This transcript is intended for your law firm’s own use. If you wish to share this transcript with an outside law firm, log back in to your CasePlannerPro account and click the **Share** button.

For questions, call (615) 268-1244 or send an email to nangeorge@stoneandgeorge.com
1. The above-styled cause came on for
2. hearing on this the 6th day of June, 2017, before
3. The Elevator & Amusement Device Safety Board at
4. 220 French Landing Drive, Tennessee Room, 1st
5. Floor, Nashville, Tennessee, when and where the
6. following proceedings were had, to wit:

---

1. Dave Sells, Tennessee Event Specialist
2. Debbie Bahr, Tennessee Event Specialist
3. Ronnie Small, Dillard’s, Inc.
4. Eric Kent, Dillard’s, Inc.
5. Via Telephone:
6. Samuel C. Louderback, Esq., Egerton McAfee
   Armistead & Davis P.C.
7. Melissa Carrasco, Esq., Egerton McAfee Armistead &
   Davis P.C.
AGENDA

I. Call Meeting to Order

II. Introductions

III. Pledge

IV. Announcements

V. Approval of the March 7, 2017 Meeting Minutes

VI. Elevator Unit's Report

VII. Amusement Device Unit's Report

VIII. Old Business

* None

IX. New Business

* Samuel C. Louderback, Esq. appeal for Max Air Trampoline Park, LLC

X. Discussion Items

* Suggested Law/Rule Changes for 2018:
  - Revise Definition to Include Go-Karts and Inflatables
  - Change Fee Structure
  - ASTM F24 Reference Included in the Law
  - Deletion of Section (20), Definition of Serious Incident

* 2017 Legislative Update

* Discussion about ASME and ANSI codes & updating current rules (elevator and related devices)

XI. Announcement of Next Meeting - The next regularly scheduled meeting of the Elevator & Amusement Device Safety Board

meeting will be held 9:00 a.m. (CT) on Tuesday, September 12, 2017 at the State of Tennessee, Department of Labor and Workforce Development building, located at 220 French Landing Drive, Nashville, Tennessee.

Adjournment
1. MR. MARTINEZ: José Martínez, 1. then there were -- made the way for 156,000 the rest
2. starting with Elevator Inspector Board and 2. of the day, and I think that by the end of the day,
3. Development. 3. they landed a million on the beaches of Normandy on
4. CHAIRMAN FOX: Okay. Again, we want 4. D-Day. So if you would, Chris?
5. to welcome everyone and then we also have a Mr. -- 5. (Pledge of Allegiance recited.)
6. who do we have on the phone. 6. CHAIRMAN FOX: Please just join me in
7. MR. LOUDERBACK: Yes. This is Sam 7. a moment of silence.
8. Louderback. I'm an attorney at Egerton McAfee. 8. (Moment of silence observed.)
10. MR. BAILEY: Sam. 10. Please be seated. And our announcement for the day
11. MR. LOUDERBACK: Yes, sir. 11. says, in the event of an emergency or natural
12. L-O-U-D-E-R-B-A-C-K. 12. disaster, security personnel will take attendees to
13. CHAIRMAN FOX: Okay. Did you get 13. a safe place in the building or direct them to exit
14. that, ma'am? All right. Very good. We also want 14. to the building on the Rosa Parks side. And that --
15. to welcome -- 15. MR. RADER: Behind you.
16. MS. CARRASCO: And -- 16. CHAIRMAN FOX: Right. You know,
17. CHAIRMAN FOX: I'm sorry. 17. you've thrown us all off here. We came in this
18. MS. CARRASCO: Sorry. This is 18. morning, didn't know which end to go to because
19. Melissa Carrasco. I'm also here with Sam and we're 19. normally we sit with our backs to that wall. I
20. here on behalf of Max Air Trampoline Park. 20. don't know what's going on.
22. you with us today. 22. CHAIRMAN FOX: That's right. Okay.
23. MS. CARRASCO: Thank you. 23. Mr. -- the approval -- Item Number 5, the approval
24. CHAIRMAN FOX: Thank you. 24. of the March 7, 2017 minutes. Do I have a motion to
25. MR. LOUDERBACK: Thank you. approve?

1. CHAIRMAN FOX: Certainly, we want to 1. MR. RADER: So moved.
2. welcome Mr. James Roy Pope. He's our new board 2. CHAIRMAN FOX: I have a motion.
3. member. And you obviously have the opportunity to 3. MR. MOORE: And I'll second.
4. give us a 12, 15, 20 minute speech, if you like. 4. CHAIRMAN FOX: And a second. Any
5. MR. POPE: I don't think I'll bore 5. discussion? There being none, all in favor of the
6. anyone with that. 6. motion, let it be known by saying "aye."
8. we're glad to have you here and -- 8. MS. O'CONNOR: Aye.
10. quick. 10. MR. MOORE: Aye.
11. CHAIRMAN FOX: All right. 11. MR. MOORER: Aye.
12. MR. POPE: I come from the carnival 12. CHAIRMAN FOX: All opposed, by like
13. industry, a 93-year business, a family business, our 13. sign. Thank you very much.
14. own, and we've been around -- I've been around rides 14. Mr. Farmer, I trust that you have a
15. all my life. And I've been around the safety part 15. good report for us today.
16. of it. I've been around the management part of it, 16. MR. FARMER: Yes. It's pretty good.
17. and that's how I make my living. So a little bit 17. I will go over the numbers for the year, but first
18. about me. 18. we'll start off with going with the inspectors.
19. CHAIRMAN FOX: Okay. Next item on 19. Right now, we have 24 inspectors and one supervisor,
20. the agenda is our pledge. If we could ask everyone 20. which is me. We do have three office staff, neither
21. to stand, we'll do the pledge, and then I want to 21. of them being the supervisor for the office.
22. take a moment of silence and I want you to be 22. We have three current openings in
23. thinking about the fact that 73 years ago our 23. Nashville -- three current openings, two in
24. country landed on the beach of Normandy and I think 24. Nashville, one in East Tennessee, and we are
25. we had about 4,414 people killed that morning and
of a unit, of an elevator, escalator, whatever it may be. And we heard Jerry say he's one of the likely candidates to be returning to the State.

We'll glad to have him because we need the help.

Mr. Martinez: Thank you.

Mr. Farmer: We do have Earl Kitzmiller retiring. It's official July 1st.

We want to thank him for his service for the State of Tennessee. He's been with the State for 13 years, so we wish him well. So --

Last month, we had three of our new inspectors take their QEI and get certified. I want to thank Paul. He actually supplied some of his elevator people to go into class with them where they'll come to us and save the State a lot of money. So I want to thank him, thank you for finding us some people to sit in the class with my people. So --

We also had the QEITF to come to use and recertify all our inspectors. So we're all recertified for the year, so it's good for the next year.

And I guess to ring my own bell, I did get asked to be a member of a seven-person certification council that kind of oversee all the

QEI certifications for the QEITF. So we just --

we do things like exam requirements, I guess, education requirements, and we also do, like, budget approval for the year. So it's only seven people on it and I got asked to be on it. So it's good for the good of the State of Tennessee and I guess it's good for me, too. So that's good.

As far as numbers go, we've done 292 permits so far this year and that's up about 43 from last year. So we've got a lot of growth going on in Tennessee.

Chairman Fox: Now, do say that again just for the record.

Mr. Farmer: We're up 43 for the year. It's 292 permits, new permits so far this year. So -- versus 249 last year at this time. So -- and if you drove through Nashville, you've seen the growth. So it's a lot of it.

We're down a little bit on inspections, but we're down on inspectors. We've done 8,880 inspections so far this year. That's just a biannual inspection. We're down about 500.

The new acceptances, we've done 201 new acceptances. That's just a first inspection of a unit, of an elevator, escalator, whatever it is. That's up 41 from last year, and we've done over -- close to 15,000 inspections -- no, we've got close to 15,000 units that we're inspecting right now in the State of Tennessee. So that's about all I have.

Chairman Fox: Let me ask you a question about Gatlinburg and Sevier County.

Obviously, they had a fire; they're in the rebuilding stage. Have you seen an increase in the number of permits or requests for elevators or --

Mr. Farmer: You know, we didn't lose a whole lot of elevators. I think we ended up losing 14 in the fire. I've not seen but one permit -- I can't remember the name of the business. I probably shouldn't say it anyway, but that have applied for -- to reinstall an elevator --

Chairman Fox: Okay.

Mr. Farmer: -- due to the fire. Of course, we did go up to the Sky Lift last month and do an acceptance on it, and we actually got some really good media coverage on that. I want to thank our media people here in this office that set it up. And it shined a good light on the State as far as the oversight. And I know last week was their first weekend of reopening. So they opened for Memorial Day weekend. So it was good that we got in there and did the inspection timely and got it turned over -- due to the fire. Of that have --

Committee: I can't remember the name of the business. Obviously, they had a fire; they're in the rebuilding stage. Have you seen an increase in the number of permits or requests for elevators or --

Mr. Farmer: You know, we didn't lose a whole lot of elevators. I think we ended up losing 14 in the fire. I've not seen but one permit -- I can't remember the name of the business. I probably shouldn't say it anyway, but that have applied for -- to reinstall an elevator --

Chairman Fox: Okay.

Mr. Farmer: -- due to the fire. Of course, we did go up to the Sky Lift last month and do an acceptance on it, and we actually got some really good media coverage on that. I want to thank our media people here in this office that set it up. And it shined a good light on the State as far as the oversight. And I know last week was their first weekend of reopening. So they opened for Memorial Day weekend. So it was good that we got in there and did the inspection timely and got it turned over -- due to the fire. Of that have --

Committee: I can't remember the name of the business. Obviously, they had a fire; they're in the rebuilding stage. Have you seen an increase in the number of permits or requests for elevators or --
1. is our safety compliance officer for our eastern
2. region. Dave?
3. MR. WHYEL: Yes, I come retired from
4. Robert Bosch Corporation with 31 years of service
5. there. I'm an employee of the State. I've been
6. employed by the State for six years now. I came
7. from the Department of Safety and Homeland Security
8. into this department. I've come with a lot of
9. background in quality control. I was a quality
10. control analyst. I was a quality control
11. supervisor. I was a quality control, I guess you
12. would say, engineer for Bosch. I've got a lot of
13. experience with the quality part in the
14. manufacturing.
15. CHAIRMAN FOX: Okay. We're glad to
16. have you, sir.
17. MR. RADER: Glad to have you.
18. MR. WHYEL: Thank you.
19. MR. RAYBORN: My name is
20. Andrew Rayborn. I'm the eastern region safety
21. compliance officer. I was a combat veteran in the
22. United States Army. Before this job, I had a
23. background in law enforcement. I left as canine
24. handler, was my last position. I hold a bachelor's
25. degree in emergency management and I'm currently

1. working on an MBA. And I really like my job. I
2. like being here. And I appreciate the opportunity.
3. MR. HARDY: And thank you all. And
4. I'd like to say that these guys have really hit the
5. ground running. They're doing an excellent job for
6. us so far locating companies that are not in
7. compliance with the current law. And I would like
8. to go over some of our year-to-date statistics. At
9. this time, we have a milestone in the Unit. We have
10. issued a record 304 permits thus far in the fiscal
11. year, '16/'17. And that is a 32-percent increase in
12. permits issued versus the prorated number from last
13. year.
14. Another milestone is that in one
15. week, the Unit issued 16 permits, and the
16. previous -- the most that we had was 13. So we're
17. proud of that. And we've got four more weeks
18. remaining in this fiscal year. Our goal is to
19. issue 350 permits by the end of this fiscal year,
20. and it shouldn't be an issue for us to achieve
21. that goal. We have permitted 2,693 amusement
22. devices in the state. We've had 22 referrals and
23. nine previous non-compliant companies that have
24. subsequently achieved compliance.
25. The safety compliance officers’
1. entertaining right now. There's some things going
2. on with different software companies and this and
3. that and the other, but when that's in place, we'd
4. love to have online payment for permit payments.
5. I'd like to talk a little bit --
6. well, our website is constantly being monitored
7. for changes and revisions. The website is, we
8. feel, an ongoing, continuous improvement
9. opportunity, and we will include different
10. terminologies from time to time as they're handed
11. down to us.
12. Fair season. The Tennessee
13. Association of Fairs has reported that there are
14. currently 58 scheduled fairs for this season.
15. That started with Marion County on May the 17th
16. and it will end with Benton County and the Middle
17. Tennessee District Fair on September the 25th of
18. this year.
19. And we are very mindful as a group of
20. the urgency of issuing these permit renewals prior
21. to the associated fairs. We want to avoid any
22. backlogs in that area. With a couple of
23. exceptions, we're well into our June list now, as
24. far as renewal. Carlene Bennett is doing a great
25. job staying on top of the renewals. And the

1. safety compliance officers -- not only are they
2. locating the noncompliant companies, but they are
3. assisting with the renewal process.
4. In order to comply with the recent
5. legislative changes and -- well, we have developed
6. an inspection sticker that we will adopt on
7. July 1st. The Commissioner suggested that we go
8. with individual proof of inspection stickers for
9. each device, and I have some of those that --
10. we're just now in the process of ordering these.
11. They'll be four-by-five inches. Would you pass
12. those for me? They'll be four-by-five inches
13. size.
14. And we thought that the least labor
15. intensive method to issue these, the requirement
16. is that they have the date of last inspection. So
17. we talked about having a scratch-off on there like
18. you see on some things, but some of these devices
19. are moved and we didn't think that would hold up.
20. So we're going to punch these dates out before we
21. send the decals to the companies. It's kind of --
22. it's similar to, kind of, how they would punch
23. dates out on old car batteries if you would get
24. warranty dates and things.
25. But we will issue those out of the

1. office as the permits are issued. Are there any
2. questions on the proof of inspection?
3. MR. RADER: Maybe for the benefit of
4. the Board and we have a new member, why don't you
5. walk us through the permitting process, since you've
6. got two new inspectors, and kind of give us an idea
7. of how that works.
8. MR. HARDY: Well, renewals, we
9. contact them about a month in advance by letter and
10. tell them that their permit, you know, renewal date
11. is coming up and we'd be glad to assist them through
12. that process in any way that they would like. And
13. we start gathering the information. Sometimes it's
14. all sent together.
15. The compliance officers, especially
16. Andrew and Kevin, that are not in the central
17. office, they'll put an entire package together.
18. But that packet, of course, includes a proof of
19. insurance. It has to have the -- every device the
20. inspection reports, which now those -- like, we
21. mentioned those are coming in online. The
22. payment -- the permit payment fee and -- what am I
23. missing?
24. MS. BENNETT: Application.
25. MR. HARDY: Yeah. The two online
1. Fox-proof. So it does work. I just want you to know that.
2. I'm glad that you all put that into process. It does make things easier. I appreciate you, Ms. Jefferson, changing that verbiage at the end of that. That just makes life a lot easier for everyone concerned. I just want you to know how much I appreciate that.
3. One other question for you. The fair season.
4. MR. HARDY: Yes, sir.
5. CHAIRMAN FOX: You said there were 58 this year who have applied or --
6. MR. HARDY: The Tennessee Fair Association provides that listing for us and there are 58 fairs.
7. CHAIRMAN FOX: What was the -- do we have any information as to what the number was last year?
8. MR. HARDY: I don't, on the top of my head, but I think they might have added one or two, but none have dropped off. It's basically in tact.
9. CHAIRMAN FOX: Okay.
10. MR. POPE: Chairman.
11. MR. HARDY: -- in tact.
12. CHAIRMAN FOX: All right.
13. MR. POPE: If I could, I can answer that.
14. CHAIRMAN FOX: All right.
15. MR. POPE: Fifty-eight fairs. That's the ones that are actual county fairs --
16. CHAIRMAN FOX: Right.
17. MR. POPE: -- in the state. There's also festivals and what we call steal dates where they just pay a shopping center or a mall, things like that. So there's going to be a lot of different -- a lot of carnivals come in and just play one of those instead of an actual fair in the state.
18. CHAIRMAN FOX: Okay.
19. MR. POPE: So that changes periodically.
20. CHAIRMAN FOX: All right.
21. MR. HARDY: Yeah, the Fair Association pretty much represents --
22. MR. POPE: Right.
23. MR. HARDY: -- state and county.
24. MR. POPE: And you know -- well, you can't be a member of the Fair Association without being a national fair and agricultural based -- and that's where that changes that.
25. CHAIRMAN FOX: Okay. I didn't -- I'm sorry.
26. MR. POPE: I got one question.
27. CHAIRMAN FOX: All right.
28. MR. POPE: I like that and I like the -- I mean, we're going to have a sticker. I really think that's something you need, but you're going to be punching those in the office and sending them out, and my only issue is, you can't do it all at one time, because a lot of these companies have different rides or they add different rides periodically. You're going to be mailing stuff every day everywhere.
29. MR. HARDY: Well --
30. MR. POPE: That's going to be a -- I mean, you're looking at a real headache there.
31. MR. HARDY: Well, we thought about that, James Roy, and believe that the punch-out for the date of inspection would be a permanent thing, it would last longer than writing information in with a Sharpie. It would be --
32. MR. POPE: It definitely will on that part.
33. MR. HARDY: There would be less opportunities there for counterfeiting, and we're going to have some counterfeiting deterrents built in with the label. Not to say --
34. MR. POPE: No, but --
35. MR. HARDY: You know. Just as a --
36. MR. POPE: Well, you're looking -- as an example, when you have inflatables and stuff involved, I mean, the only place you can put a sticker is on the blower. So you're --
37. MR. HARDY: Right.
38. MR. POPE: I mean, you've got a blower that's inspected and approved and then you can take that blower and use it somewhere else.
40. MR. POPE: So there is a lot that can be done.
41. MR. HARDY: And we'll have to work through some of those details, but as far as -- like I said, we'll punch those out.
42. MR. POPE: It's definitely needed. I think you're going to have to tweak it before it's over.
43. MR. HARDY: Right.
44. MR. POPE: I mean, I think you'll have to.
MR. LOUDERBACK: And we'll have to do some
mailing of those, too --

MR. POPE: Right.

MR. LOUDERBACK: -- because sometimes the
permits are issued electronically. But those are
just some things that we'll have to figure out as we
go. But at this point, we just -- we think that for
any decal that shows proof of inspection, this is --

MR. POPE: As a ride owner, I mean, I
think we should have a sticker on it that says we're
inspected and approved.

MR. LOUDERBACK: Yeah. And I didn't
mention that we'll color code those, too. We'll --

MR. POPE: Yeah. Each year, it'll
change.

MR. LOUDERBACK: Right. So you can walk
through a park or a fair, whatever, and --

MR. POPE: The quality of it --

MR. LOUDERBACK: -- you know, if you're
familiar, you'll know that that has the current
inspection sticker.

MR. POPE: The quality will be
something like they use on EFTA sticker or something
like that. Would that be --

MR. LOUDERBACK: On where --

MR. POPE: The quality of the vinyl
can --

MR. LOUDERBACK: Yeah.

MR. POPE: -- easily remove it or --

MR. LOUDERBACK: Yeah. It's going to be a
four-mil durable vinyl decal.

MR. POPE: Okay.

CHAIRMAN FOX: Anything else, sir?

MR. LOUDERBACK: No, sir. If no one has
any additional questions for us.

CHAIRMAN FOX: No. Any other
questions from the Board? Very good report.

Ms. Jefferson, do you have anything
for us? Okay. All right.

Old business. Item Number 8. We do
not have any old business. So moving on to new
business, Mr. Louderback?

MR. LOUDERBACK: Yes, sir.

CHAIRMAN FOX: I think it's time for
you. You have asked to be heard on Max Air
Trampolines?

MR. LOUDERBACK: That's correct.

CHAIRMAN FOX: Please proceed.

MR. LOUDERBACK: And -- thank you.
1. Mr. Louderback, he wrote a two-page letter setting out their argument. And as he was talking, I realized that that letter is not before any of the board members.
2. CHAIRMAN FOX: No.
3. MR. BAILEY: So one of the assistants.
4. is going to make a copy of the letter for you all.
5. And I think, in all fairness, you should have the opportunity to read his letter first before we
6. actually go on, if that's okay. I know it'll cause a pause in the proceedings, but I just think in all
7. fairness, you should see his letter.
8. MR. LOUDERBACK: Yeah. That sounds great to us.
9. CHAIRMAN FOX: So do we want to just suspend this till we get the letter back and go forward and then come back to it or how long is it going to take?
10. MS. BENNETT: She's making copies now.
11. MR. BAILEY: I mean, I don't think it'll take long. If you wanted to go into a discussion item, we could. But like I said, I don't think it's going to take real long.
12. CHAIRMAN FOX: Okay. Well, we'll wait, then. How's that?
13. MR. BAILEY: Okay. We can take a short break.
14. CHAIRMAN FOX: We can take a short break. Let's take a break.
15. (Recess observed.)
16. CHAIRMAN FOX: Folks, I believe we have everybody back in the room. If we can, we'll proceed.
17. MR. BAILEY: Has all the board members read the letter?
18. CHAIRMAN FOX: Has everyone read the letter?
19. MR. BAILEY: Okay.
20. MS. BENNETT: And that's as loud as the phone will go for you guys in the back.
21. CHAIRMAN FOX: Mr. Louderback, we'll get started here in just a second. Everyone's finishing up the letter.
22. MR. LOUDERBACK: Okay.
23. CHAIRMAN FOX: Are we ready to proceed? You ready to go?
24. MR. MOORER: Yes.
25. CHAIRMAN FOX: Okay. All right.
26. Mr. Louderback, we're back in session. And at this time, I'm going to ask Mr. Bailey to respond. We've had the benefit of reading the letter. So --
27. MR. LOUDERBACK: Okay.
28. MR. BAILEY: Okay. This is Dan Bailey. I'm legal counsel for the Department.
29. The Department does believe that the trampoline parks fits into the definition of an amusement device.
30. Regarding the exceptions, and I don't pretend to know why the legislature excepted certain things and not other things, but I would point out that things such as wave pools are regulated by the Department of Health, the Tennessee Department of Health. Roller and ice skating rinks are regulated by the Fire Marshal. So there is some oversight to those entities and that may or may not have been why they were exempted.
31. The letter talks about, you know, none of which carry or convey, but it's not just carrying or conveying when you look at the definition. It's carrying -- it says, carries or
32. conveys a person or that permits a person to walk along, around, or over a fixed or restricted route of course or within a defined area. So it's not
1. just carrying or conveying.
2. Also, the referenced -- in the first paragraph of the second page, to riders, and I know there is a code of conduct for riders that's in the statute. However, things, such as glass houses and walk-through dark houses, they do not -- they are not riders. I'm not certain -- what do you call an individual going through a challenge course? Are they a rider or what?
3. MR. STOCK: Patrons or participants is normally what we utilize, but sometimes they do get referenced as riders.
5. MR. STOCK: Usually by you guys as point --
6. MR. BAILEY: Okay. And I'm sorry, will you state your name, please?
7. MR. STOCK: Don Stock from the Adventure Guild.
8. MR. BAILEY: Okay. Thank you. And also, the reference to -- in the second paragraph of the second page talks about the fact that the ASTM standard, regarding trampoline parks, which is ASTM F2975-15 is not in the rules, which that's true. It's not in the rules. However, the statute requires -- and the fact that it's not in the rules really doesn't matter, because the statute at 68-121-120 requires that -- requires an inspection from the qualifying inspector, written documentation that the inspection has been made, and that the inspection has been made, and that the communication device meets American Society of Testing Materials, ASTM standard, and is covered by the insurance required by 68-121-117(b).
9. So whether it's in the rules or not, the statute tells us that that device has to meet the ASTM standard. So it really doesn't matter if it's in the rules or not. The statute trumps the rules anyway. So -- but anyways, so those are the reasons -- some of the reasons why we feel that -- and also Mr. Hardy had done some research, and currently, other states do regulate trampoline parks. Pennsylvania, Kansas, Colorado, Arizona, Michigan, Virginia. Illinois is in the process of finalizing legislation to also regulate amusement devices, including trampoline parks. And of course, Tennessee does. So we're not alone in calling these amusement devices.
10. CHAIRMAN FOX: Mr. Louderback, did you hear what was presented?
11. MR. LOUDERBACK: Yes, sir, I did.
1. What I'm saying is that the statute itself says that the ASTM standards should be adopted via the Administrative Procedures Act. And so it says that the rules themselves should be amended via the Procedures Act to adopt the necessary standard. So I don't think your -- the statute doesn't allow, under my interpretation, just following any ASTM standard or any other standard that you want. It has to be adopted via proper procedures by statute. Well, I guess we're -- more arguing what the statute itself actually says than we are whether or not it trumps the rules.

2. MR. BAILEY: Well, again, I just rely on 68-121-120 that says it has to be inspected and the inspection has to be made and that the amusement device meets American Society of Testing Materials standards and is covered by the insurance requirement. I mean, there's no qualifying language there that says, meets the ASTM standards that have been properly promulgated into a rule.

3. It doesn't go that far. It just says it must meet that standard. So that's why I said there's really not a necessity for a rule in that situation.

4. MR. LOUDERBACK: Yeah. That's what I think, though. It does provide that in 103(b)(2).

5. And I also think that notice must be provided under the Administrative Procedures Act, if that's what -- you're trying to adopt new standards, you know, via any type of procedure.

6. CHAIRMAN FOX: Okay.

7. MS. O'CONNOR: Mr. --

8. CHAIRMAN FOX: Anything else, Mr. Bailey?

9. MR. BAILEY: No.

10. CHAIRMAN FOX: Anything from the Board?

11. MS. O'CONNOR: I have a question, Mr. Chair.

12. CHAIRMAN FOX: All right.

13. MS. O'CONNOR: If the legislative intent wasn't to include trampolines and trampoline parks, then why wouldn't they have specifically listed trampoline parks with all these other exceptions, such as go-karts, mechanical bulls, ice skating rinks. To me, I would think the intent was clearly that it was included.

14. CHAIRMAN FOX: Well, I would, as well, and I also think back in -- the law actually started -- this would have been 2007. It may have even been written in 2006. And at that time, there would -- I don't know that we had trampoline parks across the state of Tennessee. So I don't think they were set out, nor did we have Zorbs. I daresay we had very few ziplines, if we had any, in 2006.

15. MR. STOCK: Very few.

16. CHAIRMAN FOX: And I don't know -- I mean, I'm sure there are a lot of other amusements out there today that were not available in -- or not around in 2006, so I'm not sure that the legislature could have foreseen to eliminate or, furthermore, to include them. At least, that's how I look at it. I also think about, you know, when we look at the number of injuries that are out there today, I'd ask Mr. Hardy to send me some information on number of injuries per devices or groups, whatever. And as I look down this list -- and you all don't have the benefit of this and I'm sorry -- but 15 out of 22 reported or recordable-type injuries -- 15 of those occurred in a trampoline or on a trampoline --

17. MS. O'CONNOR: Right.

18. CHAIRMAN FOX: -- area. So I mean, that's 68 percent of them. So to me, that --

19. there's an issue there. Now, somebody had asked me about the trampolines -- you know, should -- if an injury occurs on a single trampoline, should we shut down the entire --

20. MR. FARMER: Operation?

21. CHAIRMAN FOX: -- building? I don't think that's what needs to happen, but just like if there's a ride in our park, we don't shut down the entire park because there's an injury on one ride. You shut down that particular ride or that particular function. So I think that's what's happened here on these. But anyway, 15 out of 22 were in a trampoline park.

22. MR. POPE: Mr. Chairman?

23. CHAIRMAN FOX: Sir.

24. MR. POPE: And also, you didn't go on to say that when you shut one down, it's just to see whether it was the fault of the equipment or whether it was the fault of the rider.

25. CHAIRMAN FOX: Oh, absolutely. I mean, we don't know those things.

26. MR. POPE: So that could be determined fairly quickly, and I can't see how he could -- with all due respect, Mr. Louderback, that you could determine that trampolines are any
1. different than a bounce house as far as how they convey people in any way, and they do provide persons with amusement, pleasure, thrills, and excitement.

2. CHAIRMAN FOX: I can attest to that.

3. My granddaughters are there about every weekend.

4. So -- at one of those things. And they do all of those things. And they --

5. MR. POPE: Unlike amusements --

6. CHAIRMAN FOX: -- scream and yell.

7. MR. POPE: -- because it wasn't specifically mentioned when we first -- when the laws come into effect. I can't see, you know, the --

8. and ASTM standards are as they pertain to each piece of equipment.

9. MR. STOCK: Correct.

10. CHAIRMAN FOX: Yes.

11. MR. LOUDERBACK: Yeah. So I guess just responding to a couple things. One, the legislative intent argument, I think, you know, whether or not any of these things existed at the time the law was first passed, there have been a number of amendments to the statute, including a law that's going to take effect this year. And the legislature did not and have not amended the statute.

12. to include -- you know, specifically call out trampoline parks -- of the devices that it applied to or the exceptions.

13. So I don't think you can definitively say that the legislature intended to monitor trampoline parks, because they've been given ample opportunity to do so and have failed to do so.

14. The other thing is -- I know you just kind of briefly touched on the shutdown procedures if there is an injury. And right now, it requires a full shutdown whenever an injury occurs. And so, you know, you said that that might not be the correct -- or proper procedure for trampoline parks.

15. And so that's, you know, I think another argument for us is, right now, what the rules require might not be the proper shutdown procedures for trampoline parks. But that's what we're going to be stuck to, because that's what the rules require. So I think maybe, you know, a specific call-out for trampoline parks would be necessary in terms of shutdown procedures and maybe just a specific section dedicated to trampoline parks, if that's what, you know, you all would like to see, just because they're kind of a unique, you know, entity or unique thing.

16. of a unique, you know, entity or unique thing.

17. And they're not really related -- you know, we just don't think they're related to a lot of these other devices that are specifically called out.

18. In terms of bounce houses, you know, I think those are a lot more similar to these other, you know, walk-through houses and glass houses. You know, there's electricity involved. There's, you know, a risk -- you know, I've seen a risk of, you know tying them down. They might fly away in the wind, and, you know, I've looked at all those standards. I just -- I don't feel like trampoline parks are all that similar to bounce houses. And so that's kind of what -- our response to that, I guess.

19. CHAIRMAN FOX: Okay. So I guess the bottom line question here -- and all can correct me if I'm wrong -- is that, should trampoline parks be included in our inspection process, in our compliance process? And I guess that's a question -- ultimately a question for the Board to --

20. MR. BAILEY: The permitting process.

21. CHAIRMAN FOX: And the permitting process, yes. And that would be a question that the Board would need to decide. And I guess at this time, I would entertain a motion to move one way or the other. Either include them or exclude them.

22. MS. O'CONNOR: I'll make a motion that they are included.

23. CHAIRMAN FOX: We have a motion that trampoline parks be included in the inspection, compliance --

24. MS. O'CONNOR: And permitting.

25. CHAIRMAN FOX: -- and permitting process.
1. which is referred to as Uniform Administrative
2. Procedures Act. So given the Board's ruling, what I
3. will have to do is draft an order reflecting the
4. Board's ruling -- findings and rulings and with
5. right -- with appeal rights for Max Air Trampoline
6. Parks to appeal that decision, if they wish to, to
7. Chancery Court on a petition for judicial review.
8. CHAIRMAN FOX: Okay.
9. MR. BAILEY: I just wanted to make
10. that -- and logistically, I know you all -- I think
11. your next meeting is in September or -- yeah,
12. September.
13. CHAIRMAN FOX: Yeah, September.
14. MR. BAILEY: If it is okay with the
15. Board members, what I would do is draft that order
16. and circulate it via e-mail through Ms. Jefferson to
17. the Board members and any changes you want made or
18. whatever, just convey them. And if it's -- if the
19. order appears proper, either -- you know, either
20. print it, sign it, scan it, e-mail it back, or give
21. Ms. Jefferson or somebody the permission to sign on
22. your behalf to expedite it. Otherwise, we have to
23. wait till the September meeting to get everybody to
24. sign it. And we can do that. I was just trying to
25. do it in you know, a quicker way. And so they could

1. move on with their appeal, if they wish to appeal.
2. CHAIRMAN FOX: Okay. Do we need to
3. reconvene this Board to do that for any reason
4. between now and September?
5. MR. BAILEY: I don't think so. I
6. mean, you've already made the ruling. It's just
7. getting, you know, a consensus on yes, this is what
8. our order should say. And I mean, you could
9. certainly wait until September to do it or do it in
10. between -- like, have a special talk, but I don't
11. think none of that's necessary, personally.
12. CHAIRMAN FOX: Okay. Well, just --
13. okay. All right. So you will send that out to us.
14. We could be expecting that when?
15. MR. BAILEY: I'd say within a week.
16. I don't -- you know, I mean, I've got other things
17. to do, but I think I can get it out fairly quickly.
18. CHAIRMAN FOX: Okay. And you will --
19. and then as soon as we sign it, then that would go
20. to Mr. Louderback?
21. MR. BAILEY: Yes. It'll go to
22. Mr. Louderback. And I believe it's 60 days they
23. would have to file a petition for judicial review.
24. I think it's 60. It might be 30, but I think it's
25. 60.

1. anything. It involves strictly the interpretation
2. of a statute. And so it would -- it'd be a lot more
3. streamlined an argument, basically. You might --
4. could even do it with, you know, like, joint motions
5. or, you know, separate motions. I mean, I don't
6. think the oral argument would be much more than what
7. would be the written argument. You know.
8. Mr. Louderback, do you have any
9. objections to anything I've just said?
10. MR. LOUDERBACK: No. We don't have
11. any objections.
12. MR. BAILEY: Okay. And also, if you
13. do intend to file a petition for judicial review,
14. you can also file a stay of the Board's order
15. pending final resolution of the matter, which would,
16. basically, put their ruling on hold until it's --
17. went through the appeal process.
18. MR. LOUDERBACK: Okay. Thank you.
19. CHAIRMAN FOX: All right. Anything
20. additional Mr. Louderback?
21. MR. LOUDERBACK: No, sir. I don't
22. believe we have anything else.
23. CHAIRMAN FOX: Okay. All right.
24. Thank you very much.
25. MR. LOUDERBACK: Thank you all.
1. MS. BENNETT: Did he want to stay on the line for the rest of the meeting?
2. CHAIRMAN FOX: Are you wanting to stay on the line for the rest of this, Mr. Louderback?
3. MS. BENNETT: I think that's our answer.
4. MR. BAILEY: I'd just take that as a no.
5. MR. HARDY: Yeah.
7. So we called and got, kind of, the process by which we would need to proceed to have some things changed, at least look at that. And I had asked -- trampolines, obviously, are something we need to consider in this, but revise the definition to include go-karts and inflatables just so that there's no question about that. I guess the other question is, should we include trampoline parks or trampoline amusements in this, as well?
8. MR. POPE: On his opinion, I would think so.

1. MR. RADER: I think so, too.
2. MR. POPE: I mean, I don't -- my next question would have been to him as to what was their purpose for operating? And if it hadn't been for that, how would we go forward with legislative intent or ask the legislature to include or exclude go-karts, as the case may be. Go-karts, there's a lot of them across the State of Tennessee, and I guess the ultimate question is, should they be inspected, permitted, all of the things that we just discussed? Then the second part of that, inflatables, should they be, just so that there's no question about it, put the inflatables in, and now the trampoline parks.
3. MS. O'CONNOR: I think it would be a lot more clear for everybody if we did include them and stated so in writing.
4. CHAIRMAN FOX: Are there any other, I guess, rides or, kind of, classifications of rides, amusements, that we need to include so that we don't have this issue? Yes, sir?
5. MR. STOCK: Chairman Fox, one thing that might give you a little bit of direction is that, as you know, F24 has a myriad of different specify -- or specific standards that apply to unique devices. Hay rides are now -- has an ASTM standard. Bungee has ASTM standards. And so it might be a good idea to go through and look at all of the categories under F24 and make the determination of what ones you want to adhere to or call out. And based on this gentleman's argument, I mean, as standing as, kind of, the outsider looking at it, it really makes a lot of sense to call out the specific standard that deals with those devices, because we have one. It's 295-15 or 16 now for the aerial adventure parks. And so that's calling out those specific standards rather than just saying ASTM. Because that has been confusing for us in our industry, because

1. when that first got called out, we didn't have an ASTM standard. And so we were trying to shoehorn, you know, the compliance into just the general 770 and 2291 and all the ones that are about those device design things.
2. So there's a lot of them there and that would be a good list to -- my encouragement would be to look at that and see and then call those out.
3. CHAIRMAN FOX: Yes, sir?
4. MR. SELLS: Hi. If other --
5. CHAIRMAN FOX: State your name, please.
6. MR. SELLS: Dave Sells with Tennessee Event Specialist. If other operators were here, they'd probably shoot me, but I still don't understand why we're not inspecting mechanical bulls, rock walls, and bungee power jumps. Some of the most -- I mean, out of my fleet, that's what I see is the most dangerous items we have. Versus a bounce house -- which I want the bounce houses inspected, too. But I don't understand why we're not inspecting those things. I'd like to see them inspected.
7. We have ours inspected by the
1. inspector every time he comes, even though you
guys don't require it. But I'd like to see those
inspected.

4. CHAIRMAN FOX: Okay. The rock
wall -- let me answer the rock wall deal. There was
actually legislation presented and passed to exclude
rock walls or rock climbing walls.

8. MR. SELLS: That was because of the
Tennessee National Guard, which they're now getting
out of the rock wall business, because they've had
accidents. I mean, that was the reason that was
done. So --

12. CHAIRMAN FOX: Nevertheless, it is
what it is today.

15. MR. SELLS: Sure.

16. CHAIRMAN FOX: Mechanical bulls, I
don't know if -- I truly don't know if that fits
under our purview or not.

19. MR. SELLS: It's one of the hardest
items to get insurance on in the United States.

21. MR. SELLS: That should tell you
something.

24. CHAIRMAN FOX: I do not doubt that
one bit.

1. MR. BAILEY: Mechanical bulls are
specifically excepted from the statute.

3. CHAIRMAN FOX: Yeah.

4. MR. BAILEY: Yeah. And so are
go-karts.

6. CHAIRMAN FOX: Yes.

7. MR. BAILEY: Currently. So --

8. CHAIRMAN FOX: But that -- we've
talked about bringing those in --

10. MR. BAILEY: Right.

11. CHAIRMAN FOX: -- and just

12. identifying those. It's up to this Board. And what
was the third one you mentioned?

14. MR. SELLS: Just the bungee power
jumps.

16. CHAIRMAN FOX: Bungee jumps.

17. MR. SELLS: I mean, there's a ton of
the mechanical events now. The bull -- I mean, our
bull has three different things that it can do. It
can be a bull, it can be a wipeout. It can be a
patriot game. It can be -- you know.

22. And we -- per ASTM, you have to be a
certified operator. And it seems like anything
you've got to have a certified operator to
operate, it kind of seems like you should have a

1. MR. SELLS: Yeah. We do, also. It
makes our life easier, too.

3. MR. POPE: It's only betterment for
the business.

5. MR. SELLS: We do a lot of stuff with
the Titans. We do a lot of stuff with MTSU. All
those guys, they want to see inspections. So --

8. MR. POPE: No one insures it without
an inspection.

10. MR. SELLS: Right.

11. MR. POPE: That's the big thing.

12. MR. BAILEY: Well, if I might say, I
mean, some of these exceptions, I think, come about
through -- I'm sure you're aware of that -- the, you
know, people who have a special interest in keeping
that out. I would think mechanical bulls might have
run into a problem with the bars and restaurants.

18. You know. So there could be that same pushback that
got them accepted to begin with, you know, if you
try to unaccept them, I guess.

21. MR. POPE: I think that was part of
it. I think a lot of it was the overwhelming
(verbatim) of how many devices, how many go-kart
facilities there were. I mean, you know, there's no
doubt this Board and this safety office has had some
1. track record problems with inspectors and things
2. like that. I mean, it's just -- they're
3. overwhelmed.
4. CHAIRMAN FOX: Yeah. I can tell you
5. that in the beginning, the go-karts were excluded
6. simply for that reason. We didn't have anybody to
7. go --
8. MR. POPE: To control.
9. CHAIRMAN FOX: To go do that. The
10. bungees and those things were excluded just for that
11. reason. There was no one to go look at them or --
12. MR. POPE: You can go to other
13. states, you know, which I travel in other states.
14. And Kentucky's been that way. They've been on again
15. and off again about inspecting bounces and things
16. like that. They are back to them now. The fees are
17. not as much on them, but they do have to at least
18. register them. I mean, there's not a lot to
19. inspect. It's either up or it's down. I mean, once
20. you -- you know, there's no structural thing to
21. inspect, but they do register them at least.
22. CHAIRMAN FOX: Okay. So I guess what
23. we would think about, process-wise, we would ask
24. you -- this Board if we decide to do any of these
25. and we -- and I'll go through them one by one -- we

1. would ask you to develop an amendment to the current
2. law to either include or exclude, whatever it is
3. we're going to do. Is that the process we would
4. need to follow?
5. MR. BAILEY: Yes. And we have to get
6. it pretty soon, because I think once we --
7. MS. JEFFERSON: Yes. That's what I
8. was getting ready to say. We actually need that
9. information before the end of the month, because we
10. want to pass it on to our legislative liaison and so
11. she could present that to the Commissioner and
12. present off recommendations, because she'll need
13. that in time to prepare so they can decide whether
14. or not these are items they're going to present on
15. behalf of the Department. So the sooner you all can
16. get that information to us, the better.
17. CHAIRMAN FOX: That's why we're
18. bringing it up now. Okay. So I would ask this
19. Board to entertain a motion to either include or
20. exclude go-karts.
21. MS. O'CONNOR: I would make the
22. motion that we include go-karts.
23. CHAIRMAN FOX: Okay. We have a
24. motion to include go-karts.
25. MR. MOORE: I'll second.

1. CHAIRMAN FOX: We have a second. Any
2. discussion? There being none, all in favor of the
3. motion, let it be known by saying "aye."
4. MR. RADER: Aye.
5. MS. O'CONNOR: Aye.
6. MR. MOORE: Aye.
7. MR. POPE: Aye.
8. MR. FISHER: Aye.
10. CHAIRMAN FOX: All opposed, like
11. sign. Okay. I would entertain a motion to include
12. or exclude inflatables.
13. MR. RADER: So moved.
14. CHAIRMAN FOX: We have a motion.
15. MS. O'CONNOR: I'll second.
16. CHAIRMAN FOX: We have a second. Any
17. discussion?
18. MR. MOORE: Do we need to clarify
19. whether it was include or exclude?
20. CHAIRMAN FOX: Yeah. We probably
21. should, shouldn't we?
22. MR. RADER: To include.
23. CHAIRMAN FOX: To include. And you
24. accept that amendment?
25. MS. O'CONNOR: Yes, I accept that.

1. CHAIRMAN FOX: Any discussion? There
2. being none, all in favor of the motion, let it be
3. known by saying "aye."
4. MR. RADER: Aye.
5. MS. O'CONNOR: Aye.
6. MR. FISHER: Aye.
7. MR. MOORE: Aye.
8. MR. MOORER: Aye.
9. CHAIRMAN FOX: All opposed, like
10. sign. I would entertain a motion to either include
11. or exclude trampoline parks.
12. MS. O'CONNOR: Make a motion to
13. include wave parks. Or I'm sorry, what were we
14. doing?
15. CHAIRMAN FOX: Trampoline parks.
16. MS. O'CONNOR: Trampoline parks, yes.
17. Make a motion to include trampoline parks.
18. MR. MOORE: I'll second.
19. CHAIRMAN FOX: We have a motion and a
20. second. Any discussion? Hearing none, all in favor
21. of the motion, let it be known by saying "aye."
22. MR. FISHER: Aye.
23. MS. O'CONNOR: Aye.
1. MR. MOORE: Aye.
2. MR. POPE: Aye.
3. MR. MOORER: Aye.
4. CHAIRMAN FOX: All opposed, by like sign. Motions carry. Just for the heck of it, I'll entertain a motion to either include or exclude bungee jumps or bungee -- what'd you call it, sir?
5. MR. SELLS: Bungee -- I think the technical is bungee power jump, isn't it?
6. CHAIRMAN FOX: Bungee power jump.
7. MR. FARMER: Bungee cord or similar --
8. CHAIRMAN FOX: Bungee --
9. MR. FARMER: -- plastic device.
10. CHAIRMAN FOX: Yes.
11. MR. RADER: Which includes reverse bungee to go --
12. MR. SELLS: Right. That's the bungee power jump.
13. CHAIRMAN FOX: Yeah.
14. MR. SELLS: I think that would not be the classification for a standard, like, bungee jump from --
15. MR. POPE: Yeah. And they pull you up with a --
16. MR. SELLS: -- a fixed point.
17. MR. POPE: A winch.
18. MR. RADER: Right.
19. MR. POPE: They pull you up so you can bounce.
20. I would make a motion that it be included.
21. MS. O'CONNOR: I'll second that.
22. CHAIRMAN FOX: We have a motion and a second to include bungee jumps, bungee power jumps, bungee --
23. MS. BENNETT: Bungee devices.
24. MR. HARDY: Bungee devices.
25. CHAIRMAN FOX: Bungee devices. Any discussion? Hearing none, all in favor of the motion, let it be known by saying "aye."
27. MR. FISHER: Aye.
29. MR. MOORE: Aye.
30. MR. POPE: Aye.
31. MR. MOORER: Aye.
32. MS. O'CONNOR: I have a motion to include. Did you --
33. MR. RADER: Aye.
34. MS. O'CONNOR: Aye.
35. MR. FISHER: Aye.
36. MR. MOORE: Aye.
37. CHAIRMAN FOX: All opposed, like sign. Which ones did we miss? skating rinks, ice skating rinks.
38. CHAIRMAN FOX: But Like Mr. Bailey said, though, those are governed by another agency.
39. MSR. O'CONNOR: Wave pools, roller skating rinks.
40. CHAIRMAN FOX: Climbing walls, we --
41. MS. O'CONNOR: That's --
42. MR. FISHER: Are we still --
43. MS. O'CONNOR: That's --
44. MR. FARMER: I think they consider that a gym membership --
45. MR. MOORER: Robbie.
46. MR. FARMER: -- rather than a ride.
47. MS. O'CONNOR: Yeah.
49. CHAIRMAN FOX: Yeah. That's included.
50. MR. MOORER: Okay.
51. MS. O'CONNOR: That falls under --
52. MR. FARMER: I think they're inspected by environmental or state --
53. MR. MOORE: Aye.
54. MR. POPE: Aye.
55. MR. MOORER: Aye.
56. CHAIRMAN FOX: All opposed, by like sign.
57. Mechanical bulls. I would make --
1. MS. O'CONNOR: Okay.
2. CHAIRMAN FOX: Okay.
3. MR. STOCK: Chairman Fox?
4. CHAIRMAN FOX: Sir.
5. MR. STOCK: Related to climbing
6. walls, they really do fall into considerably
7. different categories. There are a lot of them that
8. travel around on a trailer, just like the portable
9. zip, they have hydraulic and mechanical belay
devices that need to be certified and inspected. I
10. mean, there is fundamental difference between a rock
gym and a carnival ride that's a climbing wall.
11. So --
12. MR. POPE: He's exactly right.
13. That's --
14. CHAIRMAN FOX: Oh, he is.
15. MR. POPE: I was sitting here
16. thinking if there was a way to present it when used
17. as an amusement device or something -- I mean, there
18. would be a classification. It'd be a little bit
different than a fixed something at a gym. But it's
19. still as much of an amusement device as --
20. MR. STOCK: Anything else.
22. MR. SELLS: The portable ones -- the
1. walls are actually -- they have more ASTM standards
2. than, like, the bungee power jumps.
3. MR. POPE: They -- yeah. They
4. have --
5. MR. SELLS: Steel cables have to be
6. replaced on an annual basis. The pulley poles --
7. MR. POPE: Elastics.
8. MR. SELLS: -- have to be replaced.
9. MR. POPE: The elastics.
10. MR. FARMER: Would it be safe to say
11. that they're all portable?
12. MR. SELLS: Yeah. I mean --
13. MR. POPE: I would say the portables
14. would fall into more of a category of needing to be
15. inspected.
16. MR. FARMER: That may be your
17. verbage, then, "portable."
18. MS. O'CONNOR: And they're not
currently inspected by any other department?
19. MR. BAILEY: No.
20. MR. SELLS: They're inspected by our
21. insurance, but no State department.
22. CHAIRMAN FOX: Okay. We might as
23. well roll the dice. I would entertain a motion to
24. either include or exclude portable rock climbing
1. walls.
2. MR. POPE: I'll make a motion.
3. MS. O'CONNOR: I'll second.
4. CHAIRMAN FOX: We have a motion and a
5. second. Any discussion?
6. MR. BAILEY: That was to include,
7. right?
8. CHAIRMAN FOX: Include. Hearing
9. none, all in favor of the motion, let it be known by
10. saying "aye."
11. MS. O'CONNOR: Aye.
12. MR. FISHER: Aye.
15. MR. RADER: Aye.
16. CHAIRMAN FOX: All opposed, like
17. sign. Yes, ma'am?
18. MS. BENNETT: Just out of curiosity,
typically, whenever you do a motion, there's a
20. conflict-of-interest statement. Is that required in
22. this instance on these motions? Because typically,
23. they would let you -- you know, in the discussion of
24. it but not voting if you had --
25. MR. BAILEY: Yeah.
21. MS. BENNETT: -- you know, one of
22. those devices.
23. MR. BAILEY: Yeah. Usually that
comes up if you want, like, variances. But I guess,
to be safe, you're probably right, that -- I mean,
if there's -- on any of these items that was just
voted on, if there was a -- if any of the Board
members had a conflict of interest, that should be
stated, and they could talk about it but not vote on
it.
24. CHAIRMAN FOX: Okay. So let's go
back and ask the Board members. Are there any Board
members who would declare a conflict of interest on
either go-karts, trampoline parks, rock climbing --
portable rock climbing walls, mechanical bulls, or
bungee?
25. MR. POPE: I own some bounces.
26. That'd be the only one that I might not get to vote
on.
27. CHAIRMAN FOX: You own --
28. MR. POPE: Bounce houses.
29. CHAIRMAN FOX: Bounce houses.
30. MR. POPE: Inflatables.
31. CHAIRMAN FOX: Okay.
32. MR. POPE: And I don't see how that
everyone else wouldn't be voted out. I don't
know. I'm not familiar enough with your process to
understand how that's going to be --

4. Which is what we would suggest to the legislative
liaison and the Commissioner. But they would -- you
know, how they'd present it, if the governor were to
make it part of his legislative package, whether
they keep it separate or not is not -- I mean, we
can certainly suggest that, but we can't require it,
I guess.

5. CHAIRMAN FOX: Correct. And I'm just
saying, if we identify it as a particular section --

6. MR. BAILEY: Right.

7. CHAIRMAN FOX: -- so if they said,
you know --

8. MR. BAILEY: Each one stands alone.

9. CHAIRMAN FOX: Yeah.

10. MR. BAILEY: Right.

11. CHAIRMAN FOX: Each one stands alone.

12. MR. BAILEY: Right.

13. CHAIRMAN FOX: Okay. Now, the fee
structure. Oh, wait a minute. Any others -- are

14. there any others that we need to -- any other
amusements or attractions that we either need to

15. include or exclude? Okay.

16. Change the -- a note to change the

17. fee structure. Now, presently we charge $150 per
company for all of their rides, attractions, and
amusements; is that correct?

18. MS. JEFFERSON: That's correct.

19. CHAIRMAN FOX: Okay. We had spent
considerable time last year. You all had developed
a fee schedule that you had asked us to adopt, and

20. if memory serves me correct, which a lot of times,

21. it don't, but we did adopt that at that time.

22. MS. JEFFERSON: That's correct.

23. CHAIRMAN FOX: Correct?

24. MS. JEFFERSON: That's correct.

25. CHAIRMAN FOX: Okay. So

26. process-wise, then we need to -- this Board would
need to make a request to ask the legislature to
implement that fee structure? Is that how that

27. needs to work or --

28. MS. JEFFERSON: That's rule change.

29. CHAIRMAN FOX: Okay.

30. MS. JEFFERSON: So we're just waiting
on approval from the Department to approve that. I
believe that we're waiting for the legislative

31. session to end. Now the legislative session has
1. ended, we know more about legislative changes for
2. the Amusement Device Unit, now that's going to be
3. considered. So the goal will be to have some
4. information about that prior to the next board
5. meeting.
6. We're just waiting -- I believe Dan
7. had prepared the information that we need to
8. submit, is the next step, to the Secretary of
9. State?
10. MR. BAILEY: No. To the governor.
11. We have to get permission from the Governor's
12. Office. I mean, the fee structure has been put
13. out -- has been set out in a rule, in a red lined
14. version. And the first step, once the Commissioner
15. gives us the go-ahead, is to send it to the
16. Governor's Office, the red-lined version, and
17. there's six questions that's supposed to -- that
18. have to answer regarding why we're asking for this
19. rule change.
20. And I had that prepared back in, I
21. think, December or January, had the e-mail
22. prepared to go, ready to go, and just waiting on
23. the okay, and something I did not realize -- I
24. thought once an e-mail that was in a draft, would
25. stay a draft forever and the other day, I noticed

1. it's not in draft. So I've got to redraft it, but
2. it's no -- you know, it's no big deal. But once
3. we get the go-ahead, I can get it to the
4. Governor's Office in, like, you know, a day.
5. CHAIRMAN FOX: So it's approved on
6. date certain. Does that -- does it fall in place
7. that day or does it begin on July the 1st? Pick a
8. day.
9. MR. BAILEY: Well, for a fee
10. increase, first of all, if -- once our Commissioner
11. gives the go-ahead, we've got to get the Governor's
12. Office approval and that may take a few days
13. minimum, you know, and then once they approve it,
14. then I got to go through the Attorney General's
15. Office for their review and approval. That can
16. sometimes take another week or two, sometimes more.
17. And then once they approve it, then I got to file it
18. with the Secretary of State's Office. And if it is
19. filed with them prior to July 1, then it would go in
20. effect this July 1.
21. More than likely, it's not going to
22. get filed that quickly. So if it gets filed after
23. July 1 of 2017, the new fee structure won't go
24. into effect until July 1 of 2018.
25. CHAIRMAN FOX: 2018?
1. self-support. The second part of that is that
2. there's a lot of people who are preparing budgets,
3. like Mr. Pope's group. They're going to prepare
4. their budget, so they've got to prepare for that
5. inspection fee, whatever it may be. And I want to
6. give them ample time to do so, but I think there
7. just needs to be notification.
8. MR. BAILEY: Yeah. Well, I mean,
9. they -- I mean, depending on when it all gets
10. filed -- and another thing to consider is whether --
11. and I think we had discussed having a rulemaking
12. hearing where it's open to the public because it
13. involves fee increases, and that's also going to
14. take additional time.
15. But if it's, you know, filed
16. sometime, say, in the fall of 2017, then, you
17. know, companies will have, like, eight or nine
18. months' notice that, come July 1 of 2018, this is
19. going to be your new fee structure.
20. CHAIRMAN FOX: Okay.
21. MR. BAILEY: So it actually will be
22. better for the businesses than if we were to -- if
23. there was a way we could get it filed, like, next
24. week and it go into effect July -- that would --
25. they would only have, like, a two week's notice.

1. But like I said, logistically, there's no way that
2. can happen.
3. CHAIRMAN FOX: Okay. All right. Any
4. questions from the Board?
5. MR. POPE: So at this point in time,
6. it'll stay 150 for each company?
7. CHAIRMAN FOX: Through January -- or
8. through July -- or June 30th of seven -- '18.
10. CHAIRMAN FOX: Okay. Just so we're
11. all clear. All right.
12. ASTM 24 reference. To your point,
13. Mr. Stock, do we want to include the ASTM 24
14. reference in the law if it is not there? Somebody
15. asked me specifically about that.
16. MS. JEFFERSON: I'm concerned about
17. that, and you all can probably help me to understand
18. that. Because we have ASTM and we don't specify
19. F24. If it changes or if we decide to use something
20. more current at a later date, then we're not
21. required to go back and take a look at the law and
22. then have it changed. Because as you know, it's
23. very difficult to change the law. So when I saw
24. that, I was concerned because of that. You don't
25. want to have to go back and change the law.

1. Right now, the record says ASTM and
2. references ASTM, so the question is whether or not
3. it's truly necessary for us to accomplish our goal.
4. CHAIRMAN FOX: Okay. What's the
5. feeling of the Board?
6. MR. POPE: Chairman?
7. CHAIRMAN FOX: Sir.
8. MR. POPE: I think if you reference
9. it specifically -- just like this phone call, to
10. where it's pulled up or not pulled up or whether you
11. absolutely required that, when you say, ASTM
12. standards as they apply, then I think that leaves
13. you -- you're covered by ASTM standards, but you're
14. not --
15. MS. JEFFERSON: Limited?
16. MR. POPE: -- limited to which ones.
17. CHAIRMAN FOX: Okay.
18. MR. POPE: And I think that's what
19. this lawyer was trying to do. I don't see that
20. being a benefit.
21. CHAIRMAN FOX: Okay. So --
22. MR. POPE: Now, that ASTM standard, whether it applies or not may be up to this Board or
23. may be up, you know, for interpretation.
24. CHAIRMAN FOX: Okay. What's the
1. consensus of the Board?
2. MR. POPE: I don’t have the 24. I
3. don’t know exactly what it is, so I couldn’t say
4. without reading it.
5. CHAIRMAN FOX: Okay. But you’re
6. saying if we change the ASTM F24, that requires the
7. law to change, correct?
8. MR. BAILEY: I mean, you could do it
9. by rule. I don’t see any reason why you couldn’t do
10. it by the rule. I mean, the statute currently just
11. references ASTM.
12. MS. JEFFERSON: All these bullet
13. points are under legislative changes in the rule.
14. You have some suggestive law/rule changes. Yeah.
15. We just don’t want to put ourselves in a position
16. where we’re having to deal with telephone calls,
17. like today. So that’s why I was concerned. We
18. don’t want to limit ourselves.
19. CHAIRMAN FOX: Okay.
20. MS. JEFFERSON: It references ASTM
21. and so we know that we’re looking for the most
22. current standard, ASTM standard. That’s what we’re
23. looking for when we do these reports. And the
24. inspectors are certifying that they inspected to
25. ASTM -- the proper ASTM standard.

1. CHAIRMAN FOX: Okay.
2. MR. BAILEY: And also, if I may say,
3. I mean, if you try to -- as Kim has said, it’s, you
4. know, difficult to get legislation passed anyway.
5. And if it’s not anything that’s really going to, you
6. know, change or advance anything, you have to, you
7. know, educate the legislature on what the difference
8. is, what is it you’re -- you know, what are you
9. getting at here that’s so different? Why do we have
10. to have this? You know. For them to even consider
11. taking it up.
12. If it’s not anything that’s really
13. groundbreaking or needed, absolutely needed, I’d
14. say leave it off. You know.
15. CHAIRMAN FOX: Anybody have an
16. objection to leaving it off?
17. MR. RADER: No.
18. CHAIRMAN FOX: Okay. All right.
19. Deletion Of Section (20). The
20. "serious incident." We talked about this ad
21. nauseam. I would entertain a motion by the Board
22. to -- if we’re going to do this all -- enter --
23. I’d make -- entertain a motion of the Board to
24. delete Section (20), as we’ve discussed in the
25. last meeting, out of the law.

1. MR. BAILEY: Just so it’s clear, what
2. you were referring to is -- Section (20) is T.C.A.
3. 68-121-101, subparagraph one and subparagraph 120.
4. Or no, I’m sorry. Subparagraph 20.
5. CHAIRMAN FOX: 20.
6. MR. BAILEY: That’s it.
7. CHAIRMAN FOX: Yes.
8. MR. BAILEY: All right. Yeah.
9. CHAIRMAN FOX: The definition of
10. "serious incident," because it has some reporting
11. issues in it. And again, I don’t want to get
12. started on that again. So -- but delete Section 20,
13. as you’ve just pointed out.
14. And that was actually in the law,
15. this last House Bill, 191 and Senate Bill 424-30.
16. But somehow or another, it was deleted -- that
17. amendment was deleted at the end. But I think if
18. we’re --
19. MS. JEFFERSON: And the way it was
20. explained to me is that -- because "serious
21. incident" appeared in the law and we -- and there
22. wasn’t a provision to delete in the other provisions
23. in the law. They couldn’t just delete the
24. definition, because the term, the phrase "serious
25. incident" remained. And so that would cause

1. problems. So I think it was more technical. And
2. that’s the way it was explained to me.
3. CHAIRMAN FOX: Okay. So to clear up
4. the technical, we would need to make a motion to
5. clear up the definition and Section (20)?
6. MS. JEFFERSON: Right. Everywhere it
7. appears in the law. To delete it everywhere it
8. appears in the law.
9. CHAIRMAN FOX: Okay.
10. MS. JEFFERSON: Does that make sense?
11. Delete the definition of "serious incident" as well
12. as every place that "serious incident" appears in
13. the law. That way, it'll clean it up completely.
14. CHAIRMAN FOX: Okay.
15. MR. BAILEY: Right. And wasn’t a
16. part of that a change of the definition of, the next
17. paragraph, (21), "serious physical injury"?
18. CHAIRMAN FOX: I think we came back
19. to that to say that the ASTM has a requirement for
20. reporting, and that ASTM requirement would fit in
21. that slot, Section (21), which was "serious
22. accident," not "incident."
23. MR. BAILEY: Okay. And so -- I mean,
24. that’s what the Board is asking that if this is --
25. if it’s passed, that (20), which is "serious
1. CHAIRMAN FOX: Okay. We'd entertain a motion to delete Section (20), for lack of a better term, and any reference to "serious incident" in the law.

2. MS. O'CONNOR: So moved.

3. CHAIRMAN FOX: I have a motion.

4. MR. RADER: Second.

5. CHAIRMAN FOX: Second. Any discussion? All in favor, let it be -- all in favor of the motion, let it be known by saying "aye."


7. MR. MOORE: Aye.

8. MR. FISHER: Aye.


10. MR. MOORER: Aye.

11. CHAIRMAN FOX: All opposed, like sign.

12. MR. POPE: One abstention. I wasn't here for the meeting, so I don't know what was discussed.


14. Ms. Jefferson, are you going to bring us up to speed or are you -- or Mr. Bailey or one of you on the new law? Or the change in the law, the amendment.

15. MS. JEFFERSON: Actually, that's something that our legislative liaison would provide the public chapters to you all. I'm not sure if you had an opportunity to read the two public chapters that were recently passed. You should have Public Chapter 393, and I gave someone a copy of the other one.

16. Public Chapter 393, which is the Amusement Device Law, as well as Public Chapter 230. And what she asked is that you all take a look at these and if you have any questions about them, to let her know.

17. If you want to speak on these, that's fine, Chairman Fox, but I'm not really in a position to speak on either one. So if you have any questions about these, then I'll be happy to take those questions to her and to have her to respond to the Board.

18. CHAIRMAN FOX: Has the amendment or the change in the law, has that been signed by the governor yet?

19. MS. JEFFERSON: Yes. If you take a look at Public Chapter -- on the last page of each one, it actually references the passage date and the approval date for both. And the Amusement Device Law 393 was passed on May the 4th, 2017. It was approved on May the 18th.

20. MR. BAILEY: And the page right before that, Section eight says, this act shall take effect upon becoming a law, the public welfare requiring it. So it became law May 18th when the governor signed it.

21. CHAIRMAN FOX: Okay. I can tell you that I appreciate Ms. Durham's work on this. She worked very hard. I'm sure others were there, but she was the lady that I talked to quite often on this. But this cleared up several things in the law, and I think it will be a better situation for all concerned, both the people in the amusement business and us. It just made it a little bit clearer.

22. MS. JEFFERSON: Good deal. And I'll let her know. And the one item that I know Mr. Stock is interested in, is the ACCT Standard is actually recognized in Tennessee based on this.

23. CHAIRMAN FOX: Yes. Okay. Next item is -- or any other comment on the legislative update?

24. Next item is discussion about ASME...
and the ANSI code and updating current rules.
2. elevator and related devices.
3. MR. FARMER: Elevators.
5. MR. FARMER: Yeah. There you go. I guess, Dan, you want me to speak about it first?
7. MR. FARMER: Okay. We're currently under the 2010 code of A17.1. The rules do ask that the Board triennially review and may adopt any new or existing publications of it. What I'm going to do -- I don't have the newest version yet. We're in the process of purchasing it. And also, being with the new committee that I'm on, I have access to a summary of changes. So we don't have to sit down and read the whole book. We can just read the summary of changes. I will supply that either before or after the next board meeting so we can review it.
8. I don't think there's anything in there that we have to adopt, yet, but we do have to review it to see if we need to. We don't ever want to get too far behind, and technology outruns the code we're under, because that will require all the addendums to the --
9. CHAIRMAN FOX: Does the adoption of the IBC by the State have an effect?
10. MR. FARMER: Yeah. Yeah.
11. MR. MOORE: So, you know, staying --
12. MR. FARMER: Yeah.
13. MR. MOORE: -- a little bit behind's actually somewhat of a benefit.
14. MR. FARMER: Yeah. So a lot of times they'll come out with addendums the year after that they've made mistakes in that new code.
15. MR. FARMER: So which year would you be reviewing as --
16. MR. FARMER: '16.
17. MR. FISHER: 2016?
18. MR. FARMER: '16.
19. MR. FARMER: -- on the A17.1. So that's for new installations, not for existing.
20. So --

all the elevator companies to come for variances and I don't believe that's what we want to ever get into a position where we're doing that at every board meeting.
2. CHAIRMAN FOX: Okay. So you're going to update the Board on your progress; is that correct?
3. MR. FARMER: Yeah. What I'll do is I'll actually supply you with a new code book and I'll supply you with a summary of the changes. And -- so you can look at it and -- basically what I'll do -- we'll just go through what's updated in the actual code itself. And if it's something that y'all feel like that we need to adopt to stay more current, then I guess we'll just go through the same motions as we do on everything else. But if it feels like we don't need to adopt the newer code to keep up with technology, then we can wait. You know. It's -- we're under 2010. We're not -- and I mean, it sounds like it's far behind, but it's not really that far behind. There's still states under '96 codes. So we're not too far behind.
4. MR. MOORE: And there's actually a little bit of a benefit to stay somewhat behind, because if you don't, then you get all the addendums to the --
1. couldn't sell that product in the state of
   Tennessee. That's what we don't want to happen.
2. MR. FARMER: As I foresee, there's
   nothing new coming in the industry that's going to
   keep us from installing anything under what code
   we're under now, but that changes every day.
3. Technology changes every day. So we --
4. MR. MOORE: You have tug belts and
   the --
5. MR. FARMER: Yeah. Yeah.
6. MR. MOORE: Versus cables.
7. MR. FARMER: Yeah. Exactly.
8. MR. MOORE: That came along also.
9. MR. FARMER: Yeah, the elevators used
   traditionally, just runoff cables. Well, this
   elevator company invented a belt system and our
   suspension means codes would not allow belts to run
   an elevator. It had to be a traditional, steel
   cable. So with -- back in, I guess, 2004, we had to
   adopt that code to allow that in where they could
   bring -- start using that type of belt or that type
   of cable.
10. So right now, we're safe. I'm not
11. getting anything presented to me that doesn't fall

1. under the scope we're under right now, which is
3. CHAIRMAN FOX: Okay. All right.
4. Anything else on that topic? Anything else for the
   good of the order, so to speak? Okay.
5. Item Number 11. The announcement of
6. the next meeting will be -- the next regularly
7. scheduled meeting of the Elevator & Amusement
8. Device Safety Board meeting will be held at
9. 9:00 a.m. Central Time on Tuesday, September the
10. 12th, 2017 at the State of Tennessee Department of
11. Labor and Workforce Development Building, located
12. at 220 French Landing Drive, Nashville, Tennessee,
13. for the record. Do I have a motion to adjourn?
14. MR. RADER: So moved.
15. CHAIRMAN FOX: Thank you. Good
16. meeting. Thank you all very much.
17. END OF PROCEEDINGS.

Digitally signed 7/12/2017 at 1:45pm CDT
| 75:18 79:1 81:8 | 10:4 15:2 15:3 |
| 83:18 85:14 87:8 | 43:20 43:21 44:12 |
| 89:8 93:6 93:8 94:8 | 150 76:3 82:6 |
| 95:2 95:2 95:4 95:7 | 156 11:1 |
| year 12:18 13:21 | 16 18:11 18:15 |
| 14:10 14:15 14:16 | 17 18:11 |
| 18:8 18:11 18:13 | 17th 19:23 21:15 |
| 18:18 18:19 19:7 | 18 80:18 82:8 |
| 25:19 29:14 45:24 | 191 87:15 |
| 60:21 80:22 95:8 | 78:7 80:17 |
| 95:16 | 2 |
| years 10:23 13:10 | 20 5:20 10:4 86:19 |
| 22:7 | 86:24 87:2 87:4 |
| yell 45:10 | 87:5 87:12 88:5 |
| young 8:8 | 88:25 89:20 89:23 |
| Z | 90:2 |
| zip 69:9 | 2004 97:20 |
| ziplines 43:6 | 2006 43:2 43:6 |
| zorbs 43:5 | 43:11 |
| —— | 2007 43:1 |
| —— | 2009 96:9 |
| 0 | 201 14:23 |
| 00 6:1 98:10 | 2010 93:10 94:19 |
| 000 11:1 15:2 15:3 | 96:8 96:9 98:2 |
| 056 19:3 19:4 | 2016 1:12 95:19 |
| —— | 6:1 7:4 11:24 78:23 |
| 1 | 80:16 81:16 92:2 |
| 10 53:12 | 98:11 99:18 |
| 101 87:3 | 2018 5:15 53:13 |
| 11 98:6 | 82:9 99:22 |
| 112 48:24 | 2020 1:24 |
| 19:17 | 89:10 89:15 89:17 |
| 117 38:8 | 22 18:22 43:20 |
| 12 6:1 10:4 | 44:12 |
| 120 38:3 41:14 87:3 | 220 2:4 6:3 98:13 |
| 121 38:3 38:8 39:4 | 221-1089 1:25 |
| 41:14 48:24 87:3 | 2291 56:4 |
| 121-101 39:6 | 230 91:11 |
| 12th 98:11 99:18 | 234 1:24 |
| 13 13:9 18:16 | 24 12:20 82:12 |
| 14 15:13 | 82:13 83:19 85:2 |
| 249 14:16 | 99 19:13 |
| 25th 21:17 | 292 14:8 14:15 |
| 295-15 55:22 | 3 |
| 30 50:24 | 304 18:10 19:10 |
| 30th 82:8 | 31 17:4 |
| 32-percent 18:11 | 350 18:19 |
| 37069 1:25 | 393 91:7 91:9 92:2 |
| 3rd 19:2 | 5 |
| 500 14:22 | 58 21:14 25:12 |
| 25:16 | 6 |
| 60 19:6 50:22 50:24 | 615 1:25 |
| 50:25 | 68 38:3 38:8 39:4 |
| 41:14 43:25 48:24 | 87:3 |
| 6th 2:2 80:8 | 7th 30:7 30:11 |
| 90-day 80:13 | 770 56:3 |
| 900 1:24 | 8 |
| 93-year 10:13 | 880 14:21 |
| 96 94:22 | 9 |
| 90-day 80:13 | 900 1:24 |
| 93-year 10:13 | 96 94:22 |