCH: Okay. Is that all right?

CHAIRMAN FOX: Absolutely. We're here to seek information.

MR. ANDREWS: In our industry, there are companies who design and build activities.

MR. BURCH: You say design and build the equipment? Is that what you're saying?

MR. ANDREWS: And the activity itself. The cables between the trees or the cables between the poles.

MR. BURCH: Okay. Okay.

MR. ANDREWS: There are folks like Dylan and Mike who take those facilities from a builder and they operate it for whoever their clientele is. There are also organizations, Mr. Stock's organization and my own organization, which do both of those functions. We build for other people. My staff is currently building in Washington State today, and we operate a course for the municipality of the City of Bellevue. We operate two private facilities in addition. We treat those as two separate functions. We build it and we operate as a manufacturer supporting the owner's operation.

As an operator, I take what was built for me by another building company and I operate it in the safest possible manner to provide the best possible experience for the public. Is that distinction clear, Mr. Burch?

MR. BURCH: Yes. Yeah.

CHAIRMAN FOX: Okay. Any other questions for the Board?

MR. MOORER: Robbie, just one question.

CHAIRMAN FOX: Sir, yes, sir.

MR. MOORER: It's probably stupid, but anyway, what -- through all of this coming down into a funnel, what provides the most purpose for the user? It seems to me that's what we're all interested in here.

MR. ANDREWS: Yes, sir.

MR. MOORER: Is the person that walks up to climb that wall or pull on that rope, what provides them the most protection? What should we -- is that looking at it the wrong way? I mean, I'm getting ready to climb on a wall, I want to have something to look at, because I think that's what we're all here for in the end result is what's really going to provide that user the protection.

Like, your child is climbing a rope. I see a hand in the back. Can he answer?

MR. ANDREWS: I think -- can I try, Don?

MR. STOCK: Sure.

MR. ANDREWS: Help me out if I need it.

MR. STOCK: Okay.

MR. ANDREWS: Within our industry today, the failures of mechanical structures is very rare. We broke stuff in the 70s. We don't break it today. We drop really big trees on things in Washington and they don't break. Really big trees. They don't break. When people get hurt, it is largely and most often because of an error in the way the facility was operated; any of the training or the policies and procedures of an organization.

And it is the most effective way to assure that those incidents don't happen is to assure that well documented, well delivered training happens at every facility and that it is done to the cleanest, simplest standard possible.

MR. MOORER: Okay.

MR. STOCK: The -- Don Stock from the Adventure Guild and ZIPStream Aerial Adventures.

One of the things to recognize is -- and I am the -- I'm a credited vendor with the Association for Challenge Course Technology because of the strength of the organization and the scope and the breadth the organization represents. The ACCT standard, as it exists now, is already being followed by the vast majority of traditional challenge courses in the United States, without question. It has a track record, to answer your question, Mr. Moorer, that -- the fact that you are just now as a
1. regulating body finding out about challenge
2. courses and the operations and those kinds of
3. things is testimony to -- or testament to how
4. effectively our industry has managed itself, its
5. builders, its operations, because we have not had,
6. you know, many, many accidents throughout the year
7. that brought attention to the -- it's only been in
8. the proliferation and the huge growth of our
9. industry that we have seen an increase of
10. accidents because proportionate to the number of
11. people who are participating.
12. The admonishment -- as a -- I'm -- I
13. said, I'm an accredited vendor. I'm an operator
14. in the State of Tennessee. Well, I'm in
15. partnership with Mr. Smith and some other -- we
16. have the contract with the state of Tennessee to
17. build and operate at Fall Creek Falls State Park,
18. We run the project, we built the project, and both
19. of these are permitted projects in Tennessee. We
20. also -- in Ruby Falls. On top of that, I have
21. clients in the state, and many of these other
22. vendors have clients in the state that we have to
23. service -- that we inspect their courses, we do
24. their training, and those kinds of things.
25. All of them are already being -- the

1. vast majority are referencing built to, designed
2. to, operated to in accordance with the ACCT
3. standard. To introduce the PRCA standard, which I
4. am familiar with, is -- will be very disruptive to
5. the processes that already exist within the state,
6. within these organizations. They’re -- it's a
7. fundamental shift and a change from what they're
8. used to. Also, with the ACCT standard, we also
9. have the inspector certification that is tied
10. directly to that whole process, because our
11. approach as an association and as vendors who are
12. accredited is to have a comprehensive program that
13. deals with and addresses every single component
14. that makes these facilities safe and fun and
15. educational and recreationally viable.
16. To Mr. Smith's point earlier and
17. Mr. Andrews' point, as well: It really is the
18. operational side of things. It really is
19. stringence in terms of -- stringency in oversight
20. of who is operating these things. In ASTM world,
21. all the -- vast majority of the risk is mitigated
22. by engineering, because there’s relays and sensors
23. and you push the button and the car won't go
24. unless the door’s shut. That is fundamentally not
25. what our industry is.
the Board.

MR. ANDREWS: Very well.

MS. BENNETT: Okay.

MR. GUSTAFSON: If I could redirect a couple of points from the PRCA's perspective, we feel that we've been a little bit misrepresented here. If I could have a chance to address the Board again?

CHAIRMAN FOX: Sir, you've got five minutes.

MR. FARMER: I'll probably do it in three and a half.

CHAIRMAN FOX: I'm all about expedience.

MR. GUSTAFSON: Again, Steve Gustafson with the PRCA advisory board. You've heard a lot of information here and it really is get -- to be kind of a thick soup. You add too much salt, too much celery, too much seasonings, it gets -- to get a bad taste in your mouth. Now, I'm not going to sit here and bash on my colleagues in the ACCT, I'm going to say we're different. But I am going to say the ACCT standards and the PRCA standards for years have been de facto voluntary standards. You didn't have to follow them, and a lot of camps and associations out there -- or organizations out there haven't been one or the other association. That is why the PRCA sought ANSI designation; it was the first accredited standards developer and now has the first ANSI standard for this industry. To go from de facto standard or voluntary to regula -- federal mandated standard, we need boards like yourself to recognize an ANSI federal standard that's pertinent to the United States and get us off de facto standards of multiple associations and bring this into one standard. The PRCA's standard's already harmonized with ASTM. We don't have the conflicts or the differences as the ACCT as Mr. Smith addressed. We harmonized with them from the beginning. We've already dovetailed that bridge, if you will. So we feel the PRCA's a better standard. You -- at the end, you'll be the judges. Go read it yourselves.

But while my colleagues have spoken about years of things breaking or not breaking, I hate to say my age, but I've been in the industry for 32 years. I'm a builder, as well, and I also operate my own courses. I have eight locations and three more licensed across the U.S. I've probably been in more states doing more things and have more ownership than a lot of the builders of any, maybe, in the U.S. I'm from Florida all the way up into Hawaii like they've built, but I've also operated there.

So I'm not from Tennessee, and Mr. Stock is. I'm from Illinois. I'm having the same conversations up there as we are down here today. I've had the same conversations in Florida, the same conversations in Idaho, et cetera.

What's before you today is what's the ANSI federal standard and that's the PRCA from March 2014. We would love to have our colleagues on the ACCT join us and do a joint standard and get rid of all this issue of two different standards. But we welcome them any time they want to come and join our team. But for now, the ANSI standard on PRCA was March 2014. It predates the standard from ACCT that they just received, and by ANSI statute, which we're looking at in turn with ANSI, is there cannot be a conflict or duplicative standard which is what the ACCT standard now represents. Hope that was three and a half minutes.

CHAIRMAN FOX: You're real close, sir.

MR. GUSTAFSON: Thank you. Any questions or --

CHAIRMAN FOX: Thank you.

MS. O'CONNOR: I actually do have --

CHAIRMAN FOX: Yeah.

MS. O'CONNOR: -- one question. My question is, by changing to PRCA, would this, in fact, create a systemic change if most people -- because in your words, the ACCT has been de facto, is this going to create chaos and make things less safe in the interim as we're changing?

MR. BURT: Absolutely.

MR. SMITH: Absolutely.

MR. ANDREWS: Yes.

MR. GUSTAFSON: The ACCT members in the room obviously feel that there is going to be a change and a chaotic change.

MS. O'CONNOR: Right. But I'm asking --

MR. GUSTAFSON: We believe that there's going to be a change for the better and
1. change doesn't come easy, it comes with time. And
2. change has to come with the minority vote and
3. someone speaking up and saying, there's got to be
4. something better. That's what the PRCA did, and
5. that's what we became in the -- with our ANSI
6. standard on March of 2014. Our colleagues at ACCT
7. have been welcome to be part of that since day go.
8. They've been offered consensus body seats and et
9. cetera; they've declined.
10. So we want to be as inclusive as
11. possible, but change is going to be for some
12. people easy and some people more difficult. It's
13. just up to the end user. If you've been in the
14. ACCT camp for years, yeah, it's going to be
15. probably a hard pill to swallow. But we're also
16. finding people who haven't been in either camp, if
17. you will call it camps, that are coming into the
18. ANSI standard and they're finding it easy,
19. especially these European countries that are
20. coming into the U.S. now and building courses.
21. MS. O'CONNOR: Okay. Thank you.
22. MR. GUSTAFSON: It's up to the
23. individual, and it's just, you know, if you're -- if
24. you've got an opinion one way or the other, it could
25. be hard, it could be easy.

1. accreditation program, so if I know if I need a
2. qualified builder, there are 40 builders in the
3. United States that have been through the
4. accreditation process at ACCT that I can call and
5. I know that they have been verified. ACCT is
6. putting out now an operator accreditation program
7. that will first be released later this year to
8. formally audit operations. So there's a larger
9. support and educational network and network of
10. professionals that have been certified and peer
11. reviewed that I can go to, which makes the ACCT
12. standard much easier for me to follow, because I
13. have third-party support that I can bring in.
14. We have looked at using ASTM. Quite
15. honestly, the challenge that we have in many
16. states is if we call in a NAARSO or AIMS
17. inspector, most of them look at our cables and
18. have no idea what they're looking at. It's just
19. not what they're used to looking at. And so I
20. think we can talk about the stringency of
21. standards here. The reality is following any of
22. these standards are in the best interest of the
23. public good. If some were to follow -- and the
24. problem is supporting those standards and having
25. the resources and third-party resources to bring

1. MS. O'CONNOR: Thank you.
2. CHAIRMAN FOX: She always asks the
3. good questions.
4. MR. MOORER: Robbie.
5. MR. GUSTAFSON: Good questions are
6. good.
7. CHAIRMAN FOX: Yes, sir?
8. MR. MOORER: Is the owner or operator
9. in the audience?
10. MR. SMITH: Yes.
11. MR. MOORER: From you all's standard
12. or position, what standard do you all feel's the
13. best and why?
14. MR. SMITH: Well, I can speak to my
15. own. I've been following the ACCT standard for many
16. years. I'm an expert witness in many cases, and I
17. have to defend clients to both the ANSI ACCT
18. standards and the ANSI PRCA standard. The challenge
19. that I have as an operator is we have a very clear
20. certification program in ACCT, so if I want to be
21. inspected to ACCT standards, I have a list of
22. qualified inspectors that I can go to that I can
23. hire to -- that I know will be familiar with the
24. ACCT standard.
25. We also have at ACCT a very formal

1. in, and ACCT is the easiest one to do that with.
2. MR. MOORER: Can I ask another one?
3. CHAIRMAN FOX: There's two more back
4. there who --
5. MR. MOORER: Yes.
6. CHAIRMAN FOX: -- raised their hand.
7. MS. HALVERSON: So we --
8. MR. MOORER: Can you --
9. MS. HALVERSON: Sure. My name's --
10. MR. MOORER: Yes.
11. MS. HALVERSON: -- Jennifer
12. Halverson, and my company is Adventureworks. And
13. we've been following both the ACCT standards and the
14. ASTM standards for about the past three years.
15. Three years ago, when we started trying to follow
16. both, it was -- there was -- they were very
17. different. There were a lot of things that ASTM
18. required that ACCT did not and quite a few things
19. that ACCT required that ASTM did not.
20. Over the past three years, they have
21. really become more and more in line. There's
22. still some subtle differences, and some of those
23. are being worked out. I attend both the ASTM
24. subcommittee meetings, as well as the ACCT
25. conferences. And so the conversations are coming
1. much more in line.
2. The one distinction that I do see is
3. what Mike just referenced is when it comes to
4. inspections, particularly, in the state of
5. Tennessee, when we have an ACCT inspection, what
6. they are used to doing is a very technical
7. inspection where they get up on the cables and
8. they inspect every connection, they look at the
9. growth of the trees, the -- how tight the clamps
10. are, and it's a pretty long process. It -- I have
11. a large course and so it takes at least a full day
12. to do one course, sometimes two days.
13. When I have a NAARSO inspector come,
14. they are more used to doing what I would call an
15. audit where they're looking to see all of my
16. documentation, which ACCT now does, as well. They
17. didn't use to. But they're looking to see -- and
18. they look at the general overall course, was it
19. designed to standard, are things in line?
20. And so one of the important things
21. that I think's important is that both the audit
22. and the technical inspection are important, but I
23. think sometimes, they're being used
24. interchangeably, and so somebody gets an audit and
25. they think they've had a technical inspection, and

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<thead>
<tr>
<th>Page 70</th>
<th>Page 71</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. vice versa. So that's the one distinction that I</td>
<td>1. The first step is approval of rules</td>
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<td>2. think ACCT is very clear on that I just want you</td>
<td>2. by the Governor's Office. Then the rules have to</td>
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<td>3. all to hear that it's important that they're not</td>
<td>3. be approved -- if they're approved by the</td>
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<td>4. used interchangeably; that they're seen as two</td>
<td>4. Governor's Office, they have to be approved by the</td>
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<td>5. different things.</td>
<td>5. Attorney General's office. They have to be filed</td>
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<td>6. MR. BURT: I've -- my name's</td>
<td>6. with the Secretary of State's office according to</td>
</tr>
<tr>
<td>7. Dylan Burt with NAVITAT. I've been operating big,</td>
<td>7. guidelines of the Secretary of State and approved</td>
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<td>8. commercial zipline tours and aerial adventure parks</td>
<td>8. by the Secretary of State. They have to be</td>
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<td>9. for about 12 years, and I have always used the ACCT</td>
<td>9. published in the Tennessee Administrative Register</td>
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<td>10. standard. I think that the ACCT standard is the</td>
<td>10. by the Secretary of State.</td>
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<td>11. standard for you to -- I think that you should very</td>
<td>11. At that point, there's two</td>
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<td>12. strongly consider using the ACCT standard.</td>
<td>12. processes -- there's a possibility of two</td>
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<td>13. MR. MOORER: Thank you. No more.</td>
<td>13. processes. One is to go through proposed rules --</td>
</tr>
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<td>14. CHAIRMAN FOX: All right. Anyone</td>
<td>14. is to have the rules go through the proposed rules</td>
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<td>15. else? Thank you.</td>
<td>15. route, which means that they would become</td>
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<td>16. MR. GUSTAFSON: And just to close,</td>
<td>16. effective 90 days after filing with the Secretary</td>
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<td>17. the PRCA has accredited vendors, as well. I'm not</td>
<td>17. of State unless within the 90 days after filing</td>
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<td>18. going to knock my colleagues; we're just a different</td>
<td>18. the proposed rule with the Secretary of State a</td>
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<td>19. association going through the ANSI process. We</td>
<td>19. petition for a public hearing on the proposed rule</td>
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<td>20. already have the standard in place. It's already</td>
<td>20. is filed by 10 persons -- 10 or more persons who</td>
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<td>21. been out there; it's already been addressed by</td>
<td>21. will be affected by the rule, an association with</td>
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<tr>
<td>22. Tennessee OSHA and issued fines in a Tennessee</td>
<td>22. 10 or more members, a municipality, or by a</td>
</tr>
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<td>23. zipline accident. It's already in your system</td>
<td>23. majority vote of any standing committee of the</td>
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<td>24. whether it be changed, whether it'd be better to</td>
<td>24. General Assembly. If such a petition is timely</td>
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<td>25. admit if there was only one ACCT and PRCA; we</td>
<td>25. filed, a rulemaking hearing must be conducted.</td>
</tr>
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</table>
1. And basically, if you started to go
2. that route and somebody objected to it, you would
3. just lose those 90 days, that 90-day waiting
4. period; that would be a delay of 90 days in the
5. process, and you would have to go through the
6. rulemaking hearing process, and those 90 days
7. would be lost, which is effectively about three
8. months, about a three-month setback.
9. If you don't go with the proposed
10. rule route, you could go straight to the
11. rulemaking hearing route and furnish public notice
12. of the rulemaking hearing after filing the rules
13. with the Secretary of State at least 45 days prior
14. to the date of the rulemaking hearing, and the
15. notice is deemed filed seven days after filing
16. with the Secretary of State. At the rulemaking
17. hearing, the agency will receive public comments,
18. both written and verbal, concerning the proposed
19. rules.
20. The agency would be required to
21. respond in writing to the public comments received
22. at the rulemaking hearing and file the written
23. responses with the Secretary of State to be
24. published publicly by the Secretary of State.
25. Any modifications to the rules, based on the

1. public comments received at the rulemaking
2. hearing, must be filed with the Secretary of
3. State.
4. Typically, there would be a hearing
5. before the Legislative Government Operations
6. Committee; they would schedule a hearing before
7. the rules took effect and have a hearing on that
8. before that committee. And then if all steps of
9. the approval process were completed
10. satisfactorily, the rules would become effective
11. 90 days after final filing with the Secretary of
12. State. And rules that contain fee increases
13. become effective on July 1st following the
14. expiration of the 90-day period after final filing
15. with the Secretary of State.
16. But the question that I would propose
17. to you, Mr. Chairman Fox, is whether the Board --
18. particularly -- and I may be getting this out of
19. order about the LULA lift rules, because those are
20. the rules that have already been approved by the
21. Governor's Office in this process. They've
22. already gone through that step. And I was going
23. to ask you if the Board -- get the comments from
24. the Board as to whether or not they felt that
25. that -- the process should go through the proposed

1. 90-day period to start going through the rulemaking
2. hearing process. If they -- if somebody doesn't
3. file an objection to, like, the eighth, ninth day,
4. then yes, you've lost 90 days.
5. MS. O'CONNOR: Okay.
6. MR. BAILEY: You know. So --
7. MS. O'CONNOR: Thank you.
8. MR. HALE: Well, it just occurs to me
9. that to make this change in the LULA rules, it just
10. makes sense. We -- it seems like we spend a huge
11. amount of time hearing about LULAs that for -- I
12. mean, that should be cleared up by --
13. MR. FARMER: Yes.
14. MR. HALE: -- a change in the rule.
15. I mean, is that the way you see it? Well, I mean,
16. don't you --
17. MR. BURCH: I'm not smart.
18. MR. HALE: This is a change that
19. needs to be made.
20. MR. BURCH: I'm not smart. I don't
21. know exactly what we're doing here. This is
22. Amusement and I'm Elevator, so I --
23. MR. HALE: No. That's what we're
24. talking -- we're talking about the LULAs.
25. CHAIRMAN FOX: No. We're talking
25. that's the most expedient thing to do. It's already
24. made it past part of the steps to go from the
23. Governor's Office and so forth, it seems to me that
22. we're still having to hear variances, right?
21. MR. BURCH: Yes.
20. MR. BURCH: -- way we're going to
go. Yes.
19. MS. O'CONNOR: Till we decide.
18. MR. BAILEY: -- way we're going to
go. Yes.
17. MS. O'CONNOR: Can you help me
16. understand? Are we actually filed with the
15. Secretary of State now?
14. MR. FINKS: No.
13. MS. O'CONNOR: Okay.
12. MR. FINKS: Not yet.
11. MR. BAILEY: It will -- we really
cannot do that until we decide which --
10. MS. O'CONNOR: Yes.
9. MR. FINKS: No.
8. MR. BAILEY: -- way we're going to
go. Yes.
7. MS. O'CONNOR: Okay.
6. MR. FINKS: Yes.
5. MR. BAILEY: It will -- we really
cannot do that until we decide which --
4. MR. FINKS: No.
3. MR. BAILEY: No.
2. MS. O'CONNOR: Okay.
1. days were ticking down already or not.

1. we were discussing. Yes, sir.
2. MR. HALE: I guess my question to you
3. was, don't you believe that this is a positive
4. change?
5. MR. BURCH: Yes. I mean, I think --
6. MR. HALE: Okay.
7. MR. BURCH: -- we need to go back and
8. let LULA lifts be installed. And I assume the
9. quickest, easiest road to take would be the one
10. which I'd go with. I mean, but we don't have that.
11. Do we have an input into that, which one -- which
12. rulemaking process we go by?
13. MR. FINKS: Yes, sir. That's what
14. we're asking for the Board's input today on that.
15. MR. BURCH: Well, I would recommend
16. the fastest and the easiest if we -- if there is
17. that since we are in 100 percent agreement on the
18. Board to go back with the LULA lift -- installation
19. of the LULA lifts without a variance. They wouldn't
20. have to bring variance every time they install one
21. and we approved it every time.
22. MR. HALE: So because it's already
23. made it past part of the steps to go from the
24. Governor's Office and so forth, it seems to me that
25. that's the most expedient thing to do. It's already
26. part of the way through that process and --
27. MR. BAILEY: Well, it's part of the
28. way through either process right now, because he has
29. it -- have step one, whichever avenue you choose.
30. So really, it's a decision now on whether, if you go
31. the proposed rule route and there's no objections
32. filed, that will be the quickest route. But if you
33. think that there is any opposition out there that
34. might want to object to it, that might want to
35. comment on it, then you may be -- you know, you
36. could still go the proposed rule route and then if
37. somebody does object, you have to back up and go the
38. other route. But if you think there is opposition
39. out there or people who would want to comment, then
40. it's best to go the rulemaking hearing route from
41. the beginning.
42. MS. O'CONNOR: Can you help me
43. understand? Are we actually filed with the
44. Secretary of State now?
45. MR. FINKS: No.
46. MR. BAILEY: No.
47. MS. O'CONNOR: Okay.
48. MR. FINKS: Not yet.
49. MS. O'CONNOR: That's -- I wasn't
50. quite sure where we were in the process, so if the
1. MS. BENNETT: Uh-huh.
2. CHAIRMAN FOX: This Board voted on that, was it --
3. MR. BURCH: Last Board --
4. MR. FARMER: Three months ago.
5. CHAIRMAN FOX: -- two meetings --
6. MS. BENNETT: December.
7. MR. FARMER: No, it was last --
8. CHAIRMAN FOX: -- two meetings --
9. MR. BURCH: Last meeting.
10. MS. BENNETT: December.
11. CHAIRMAN FOX: December.
12. MR. FARMER: Last meeting. December.
13. MS. BENNETT: December.
14. CHAIRMAN FOX: I'm just trying to make sure. All right.
15. MR. FARMER: Yes.
16. CHAIRMAN FOX: Now your motion.
17. MR. BURCH: Well, I make a motion we go the proposed rule process.
18. MR. HALE: And I'll second it.
19. CHAIRMAN FOX: We have a motion and a second. Any discussion? Any questions?
20. MR. BURCH: I guess, did I make the motion correct? I just want to be -- okay.
21. CHAIRMAN FOX: All in favor of the motion, let it be known by saying "aye".
22. MR. HALE: Aye.
23. MR. BURCH: Aye.
24. MR. MOORE: Aye.
25. MR. MOORER: Aye.
26. CHAIRMAN FOX: All opposed like sign.
27. Motion carries. So we take the most expedient route, right?
28. MR. BURCH: We assume it is.
29. MS. O'CONNOR: Assuming it is.
30. Correct.
31. CHAIRMAN FOX: We assume that --
32. MR. FINKS: Assuming that there's no objection.
33. CHAIRMAN FOX: -- that's the most expedient.
34. MR. FINKS: Right. If there's --
35. CHAIRMAN FOX: Okay.
36. MR. FINKS: -- objection, it won't be the most expedient route.
37. CHAIRMAN FOX: And the other side of that, the public has a chance to intervene at any point along the way.
38. MR. BAILEY: Yes.
39. CHAIRMAN FOX: And then by virtue of that, the second thing, the procedures for amending Amusement Device rules, same process?
40. MR. FINKS: Yes, sir. It would be the same process. We have done -- in the -- we've been in the -- with the Board of Boiler Rules, which is another board similar to this board, what they've done with Board of Boilers, they have -- what they did, they discussed the rules for -- at various meetings, the Board members discussed the proposed rules, came up with proposed rules and discussed the changes, and they did it at several different meetings. It took -- it was a relatively lengthy process, and we're still in that process now. But that's how they handled it was by discussing it at the Board meeting, the rules that they wanted changed and had everybody -- had the Board member take the rules and look at them and discuss the changes, make changes, and discuss the changes. And so that would probably be -- even before we even got to this step, we would need to know what the changes that the Board proposes to make, what changes -- what the actual changes are and have to get very specific about the rules, which rule we want changed, what line, what item, what number, things even that specific to be able to accomplish this.
41. The first -- so the first step for any of these rules, we would need to know what the Board proposed to change, what the Board is recommending that we change, and then once we get that in place, then we would have to go through this rulemaking hearing process.
42. With the LULA lifts, it was a
1. relatively simple process. The Board spoke and
2. said, delete this section, delete this section.
3. At the last board meeting, we deleted two sections
4. out of the rules and it was a relatively simple
5. process. But we would need to do the same --
6. something similar and possibly even in more detail
7. depending on how complicated or in depth the rule
8. changes would be, hear from the Board on those
9. changes, what those changes would actually be and
10. go through the rules line by line and make those
11. changes.

   12. CHAIRMAN FOX: Okay.
   13. MS. O'CONNOR: May I ask a question?
   14. CHAIRMAN FOX: Sure.
   15. MS. O'CONNOR: On the amending
   16. Amusement Device rules to remove the year from the
   17. current references, Mr. Bailey, is that really a
   18. rule change?
   19. MR. BAILEY: Yes, it is.
   20. MS. O'CONNOR: Just removing the
   21. year. The rule hasn't changed; we're just deleting
   22. the year off that.
   23. MR. BAILEY: The year reference. I
   24. understand. It -- for instance, Tennessee OSHA has
   25. to -- which I represent them. But every six months,

1. the Board can adopt it, we can go through the rules
2. and make the appropriate changes that reflects that
3. motion. If -- and why I ask that, because the
4. Boiler Board basically has just over the last couple
5. of years went through their entire rules and have
6. made a lot of changes, you know, and rearrangements
7. and stuff like that. If you're anticipating
8. something like that, then I would say, you need to
9. basically have, like, a working document that
10. everybody looks at, makes their comments to, and
11. kind of comes on into an agreement on each item and
12. then we get a finalized, a final document that --
13. okay. Here's all the agreed changes, and then we
14. can -- and then the same decision has to be made.
15. Do we want to go a proposed rule route or rulemaking
16. hearing route?
17. And again, if there's any hint that
18. somebody's going to oppose the rule change, you
19. want to go the rulemaking hearing route. But if
20. it's just a -- if it's just taking the date off in
21. wherever it's referenced in the rules, I think
22. that's fairly -- that can be done fairly
23. reasonably quick, given the process, yes.
24. CHAIRMAN FOX: Okay. But let me ask
25. another question. All right? The International

1. Building Code, are we in 10 or 12?
2. MR. FARMER: Twelve here in Davidson
3. County.
4. CHAIRMAN FOX: Twelve here in
5. Davidson County.
6. MR. FARMER: Yes.
7. CHAIRMAN FOX: Okay. So AST -- and
8. that's applicable to the year, 12 is, correct?
9. Denoting the year.
10. MR. FARMER: Yeah.
11. CHAIRMAN FOX: So speaking of ASTM,
12. there's a year on it. I guess my question is, why
13. would we take the year off to delete it? Because
14. that was -- I mean, it was passed in that year, and
15. it does not change, to my knowledge, unlike the IBC.
16. So why would we take it off?
17. MR. BAILEY: I didn't propose it.
18. CHAIRMAN FOX: I didn't either. I
19. didn't either.
20. MS. O'CONNOR: You know, we could --
21. MR. BAILEY: Okay. I mean, there
22. were --
23. CHAIRMAN FOX: I guess, what I'm
24. trying to figure out is, are we -- like, if they
25. pass -- ASTM passes the -- a standard, they -- as a

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1. matter of fact, they met two weeks ago. If they
2. pass a standard and it goes into process, are we --
3. at that point, are we going to make everybody be
4. applicable to that standard even though it passed
5. today? Say you're in the middle of building a huge
6. whatever, an ACCT or a ride or whatever, do you have
7. to meet that standard as it comes into process at
8. that time? In this situation, with IBC, we're, you
9. know, two, four years behind in the system.
10. MR. FINKS: Chairman Fox.
11. CHAIRMAN FOX: Sir.
12. MR. FINKS: In the current rules as
13. they're written, I've got a copy of them here. I
14. brought a copy. In 0800-03-04-.02, number two, the
15. definition section, it talks about the ASTM
16. standard, and it says, the latest standards and
17. specifications set forth by the American Society for
18. Testing Materials. So that is in the definition in
19. the rules as it currently stands now in the rules;
20. that definition is there.
21. Some references are two specific
22. years like you talked about, and those are in
23. place also. But when it just talks about the ASTM
24. standard in general, the definition section
25. currently in the rules talks about the latest

<table>
<thead>
<tr>
<th>Page 90</th>
<th>Page 91</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. standards and specifications set forth.</td>
<td>1. the last time that was done? Where, you know,</td>
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<td>2. CHAIRMAN FOX: Okay. All right.</td>
<td>2. everybody went through it with a fine-toothed comb.</td>
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<td>3. Next item. Any questions or comments on that?</td>
<td>3. MR. FARMER: Yeah. We adopted new</td>
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<td>4. MR. BURCH: Yes. I'm asking are we</td>
<td>4. elevator codes in 2012.</td>
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<td>5. going to ask for a change or are we going to -- what</td>
<td>5. MR. HALE: Right.</td>
</tr>
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<td>6. are we going to do?</td>
<td>6. CHAIRMAN FOX: Yeah.</td>
</tr>
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<td>7. CHAIRMAN FOX: That's up to this</td>
<td>7. MS. O'CONNOR: So it's time --</td>
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<td>8. Board.</td>
<td>8. MR. FARMER: I believe that's correct</td>
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<td>9. MR. BURCH: Well, that's -- I don't</td>
<td>9. with -- we adopted to 2010 codes. So it was -- I</td>
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<td>10. know for sure what we're supposed to do at this</td>
<td>10. know elevators have gone through in 2010 or '12.</td>
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<td>11. point.</td>
<td>11. I'm sorry.</td>
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<td>12. MR. HALE: Something occurred to me</td>
<td>12. MS. O'CONNOR: So it's time.</td>
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<td>13. that we need to see all of the proposed changes we</td>
<td>13. CHAIRMAN FOX: I think the last</td>
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<td>14. want to make instead of a piecemeal, sending one</td>
<td>14. changes we made here would have been '10, and we</td>
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<td>15. down this month and then six months from now. Let's</td>
<td>15. went --</td>
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<td>16. decide everything that we want to change in the</td>
<td>16. MR. HALE: For Amusement?</td>
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<td>17. rules and do it one time. I mean, it seems silly to</td>
<td>17. CHAIRMAN FOX: Yeah.</td>
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<td>18. be changing them, you know, in here voting on</td>
<td>18. MR. HALE: Okay.</td>
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<td>19. something every month when we should, as a Board, as</td>
<td>19. MR. FINKS: Yeah. With the elevator</td>
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<td>20. you were saying that boilers did, sit down and look</td>
<td>20. code, the amendment was filed on August 7th, 2012;</td>
</tr>
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<td>21. at the entire set of rules and make those changes</td>
<td>21. it was effective January 29th, 2013. That was with</td>
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<td>22. and give the public an opportunity to speak on them</td>
<td>22. the elevator. Amusement devices --</td>
</tr>
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<td>23. and send everything down at once instead of</td>
<td>23. CHAIRMAN FOX: I remember we had a</td>
</tr>
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<td>24. piecemeal.</td>
<td>24. very long workshop and made several -- or suggested</td>
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<td>25. MS. O'CONNOR: Do we have any idea</td>
<td>25. several rule changes.</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Page 92</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1. MR. FINKS: It looks like 2010 would</td>
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<td>2. be Amusement devices. It looks like it was 2010.</td>
<td>2.</td>
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<td>3. CHAIRMAN FOX: Okay. All right. I</td>
<td>3.</td>
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<td>4. guess that begs the question. Do we want to have</td>
<td>4.</td>
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<td>5. another workshop in between our regularly scheduled</td>
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<td>6. meetings and talk about these things, put them on</td>
<td>6.</td>
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<td>7. the agenda in the workshop and hammer them out at</td>
<td>7.</td>
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<tr>
<td>8. that point?</td>
<td>8.</td>
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<td>9. MS. O'CONNOR: If we need to.</td>
<td>9.</td>
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<td>10. MR. MOORE: Yes, sir.</td>
<td>10.</td>
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<td>11. MR. BURCH: Could we meet in Florida?</td>
<td>11.</td>
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<td>12. CHAIRMAN FOX: Sure. I prefer either</td>
<td>12.</td>
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<td>13. Key West or Miami. I don't know what the rest of</td>
<td>13.</td>
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<td>15. MR. HALE: I vote Key West.</td>
<td>15.</td>
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<td>16. CHAIRMAN FOX: Key West. Okay.</td>
<td>16.</td>
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<td>17. MR. MOORER: No. I couldn't.</td>
<td>17.</td>
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<td>18. MR. BAILEY: Could I just make a</td>
<td>18.</td>
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<tr>
<td>19. suggestion or --</td>
<td>19.</td>
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<td>20. CHAIRMAN FOX: Yes, sir.</td>
<td>20.</td>
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<td>22. suggestion. If you're talking about going through</td>
<td>22.</td>
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<tr>
<td>23. the whole document, which includes the amusement</td>
<td>23.</td>
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<tr>
<td>24. device portions of it, unless it's urgent, I</td>
<td>24.</td>
</tr>
<tr>
<td>25. would -- I think it might be wise to wait to see if</td>
<td>25.</td>
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</tbody>
</table>
1. the budget is approved to hire some amusement device
2. inspectors --
3. CHAIRMAN FOX: Uh-huh.
4. MR. BAILEY: -- and then let them
5. come on and be part of that process.
6. MS. O'CONNOR: That's a good point.
7. MR. BAILEY: Just a suggestion.
8. MS. O'CONNOR: That's a good very
9. good idea.
10. CHAIRMAN FOX: I think that's an
11. excellent suggestion. We're just -- you know, we're
12. just tickled to death to have you two guys here to
give us good counsel like that.
13. MR. BAILEY: Thank you.
14. CHAIRMAN FOX: You keep us honest;
15. keep us good. All right. So with that in mind,
do -- can we -- when that would take place, when
would we know for certain one way or the other?
16. MR. FINKS: Well, the legislature
17. usually passes -- that's the last -- one of the last
things they do when they pass the budget. So it'll
be after the Legislature adjourns -- it'd be right
before the Legislature adjourns, and they would pass
the budget. And at the point in time, we would know
for sure about these positions, because the budget
would have been finalized and passed.
18. CHAIRMAN FOX: Okay. Okay.
19. MR. FINKS: And one other thing on
the --
20. MR. FINKS: -- hiring process, if
we're looking to come up with the job description --
we talked about that earlier. The job description
that, Chairman Fox, that you and the Board had asked
1. would have been finalized and passed.
2. So I'm not sure when the Legislature
3. is scheduled to adjourn this year -- when they're
4. looking to adjourn this year, but they would be --
5. one of the last things they do, typically is one
6. of the last acts they do before they adjourn.
7. MR. BAILEY: But would you be able to
8. hire them before July --
9. MR. FINKS: No, we wouldn't be able
to hire them until, yeah, after July.
10. MR. BAILEY: Yeah.
11. CHAIRMAN FOX: July? Yeah.
12. MR. BAILEY: July? Yeah.
13. CHAIRMAN FOX: Okay. So after --
14. between the June meeting and the September meeting,
15. we would meet on a workshop; is that fair?
16. MR. BAILEY: Yeah.
17. CHAIRMAN FOX: Or whatever --
18. MR. FINKS: If you had the people to
19. hire --
20. CHAIRMAN FOX: -- you need time to
21. hire them.
22. MR. BURCH: -- I guess.
23. MS. O'CONNOR: Sometime in the summer
24. would be --
25. MR. HALE: Even if they just get the
MS. O'CONNOR: Can we use the term "in compliance"?

MR. FINKS: No, sir. Things that came up or came to my attention were required verbiage when a third-party inspector submits an inspection report stating devices are safe and operable and meet ASTM standards. The person approached me and said, how can I -- asked me the question, said, how can I say -- the inspector can state at the time that it's in substantial compliance and meets ASTM standards, but this person conveyed to me that they did not want to say it was safe because if you -- for lack of a better name here, when you take the ACME fair and move it from one place to another, they have lost control of that situation. There's only a snapshot in time that they can say, yes, it's safe, but when it moves from position A to position B, they can't say that again, because it's not been reinspected. And they had a problem with saying it was safe; it does meet ASTM compliance, and it does meet the ASTM standards.

CHAIRMAN FOX: Okay. Folks, for all that on up, right?

MR. FINKS: Yes, sir. Before --

CHAIRMAN FOX: Okay. All right. Okay. And change the rules, that would be the time to -- just visit with Ms. Jefferson on that, then, sir?

MR. FINKS: We'd have to check with Ms. Jefferson on that.

CHAIRMAN FOX: Okay. And if I could make a comment. My insurance company would not insure us for lack of a better name here, when you take the ACME fair and move it from one place to another, they have lost control of that situation. There's only a snapshot in time that they can say, yes, it's safe, but when it moves from position A to position B, they can't say that again, because it's not been reinspected. And they had a problem with saying it was safe; it does meet ASTM compliance, and it does meet the ASTM standards.

CHAIRMAN FOX: That's --

MR. SMITH: -- and operable.

CHAIRMAN FOX: That's my point. And I want to --

MR. SMITH: And it becomes a --

CHAIRMAN FOX: -- just make sure that that's where we're at. Thank you. So we need to just visit with Ms. Jefferson on that, then, sir?

MR. FINKS: Yes, sir.

CHAIRMAN FOX: Okay. All right. The next item, Permit Application Fees/Device Fees. Probably, what I would ask to do on that is do we need to -- Ms. Bennett, do we need to come back on that one in June for a fee structure?

MS. BENNETT: I would think so. And this is talking about rules, so if you're going to change the rules, that would be the time to --

CHAIRMAN FOX: Okay.

MS. BENNETT: -- include this in the discussion.

CHAIRMAN FOX: All right. Okay. And the LULA lift, we've already made a motion to take that on up, right?

MR. FINKS: Yes, sir.

CHAIRMAN FOX: Okay. Folks, for all...
of you out there, I want to thank you for being here today. Your information has been invaluable to us.

It helps us be a better board; it helps us provide a better product out there, and I just want to say thank you.

On the two standards, we'll try to get those in process, and our two companies are two ACCT and PRCA. We'll get those -- we'll look at those two and try to make a decision as soon as possible. I don't know when that'll happen, but we will notify you as to when we're going to make that decision. It'll be a public announcement.

I go back to the five inspectors or safety consultants or whatever they are.

Mr. Finks: It's not five safety consultants; it's the three safety consultants, an administrative staff person, and a supervisor manager.

Chairman Fox: Okay.

Mr. Finks: Or it's three safety consultants.

Chairman Fox: Please know that I think, on behalf of this Board, we sincerely appreciate the effort, as we said earlier, the efforts of the Commissioner and Ms. Jefferson to push this through, make this happen. Again, this takes a lot of the Commissioners and Ms. Jefferson for making that happen. And at least they're still there today or at least they were in the budget.

Mr. Finks: Yes, sir. They're in the proposed budget --

Chairman Fox: Yes, sir.

Mr. Finks: -- for the Governor.

Chairman Fox: Again, thank you all very much. All right. Announcement of Next Meeting. The next regularly scheduled meeting of the Elevator and Amusement Device Safety Board will be held on the first floor of TOSHA Hearing Room at 9:00 a.m. central time on Tuesday, June the 7th, 2016 at the State of Tennessee Board of Labor and Workforce Development building located at 220 French Landing Drive, Nashville, Tennessee.

Anything else from the Board? Yes, ma'am?

Ms. Bennett: I just wanted to ask a question of the audience. We've tried this new opt-in on our website where people can opt in for e-mail blast, and I send them e-mails telling them about the meeting. How many of you are here because you got that e-mail? Okay. I just want to make sure that it's working, you know, so -- and thank you for attending.

Chairman Fox: Anything else on that?

Ms. Bennett: That's it. Just wanted to take a survey to see how many were here because of that e-mail that was sent out, make sure it's going out to everybody.

Chairman Fox: Okay. Mr. Hale reminded me of one other quick issue, was the inflatable law or the inflatable issue that I heard about by television. Has that law passed, failed, or does anybody --

Mr. Finks: There are committee meetings on that this morning. That's where Ms. Jefferson -- that's one of the things Ms. Jefferson is attending this morning. There are committee meetings -- it's still in committee. It has not passed or failed in the Legislature. It's going through the committee process and that's -- like I said, I know that's at least one of the meetings that Ms. Jefferson is attending. That's why she could not -- one of the reasons why she could not be here for this meeting is because of these meetings. So it is still going through the legislative process.

Chairman Fox: Okay.

Mr. Hale: Could we be provided with some information about where it is in the process of when those committee meetings are being held?

Mr. Finks: Yes, sir. There's -- I believe it's on the web -- but we could provide that information, but it's also -- it's available on the website on the TN.gov website for the Legislature.

If we got the bill number for that -- and we have the bill; I just don't have the bill number with me right now, but we can provide that bill number.

Mr. Hale: If you could just send me the bill number, I know how to research it.

Mr. Finks: Yes, sir.

Mr. Hale: If I just had the bill number.

Mr. Finks: And it's available to the public. That's public information. That's all public information.

Chairman Fox: Okay.

Mr. Hale: I -- personally, I have a real concern when we start piecemeal exhibiting people from the statutes but --
1. MR. SELLS: We'd love to make a
   comment on that, if you don't mind.
2. CHAIRMAN FOX: Two minutes.
3. MR. SELLS: Two minutes is all we
   need. Dave Sells with Space Walk Party and Event
4. Rental. We feel it's highly important that the
   inflatable stay in you guys hands and that this
   doesn't happen. You know, we -- Tony and I are both
   here. We're large companies; we have hundreds of
   units between the two of us. It costs us thousands
   and thousands of dollars to get this done, but we
   think it's really important. It's a hassle on our
   side, but we think it's important for the safety of
   Tennessee. We hope that you guys carry that and let
   people know that you guys feel it's important also.
   It's a big fight, and it's being
   played in an unfair game right now. It's being
   pulled a lot as we show up with the news media
   there, it's being pulled off the agenda last
   minute because we're there, the news media's
   there, and we feel like we'd really like your help
   to, you know, make sure that this is done right.
   MR. HALE: Well, I can't speak for
   the Board; I can speak for myself. Personally, I
   have a real concern about pulling the inflatables
   from being inspected. I think there are too many
   opportunities, for lack of a better term,
   fly-by-night folks to come in and rent out devices
   that are poorly maintained and let somebody back up
   to their dock, kick it off in the back of their
   pickup truck and say, good luck to you with no
   instruction on how it should be anchored, what
   should happen if the wind gets above 15
   miles-an-hour, and a dozen other things that should
   be considered.
   And I personally have concerns about
   that being pulled. I owned inflatables at one
   time; I don't anymore, and I know and understand
   the hazards that they present. And I just have a
   problem with it.
   MR. SELLS: As an example, we spoke
   with somebody last night that's operating in
   Tennessee. She's got four to five units that she
   bought at Sam's and WalMart. She's calling them
   commercial and she said that she has insurance
   through Geico. Geico doesn't offer insurance --
   MR. HALE: Geico doesn't offer it.
   MR. SELLS: -- for this high risk.
   There's no insurance out -- so she's passing fake
   insurance documents. She's renting equipment that's

1. not commercial. You know, there's a lot of these
2. guys out there. And that's what we hope to see, you
3. know, get regulated and go away.
4. MR. FINKS: And there's a -- I mean,
5. good way if you have opinions one way or the other
6. on this issue, to talk to your state legislators,
7. because it's definitely --
8. MR. SELLS: And we have. We --
9. MR. FINKS: -- a topic in the
10. Legislature.
11. MR. SELLS: We've been at the
12. Committees every time. It just -- like I said,
13. every time we're there, we take the news media with
14. us and it gets pulled last minute. So it's happened
15. four times already. So -- but I appreciate your
16. time.
17. MR. HALE: And I've voiced my opinion
18. to several legislators about it. So --
19. MR. SELLS: And we appreciate it.
20. Believe me.
21. MS. BENNETT: And Mr. Fox --
22. CHAIRMAN FOX: Yes, ma'am.
23. MS. BENNETT: If you are aware of a
24. company that's not operating with a permit, on our
25. website there is an opportunity for you to go out

1. there and give us a tip and we will follow up.
2. MR. SELLS: We've seen that.
3. MS. BENNETT: If we can --
4. MR. SELLS: The hard thing is --
5. MS. BENNETT: -- find the person.
6. MR. SELLS: -- a lot of these people
7. don't have a business name.
8. MS. BENNETT: Right.
9. MR. SELLS: They don't have a
10. website. I've called some of them. I've said, can
11. I come to your place? I'm sorry, we don't offer
12. that. Well, do you have a website where I can see
13. your equipment? No, we don't have that.
14. MS. BENNETT: I know.
15. MR. SELLS: And --
16. MS. BENNETT: I research them daily,
17. so I'm aware of --
18. MR. SELLS: It's really hard --
19. MS. BENNETT: -- how hard they are to
20. find.
21. MR. SELLS: -- and I know it takes a
22. lot on you guys, too, but I think it's really
23. important.
24. MS. BENNETT: But any leads that you
25. can give us would be appreciated.
MR. SELLs: Sure.
MS. BENNETT: We do follow them up.
MR. SELLs: Thank you.
MR. ATWELL: I have a suggestion.
I'm sorry.
CHAIRMAN FOX: Got to come to the chair, sir.
MR. ATWELL: Tony Atwell, Jump Jump Bounce. And as Dave said, he and I are fairly large companies and hundreds of units. Continuously seeing people coming from out of town or out of state, for example. I just -- I have a photo in my phone of someone using 45-pound dumbbell weights to hold a unit down in front of a WalMart in Murfreesboro. They came from Atlanta.
So this is something that we do need to gain control of. And I think that one simple way to do it is if someone wants to hold a public event, whether it be a school, a church, or a company, if there was a way to organize a permit -- there doesn't have to be a fee. But say, for example, they go online, they log in to get their permit, they have a list to select from of vendors that are going to provide equipment for their event. If the vendor is not on that list preapproved by Tennessee, then that gives you the opportunity to go out and inspect them or what have you. But I think that would help us organize things, and I think it would really, really help out.
MS. BENNETT: Well, I think the safety consultants in each grand division -- I think, ultimately, that's where they're going to be beneficial. They'll be able to walk on site and when this is happening, you know. So they won't actually be inspecting, of course, you know, it's third-party inspectors no matter the device. You know. But they would be able to be our eyes and ears out in the field.
MR. ATWELL: Exactly. And that --
MS. BENNETT: Uh-huh.
MR. ATWELL: -- makes good sense.
But with -- if there were a way to organize a list of events that are happening within the state and utilizing those vendors on that list -- if there were someone -- if you -- you know, that was not on the list that was going to be used for that event, if you had a -- someone maybe in each quarter divided up in each quarter of Tennessee, then there would be no more than an hour to an hour and a half away from any of those events.
MS. BENNETT: Well, better yet, you know, we have a compliant and non-compliant list on our website.
MR. FINKS: Right.
MS. BENNETT: And that compliant list is updated monthly. And you know, we're hoping that that's where people will want to spend their money is people who are on that compliant list. And as we bring people into compliance, you know, it -- For instance, I was having mothers call me and say, my child is wanting to go ziplining. You know, is this place compliant? Do they have a permit? And I was having to research that for them. But now they can go online and see if the inflatable company that they want to have for their birthday party is compliant or not.
So I don't know that we can do it by venue, but we can do it by all compliant companies, you know. So people will know where they want to spend their dollars.
MR. ATWELL: Right. Totally understand.
MR. HALE: And I certainly see what you're saying about if it's a large event. But by the same token, we need to know that that one inflatable going to somebody's backyard for a birthday party is a safe device that's going out there, as well.
MR. ATWELL: Exactly. Exactly. And we still need to --
MR. HALE: And if not -- would not be reasonable to believe that every time somebody calls you for an inflatable for a backyard birthday party, that you're going to file a form up here to follow up on it but to be able to say, I have devices which are permitted and meet safety standards, and my staff is properly trained is what's important.
MR. ATWELL: Correct. Right.
MR. HALE: But I see what you're saying about large public events just like carnivals apply and say, this is our route in Tennessee this year. This is all the fairs and festivals I'm going to be at in Tennessee. Inflatable folks could provide a similar document for, I'm going to have 10 devices up at the Saint Mary's Church of Christ or whatever.
MR. ATWELL: Exactly. All right.
MR. SELLs: If I could, if we looked
1. at Kentucky and took what they're doing -- I don't
2. know if Tony operates in Kentucky, but we're
3. inspected in Kentucky. And we have to provide them
4. with an itinerary. It doesn't matter if I'm going
5. to your backyard or to a church with 50 units. They
6. choose where they show up; they have 12 inspectors.
7. They choose where they show up, but you always know
8. that they could show up. And so you do it -- you
9. know, it's our right -- we're supposed to do it
10. right. But it forces those people to do it right
11. every time. And I think -- I know this is the first
12. step and maybe one day we'll get there, but I think
13. it does work.

CHAIRMAN FOX: Okay.

MR. SELLS: And they go as far as if
15. it's not right, they'll cut a cord off a blower in
17. Kentucky and make it where you can't use it. So --

CHAIRMAN FOX: Okay. Anything else
from the Board? Well, thanks --

MR. SELLS: I'm sorry. I just got a
21. notification they did table it again. News 5 was
22. there, and he pulled it again, so --
23. They asked him in the hallway for
24. comment and he refused to comment and walked right
25. in and pulled it off the agenda this morning.

Page 114

1. MR. HALE: Motion to adjourn.
2. CHAIRMAN FOX: I have a motion to
3. adjourn.
4. MR. BURCH: Motion --
5. CHAIRMAN FOX: So be it.
6. END OF PROCEEDINGS.

Page 115

1. CERTIFICATE
2. STATE OF TENNESSEE )
3. COUNTY OF WILLIAMSON )
4. I, Dominique A. Dubois LCR# 686,
5. Notary Public and Court Reporter, do hereby
6. certify that I have recorded to the best of my
7. skill and ability by machine shorthand all the
8. proceedings in the foregoing transcript, and that
9. said transcript is a true, accurate, and complete
10. transcript to the best of my ability.
11. I further certify that I am not an
12. attorney or counsel of any of the parties, nor a
13. relative or employee of any attorney or counsel
14. connected with the action, nor financially
15. interested in the action.
16. SIGNED this 14th day of April, 2016.

___________________________________

Dominique A. Dubois, LCR# 686
Notary Public State at Large
My commission expires: 8/9/2018

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