

1 STATE OF TENNESSEE
2 ELEVATOR AND AMUSEMENT DEVICE SAFETY BOARD

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8 QUARTERLY MEETING OF THE
9 STATE OF TENNESSEE
10 ELEVATOR AND AMUSEMENT DEVICE SAFETY BOARD

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March 13, 2018

ORIGINAL

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Page 2

1 APPEARANCES:
 2 Robbie Fox, Chairman
 Fixed Amusement Device Representative
 3
 4 Chris Farmer
 Elevator Inspector Supervisor
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 6 David Hale, Board Member
 Tennessee Fair Association Representative
 7
 8 Mike H. Hardy, Board Member
 Amusement Device Manager
 9
 10 Larry R. Moore, II, Board Member
 Owner and Lessees Representative
 11
 12 Lewis Moorner, Jr., Board Member
 Public at Large Representative
 13
 14 Kelly O'Connor, Board Member
 Public at Large Representative
 15
 16 James Roy Pope, Board Member
 Traveling Amusement Device Representative
 17
 18 Kim Y. Jefferson, Esq.
 Administrator, State of Tennessee
 19
 20 Dan Bailey, Esq.
 Legal Counsel, State of Tennessee
 21
 22 Lynn Kirby
 Board Secretary, State of Tennessee
 23
 24 ** Reporter's Note: All names are spelled
 phonetically unless otherwise provided to the
 25 Reporter by the parties.

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1 * * * * *
 2 CHAIRMAN FOX: Good morning. And
 3 welcome to the March 13, 2018 meeting of the
 4 Elevator and Amusement Device Safety Board.
 5 If we can deviate just a little bit
 6 from the agenda, we'll do the pledge first, if we
 7 can, and ask Ms. O'Connor -- if everyone will
 8 please stand.
 9 (Whereupon, the Pledge of Allegiance
 10 was recited.)
 11 CHAIRMAN FOX: Again, we'll start
 12 the introductions, and this table will introduce
 13 first, and we'll start with that young lady. And
 14 then I think Mr. Sheehan has the microphone. And
 15 as you go around, please speak up so that
 16 everybody can hear as we're introducing ourselves.
 17 And then, the other thing, if you are
 18 going to speak to a particular topic, then you
 19 would need to come to the two seats up front.
 20 Again, give your name and who you represent or
 21 what you're about, what the topic is, so that this
 22 young lady can get it, or get your voice on there.
 23 Okay. Ms. Kirby, please start us
 24 off.
 25 MS. KIRBY: All right. Thank you.

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A G E N D A

1 I. Call Meeting to Order
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 3 II. Introductions
 4
 5 III. Pledge
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 7 IV. Adoption of Agenda
 8
 9 V. Announcements
 10
 11 VI. Approval of the December 5, 2017 Meeting
 Minutes
 12
 13 VII. Elevator Unit's Report
 14
 15 VIII. Amusement Device Unit's Report
 16
 17 IX. Old Business
 * 17-05 - Don Stock, President, The
 Adventure Guild, wishes to re-address
 the Board regarding the permitting of
 Low Challenge Courses
 * 18-06 - Human Whac-A-Mole -- Should the
 device be permitted as an inflatable?
 * 18-07 - Sustainability
 Fees
 Inspector fees
 18
 19 XI. Discussion Items:
 * Amusement Device Cease and Desist Notice
 of banned amusement rides
 * Scheduled meeting dates for 2018:
 Tuesday, June 5
 Wednesday, September 12
 Tuesday, December 4
 20
 21 XII. Announcement of Next Meeting
 The next regularly scheduled meeting of the
 Elevator & Amusement Device Safety Board
 meeting will be held 9:00 a.m.(CDT) on
 Tuesday, June 5, 2018, at the State of
 Tennessee, Department of Labor and Workforce
 Development building, located at 220 French
 Landing Drive, Nashville, Tennessee.
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 24
 25 XIII. Adjournment

Page 5

1 I'm Lynn Kirby. I'm the board
 2 secretary.
 3 MR. HARDY: Mike Hardy, the
 4 amusement device manager.
 5 MR. FARMER: Chris Farmer,
 6 representing the elevator unit.
 7 MR. MOORE: Larry Moore, owner
 8 representative.
 9 MR. HALE: David Hale, board
 10 member.
 11 CHAIRMAN FOX: Robbie Fox, board
 12 member.
 13 MR. MOORER: Lewis Moorner, board
 14 member.
 15 MS. O'CONNOR: Kelly O'Connor,
 16 board member.
 17 MR. POPE: James Roy Pope, board
 18 member.
 19 MS. JEFFERSON: Kim Jefferson,
 20 assistant commissioner.
 21 MR. BAILEY: Dan Bailey, legal
 22 counsel.
 23 MR. SHEEHAN: Good morning. Tom
 24 Sheehan, The Sheehan Firm. I'm here representing
 25 AIMS International; IAPA, the International

<p style="text-align: right;">Page 6</p> <p>1 Amusement Park Association, as well as some of the 2 manufacturers on the band ride list.</p> <p>3 MR. JOHNSON: Good morning. Bob 4 Johnson, president of the Outdoor Amusement 5 Business Association, representing the portable 6 amusement industry.</p> <p>7 MR. REITHOFFER: Richard 8 Reithoffer, representing Reithoffer Shows, 9 Incorporated.</p> <p>10 MS. MURPHY: Jennifer Murphy, 11 Amusement Device Unit AAL.</p> <p>12 MR. KLUTTS: Kevin Klutts, safety 13 compliance officer with the Amusement Device Unit.</p> <p>14 MS. OERTLEY: Karen Oertley, 15 executive director, AIMS International.</p> <p>16 MS. PITCOCK: Emily Pitcock, 17 executive secretary of the Tennessee Association 18 of Fairs.</p> <p>19 MR. SELLS: David Sells, Tennessee 20 Event Management.</p> <p>21 MR. STOCK: Don Stock, president of 22 the Adventure Guild, certified inspector, and 23 government relations chair for the Association for 24 Challenge Course Technology.</p> <p>25 MR. CLEVINGER: Steve Clevenger,</p>	<p style="text-align: right;">Page 7</p> <p>1 owner/operator, Canopy Challenge Course, Fall 2 Creek Falls State Park.</p> <p>3 MR. SEIBERT: Nick Seibert, 4 representing Kissel Entertainment.</p> <p>5 MS. SEIBERT: Savannah Seibert with 6 Kissel Entertainment.</p> <p>7 MR. WALLS: Scott Walls, 8 communications department.</p> <p>9 MS. KELSEY: Melinda Kelsey, Chief 10 of Staff, Commissioner's Office.</p> <p>11 MR. TATE: Brooks Tate, from 12 Montgomery Bell Academy.</p> <p>13 MS. ZIVKOV: Betty Zivkov with the 14 Elevator Unit.</p> <p>15 MS. RHODES: Anita Rhodes, elevator 16 supervisor.</p> <p>17 CHAIRMAN FOX: And there's a 18 gentleman that just came in there. We don't want 19 to put him on the spot or call him out or 20 anything, but it's your turn to tell us who you 21 are, sir.</p> <p>22 MR. DEASON: Thanks. I'm Chance 23 Deason. I'm general counsel for the agency here.</p> <p>24 CHAIRMAN FOX: All right. Thank 25 you.</p>
<p style="text-align: right;">Page 8</p> <p>1 Okay. Thank y'all very much. We 2 will now -- Item Number 4, there's a motion to 3 adopt the agenda for today. Before we do that, I 4 need to ask one question. Is there anybody here 5 to speak to the Whac-A-Mole item on the agenda?</p> <p>6 MR. SELLS: I can speak to it.</p> <p>7 CHAIRMAN FOX: Is it yours?</p> <p>8 MR. SELLS: I don't own one yet, 9 but I plan to purchase one.</p> <p>10 CHAIRMAN FOX: Okay.</p> <p>11 MS. JEFFERSON: Due to the fact 12 that we haven't made a decision yet, as far as 13 that's concerned, Dan, do you think it's 14 appropriate for him to speak at this time?</p> <p>15 MR. BAILEY: Well, depending on 16 what he's going to speak about. If it's about 17 whether or not it should be regulated, then no, I 18 don't think that's proper.</p> <p>19 CHAIRMAN FOX: Okay. So we would 20 wait on that.</p> <p>21 MR. BAILEY: Yes.</p> <p>22 CHAIRMAN FOX: Okay. With that 23 being said, I would entertain a motion to adopt 24 the agenda; however, deleting Number 18-06 under 25 New Business.</p>	<p style="text-align: right;">Page 9</p> <p>1 MR. HALE: Motion to adopt as 2 amended.</p> <p>3 MS. O'CONNOR: Second.</p> <p>4 CHAIRMAN FOX: I have a motion and 5 a second. Is there any discussion? 6 (No verbal response.)</p> <p>7 CHAIRMAN FOX: There being none, 8 all in favor of the motion, let it be known by 9 saying "aye."</p> <p>10 (Affirmative response.)</p> <p>11 CHAIRMAN FOX: All opposed, like 12 sign.</p> <p>13 (No verbal response.)</p> <p>14 CHAIRMAN FOX: Now, we have the 15 emergency announcement here that says in the event 16 of an emergency or natural disaster, security 17 personnel will take attendees to a safe place in 18 the building or direct them to exit the building 19 on the Rosa Parks side.</p> <p>20 So obviously, we're going to exit out 21 that door. Someone is going to meet us and show 22 us where we need to go. So just so everybody is 23 aware of that.</p> <p>24 Under Item Number 6, approval of the 25 December 5th, 2017 minutes, I would entertain a</p>

<p style="text-align: right;">Page 10</p> <p>1 motion to approve.</p> <p>2 MR. POPE: Motion.</p> <p>3 CHAIRMAN FOX: We have a motion.</p> <p>4 MR. MOORE: I second.</p> <p>5 CHAIRMAN FOX: We have a second.</p> <p>6 Any discussion or changes?</p> <p>7 (No verbal response.)</p> <p>8 CHAIRMAN FOX: Hearing none, all in</p> <p>9 favor of the motion, let it be known by saying</p> <p>10 "aye."</p> <p>11 (Affirmative response.)</p> <p>12 CHAIRMAN FOX: All opposed, like</p> <p>13 sign.</p> <p>14 (No verbal response.)</p> <p>15 CHAIRMAN FOX: Motion carries.</p> <p>16 Mr. Farmer, it's your turn to tell us</p> <p>17 about the elevators.</p> <p>18 MR. FARMER: All right. I'll keep</p> <p>19 it kind of short and sweet today. I'll give you</p> <p>20 some staff information. We currently have</p> <p>21 25 inspectors; we have two office staff and one</p> <p>22 office supervisor and myself. We do have two</p> <p>23 vacant routes that the 25 inspectors are helping</p> <p>24 fill in the gaps on. We hope to get them filled</p> <p>25 pretty soon.</p>	<p style="text-align: right;">Page 11</p> <p>1 At one time this year, we did have</p> <p>2 five inspectors out on extended sick leave, but</p> <p>3 we've currently got them all back but one, so</p> <p>4 that's good news, so we're getting kind of back to</p> <p>5 normal.</p> <p>6 To let you know a little bit about</p> <p>7 the upcoming training we have, the first week of</p> <p>8 May, we're going to introduce our new computer</p> <p>9 program, so we'll have two days of inspector</p> <p>10 training and office staff training on the new</p> <p>11 program.</p> <p>12 This new program is going to have</p> <p>13 electronic billing and online payment options,</p> <p>14 which is awesome because we're actually getting</p> <p>15 into this century. Also during that training,</p> <p>16 we're going to have one day of internal training</p> <p>17 for my inspectors, just pretty much go over code</p> <p>18 updates, just internal training. And we'll also</p> <p>19 have our continuing education for our QEI</p> <p>20 certification requirements. So we'll get that</p> <p>21 behind us.</p> <p>22 I did hand out a piece of paper to</p> <p>23 you guys today that's got our numbers for the last</p> <p>24 couple of years. I can go over them a little bit.</p> <p>25 We're down from 16 to 17 on the total amount of</p>
<p style="text-align: right;">Page 12</p> <p>1 inspections, and that was -- it's basically based</p> <p>2 on being shorthanded, you know.</p> <p>3 Construction permits are up eight for</p> <p>4 this year compared to the last year. We're down a</p> <p>5 little bit on inspections performed, just for the</p> <p>6 simple fact of short staffed, and we're down about</p> <p>7 20 on the acceptance inspections. Construction is</p> <p>8 not slowing down, by no means, but we've had a</p> <p>9 little bit of a lull in it, so we're not doing</p> <p>10 quite as many.</p> <p>11 And as of right now, we've got a</p> <p>12 little over 15,000 conveyances that were inspected</p> <p>13 that's under our care.</p> <p>14 That's about all I have, and I will</p> <p>15 entertain any questions.</p> <p>16 CHAIRMAN FOX: Okay. What is</p> <p>17 the -- has the number of elevators that's being</p> <p>18 installed in Davidson County or the metro area,</p> <p>19 has that slacked up or --</p> <p>20 MR. FARMER: I'm not going to say</p> <p>21 it's slacked up. It seems like we had a real push</p> <p>22 for permits last year at one time, and they're</p> <p>23 installing them as we speak, I guess. And they</p> <p>24 may be running out of real estate.</p> <p>25 But I foresee, you know, with</p>	<p style="text-align: right;">Page 13</p> <p>1 everybody, the influx of people coming into</p> <p>2 Nashville, they're going to need more condos, more</p> <p>3 apartments. So I think that will continue to be</p> <p>4 our biggest building.</p> <p>5 CHAIRMAN FOX: This growth here is</p> <p>6 still as it was.</p> <p>7 MR. FARMER: Yes. Yes, it's</p> <p>8 still -- if you drove into Nashville this morning,</p> <p>9 you would see that we're growing, like, by leaps</p> <p>10 and bounds.</p> <p>11 CHAIRMAN FOX: Okay. All right.</p> <p>12 Anything else?</p> <p>13 MR. FARMER: I believe that's all</p> <p>14 I've got today.</p> <p>15 MR. HALE: Mr. Chair?</p> <p>16 CHAIRMAN FOX: Sir?</p> <p>17 MR. HALE: On the computer program</p> <p>18 and online payment and so forth, Mike or maybe</p> <p>19 Ms. Jefferson, one, are we still making progress</p> <p>20 on getting it where amusement device can be --</p> <p>21 MR. HARDY: We are. We're going to</p> <p>22 follow the same guidelines that elevator</p> <p>23 establishes and just mirror what they're doing.</p> <p>24 So we'll have that capability.</p> <p>25 MR. HALE: Not holding you to a</p>

<p style="text-align: right;">Page 14</p> <p>1 specific date, but do we have a time frame for 2 that?</p> <p>3 MS. JEFFERSON: Well, actually, we 4 hope to be finished -- we're taking one program at 5 a time. We're actually developing a program for 6 Boilers, Elevators, and the Amusement Device Unit. 7 And first is the Elevator unit. They're going 8 first. We hope to finish theirs late March, early 9 April.</p> <p>10 MR. FARMER: First of May is when 11 we're actually going live with the training.</p> <p>12 MS. JEFFERSON: Okay. So all the 13 way through May. And then afterwards, we'll 14 probably go with the Boiler Unit. That will 15 probably be next. We started this program, what, 16 January, started developing?</p> <p>17 MR. FARMER: Yes.</p> <p>18 MS. JEFFERSON: So that's about 19 five months. So we hope to finish all three 20 programs by the end of the year; if not the end of 21 the year, beginning of next year.</p> <p>22 MR. HALE: Okay. Thank you.</p> <p>23 CHAIRMAN FOX: I tried to pay my 24 bill with a credit card this week, but couldn't 25 get --</p>	<p style="text-align: right;">Page 15</p> <p>1 MR. FARMER: We get six to seven, 2 ten calls a day asking if they can pay online. 3 And the good news, it's going to help out the 4 office staff a lot because all the invoices will 5 be sent out electronically also. So it cuts down 6 on mail-outs and it kind of streamlines the whole 7 process.</p> <p>8 CHAIRMAN FOX: Making it much more 9 efficient.</p> <p>10 MR. FARMER: Yeah. We hope to have 11 some program documents to hand out to customers. 12 We do have a conference coming up soon with the 13 BOMA Group, if you're familiar with them, and 14 they're going to hear us out and hopefully get 15 everybody signed up for this billing and mailing, 16 emailing. So it will cut down on waste of paper 17 and waste of resources. We're excited about it.</p> <p>18 CHAIRMAN FOX: Good deal. 19 Anything else? Any other questions? 20 (No verbal response.)</p> <p>21 CHAIRMAN FOX: Mr. Hardy, you're 22 up.</p> <p>23 MR. HARDY: Thank you, Chairman. 24 I, too, am going to try to be brief, as far as the 25 amusement device report goes. I know we do have</p>
<p style="text-align: right;">Page 16</p> <p>1 some additional items on the agenda. But before I 2 get started with the statistics, I just wanted to 3 mention that -- and a lot of you have met -- David 4 Whyel is our safety compliance officer for the 5 central region. He sits in our office here at 6 French Landing. David is not here today. He's 7 currently having some health issues, and we hope 8 to have him back by the end of the month. So we 9 would appreciate your thoughts and prayers for 10 David and his family.</p> <p>11 I think most everyone at the table 12 has a handout. You might want to refer to that as 13 I go over the statistics. You can see there that 14 we have permitted 250 companies thus far. The 15 unit remains on course to issue a record number of 16 permits in this fiscal year, ending June 30th. 17 Our unit goal is to issue 600 permits for the 18 fiscal year. I don't know if we'll reach that 19 goal, but we will definitely be able to -- should 20 be about to surpass the number of permits we 21 issued last year. And that number was 348.</p> <p>22 Also, with a quarter-and-a-half month 23 left to go, we have permitted 2,292 devices so far 24 this year. Last year, total for the fiscal year, 25 we permitted 3,126 total devices. So we do expect</p>	<p style="text-align: right;">Page 17</p> <p>1 this last quarter is pretty heavy for us, you 2 know, entering fair season, and with the new 3 companies that we're continuing to find and assist 4 them to obtain their permit. But we do feel like 5 this number of devices is going to surpass last 6 fiscal year's number, as well as the overall 7 number of permits issued. The safety compliance 8 officers and administrative staff are primarily 9 responsible for issuing 106 new or first-time 10 party permits so far this fiscal year. That's 106 11 at this time, with a quarter and a half a month 12 left to go again.</p> <p>13 Last year, the unit issued 83 new or 14 first-time permits. So we've already surpassed 15 that number and we've got significant time left, 16 so we are capturing new companies out there and 17 bringing them into compliance. And hopefully, 18 that will increase and, if not this year, then 19 maybe sometime next fiscal year, we'll capture and 20 we'll pretty much know how many companies and 21 devices there are doing business within the state.</p> <p>22 You can see the escalation so far 23 from the fiscal years. And then we hope '17 and 24 '18 will be in the 400-plus range. So we are 25 making attempts to plateau that number, capture</p>

<p style="text-align: right;">Page 18</p> <p>1 everything we have going here in the state, and 2 that's one of our main goals.</p> <p>3 The NAARSO convention, our unit 4 members, Kevin Klutts and I -- by the way, NAARSO 5 is National Association of Amusement Ride Safety 6 Officials. And they have an annual convention 7 with training sessions for operations and for 8 inspectors, inspection certifications. So Kevin 9 and I attended the conference as unit members, and 10 we sat for the Level 1 inspector exam at the end 11 of the training, and Kevin and I, you know, as we 12 say back home, you know, even blind hogs find an 13 acre now and then. So Kevin and I actually passed 14 the Level 1 exam. So we were happy about that. 15 That's one of our criteria for our performance. 16 So we're happy about that.</p> <p>17 Fair season, Ms. Pitcock, again, 18 we're glad that you're here with us this morning. 19 The Tennessee Association of Fairs annual 20 convention was held on January 18 through the 20th 21 of this year. We had the opportunity to attend 22 again and represent the unit at the convention.</p> <p>23 I mentioned this last year; I want to 24 mention it again, that we're very mindful of the 25 urgency of issuing permit renewals prior to the</p>	<p style="text-align: right;">Page 19</p> <p>1 fairs that are starting, to avoid any backlog. 2 The staff did a really good job last year staying 3 on top of the renewals. And the safety compliance 4 officers, they will again assist with permit 5 renewals and, assisting those companies, letting 6 them know when their renewal dates are coming up, 7 any questions they have, receiving the 8 documentation. But the compliance officers are 9 taking parts of that chunk and helping us as we 10 get into the heavier part of fair season.</p> <p>11 The last thing I want to talk about 12 is proof-of-inspection decals. We implemented 13 that program last year. I think it's worked 14 really well. We really haven't had a whole lot of 15 negative feedback about the decals and where 16 they're to be positioned on the devices.</p> <p>17 We will change color for the next 18 fiscal year. There's a four-to-six-week lead time 19 on those, so we'll order our first allotment for 20 the next fiscal year by May the 1st, so we'll have 21 those in this time and be able to distribute those 22 accordingly. Last year, we actually started, I 23 think, in September. So the next fiscal year, 24 we'll capture everything and we'll issue proof-of- 25 inspection decals. And we're excited about that.</p>
<p style="text-align: right;">Page 20</p> <p>1 Our decals are blue this year. We're thinking 2 about maybe going with Tennessee Vol orange next 3 year.</p> <p>4 CHAIRMAN FOX: It's a great color. 5 MR. HARDY: Yeah. I don't think 6 Mississippi State maroon would -- I'm going to 7 hold off on that for a few years, but --</p> <p>8 CHAIRMAN FOX: See, I think there 9 would have been an objection had you decided on 10 that color.</p> <p>11 MR. HARDY: So anyway, we'll pass 12 that around and see where it goes, but that 13 basically, is my report and the statistics I have 14 for the Amusement Device Unit, but I'd be glad to 15 entertain any questions about what I reported, at 16 this time.</p> <p>17 CHAIRMAN FOX: Comments, questions 18 from the board?</p> <p>19 MR. HALE: I just want to say I 20 appreciate Mike and Kevin and David coming out to 21 the fair convention. I think it all works a lot 22 better when folks have an opportunity to see you 23 eye to eye and talk outside of trying to resolve a 24 ride problem. So I appreciate you-all coming out 25 and being there.</p>	<p style="text-align: right;">Page 21</p> <p>1 MR. HARDY: But we always 2 appreciate the invitation and the opportunity, and 3 maybe can enhance on something next year on what 4 we're able to present. So thank you.</p> <p>5 CHAIRMAN FOX: I want to 6 congratulate you on getting your certification. 7 That's certainly a great milestone in this 8 business --</p> <p>9 MR. HALE: Absolutely.</p> <p>10 CHAIRMAN FOX: -- both of you. 11 That's a very intense -- if you're in it every day 12 for the 40 hours, you're in it for 40 hours, and 13 have you to pay attention to be able to pass it 14 and, obviously, have some knowledge of the 15 amusement industry, so again, I congratulate both 16 of you and thank you for being there.</p> <p>17 Are there any other comments or 18 questions for Mr. Hardy?</p> <p>19 (No verbal response.)</p> <p>20 CHAIRMAN FOX: Under Old 21 Business -- I forgot to do something a minute ago. 22 Do you have a conflict of interest statement? If 23 we haven't signed that, if we can, let's sign that 24 and get that to Ms. Kirby before we walk out 25 today. Okay?</p>

<p style="text-align: right;">Page 22</p> <p>1 MS. KIRBY: Yes. Thank you.</p> <p>2 CHAIRMAN FOX: Under Old Business,</p> <p>3 we would look at Item Number 17-05. And at this</p> <p>4 point, we could recognize Mr. Don Stock, president</p> <p>5 of the Adventure Guild. And you want to talk to</p> <p>6 us again about the low-challenge courses.</p> <p>7 MR. STOCK: The December meeting,</p> <p>8 we had a lengthy discussion related to this, and</p> <p>9 you guys asked me to kind of bring some</p> <p>10 information regarding standards and how they speak</p> <p>11 to low-challenge elements so we can hopefully to</p> <p>12 come to a conclusion that I can take back to our</p> <p>13 industry and our other inspectors in the state and</p> <p>14 have some consistency with what's getting</p> <p>15 submitted in terms of ride devices and things like</p> <p>16 that. So that's kind of the point of discussion</p> <p>17 today.</p> <p>18 What I've put down, first of all, we</p> <p>19 wanted to talk about the standards language as it</p> <p>20 deals with low-challenge courses. The two</p> <p>21 standards that are referenced in the state of</p> <p>22 Tennessee are ASTM, which in the particular ASTM</p> <p>23 standard is F-2959 out of the F-24 amusement</p> <p>24 standards. That's the first one.</p> <p>25 And then the second one is the ANSI/ACCT</p>	<p style="text-align: right;">Page 23</p> <p>1 03-2016 Challenge Course and Canopy Zip Line Tours</p> <p>2 Standards. The ASTM standards makes no reference</p> <p>3 to whatsoever to low-challenge courses simply</p> <p>4 because it completely -- not exempts in the sense</p> <p>5 of legally exempting, but it does not deal with</p> <p>6 any kind of device or activity that is not</p> <p>7 commercial and amusement in nature. In fact, I</p> <p>8 put that this practice should not apply to</p> <p>9 adventure courses, exclusively; for educational,</p> <p>10 physical fitness, organization of competitive</p> <p>11 events, therapeutic team building, all those</p> <p>12 things. So ASTM doesn't even speak to</p> <p>13 low-challenge courses.</p> <p>14 The ACCT standard does not call out</p> <p>15 specific installation or inspection standards for</p> <p>16 low-challenge courses, because they're really --</p> <p>17 as we discussed last time, they're very, very</p> <p>18 benign. Most of them are, like, this far off the</p> <p>19 ground (indicating) or they're really pretty</p> <p>20 simple structures. None of the structures and low</p> <p>21 elements are critical in the sense that they don't</p> <p>22 involve a life safety system, so just general</p> <p>23 application of noncritical installation inspection</p> <p>24 criteria are used in terms of inspection. The</p> <p>25 standard does provide, however, a definition which</p>
<p style="text-align: right;">Page 24</p> <p>1 is an element designed to be operated without a</p> <p>2 life safety system. And it also has the following</p> <p>3 operational components in terms of what's called</p> <p>4 spotted challenge course activities. Because --</p> <p>5 that's what we discussed last time -- that's how</p> <p>6 those -- these activities are orchestrated, and</p> <p>7 they are done by staffing with a team, with a team</p> <p>8 working together. And if there's any kind of</p> <p>9 lofting or lifting or people -- any kind of height</p> <p>10 at all, it's a spotted activity. And I have</p> <p>11 included, actually, the excerpt out of the ACCT</p> <p>12 standard about operations, because that really is</p> <p>13 a -- that's a huge difference, in terms of how --</p> <p>14 what sets these apart from a normal -- whether it</p> <p>15 be a zipline or whatever the case may be. There's</p> <p>16 not a life safety system. Any mechanism for</p> <p>17 protecting participants or guarding them from</p> <p>18 injury is done through participation and staffing</p> <p>19 and facilitation. And so you'll see the</p> <p>20 organization staff to assess when spotting is</p> <p>21 necessary. The organization staff can provide</p> <p>22 effective spotting on relevant activities, and the</p> <p>23 list goes on. You can see that it's all about</p> <p>24 operations and staffing. And if you'll look down,</p> <p>25 I actually included a couple photos of these</p>	<p style="text-align: right;">Page 25</p> <p>1 activities in use. So you can see how the team</p> <p>2 works together to facilitate and spot and protect</p> <p>3 the participants, the top activity being a tension</p> <p>4 traverse, spider's web where they're passing a</p> <p>5 person through. And the one that seemed to cause</p> <p>6 questions is the team wall. You can see how that</p> <p>7 is done when the person moves over the wall. You</p> <p>8 have the whole team behind them spotting, very</p> <p>9 much like you would in cheerleading or whatever</p> <p>10 the case may be.</p> <p>11 Observations related to this is -- and I</p> <p>12 kind of just wanted to summarize sort of where the</p> <p>13 perspective is, kind of, from our industry, as</p> <p>14 these activities do not really fit the normal</p> <p>15 definition of amusement, as they are designed</p> <p>16 specifically and intentionally for team building</p> <p>17 and therapeutic applications for groups.</p> <p>18 These activities don't use a life safety</p> <p>19 system, harnesses, helmets or other gear normally</p> <p>20 associated with challenge courses. Most of the</p> <p>21 low elements are mere inches off the ground and do</p> <p>22 not pose a threat of serious injury or death to</p> <p>23 participants, and these activities are facilitated</p> <p>24 by program staff.</p> <p>25 And in terms of the activity itself, in</p>

<p style="text-align: right;">Page 26</p> <p>1 comparison to bouldering, which is rock climbing 2 without a rope where spotting is also used, is 3 kind of a more accurate comparison than, for 4 example, like playground equipment or things like 5 that.</p> <p>6 I did -- as a government relations 7 chair, I put out a question to all the different 8 people who work with the regulatory people 9 throughout the U.S. There are a couple of states 10 who have had the same kind of experience we have 11 had here, because people are not really sure what 12 the criteria are. So rather than be out of 13 compliance, they included their low course when 14 they had their high course done. So Pennsylvania 15 and Michigan, both, have had that same experience 16 and have, sort of, kind of, just brought the low 17 elements in because they didn't know what else to 18 do with them. And some counties in the state of 19 New York have done the same thing.</p> <p>20 Other than that, those are the only 21 places that I know that do anything with 22 specifically permitting low-challenge courses. 23 And I haven't found any place that permits if you 24 only have a low course. They have, kind of, sort 25 of, just being drug along with the ziplines and</p>	<p style="text-align: right;">Page 27</p> <p>1 the challenge courses and the adventure parks that 2 have these particular camps and things like that. 3 And it's kind of unfolded the same way. We've got 4 this inspection report here. It has these on it, 5 so we'll just include that into the pertinent 6 piece.</p> <p>7 So I guess from a personal 8 perspective, it doesn't seem consistent to me to 9 do -- to permit these and not permit something 10 like climbing walls. That doesn't make any sense 11 to me at all. I don't really understand why that 12 isn't done. But that's neither here nor there.</p> <p>13 So from a consistency standpoint, I 14 really like consistency. If we're going to do 15 this here, let's do it here and let's make it 16 universal so everybody is on the same playing 17 field. And that's much easier to communicate to 18 people, from my perspective, because I've kind of 19 become the unofficial liaison, I guess, between 20 here and our association and our inspectors in the 21 state. And I'm working incredibly hard to make 22 sure we are doing what you're wanting us to do. 23 And part of that is knowing what it is you want us 24 to do, and the particulars of that. Now, we have 25 a meeting with the Amusement Unit afterwards to</p>
<p style="text-align: right;">Page 28</p> <p>1 help get some of those little, nitpicky details 2 nailed down, because we want to do right. We just 3 need some answers to what that exactly looks like.</p> <p>4 So that's all I have unless you have 5 questions for me.</p> <p>6 CHAIRMAN FOX: So let me understand 7 what I heard you say.</p> <p>8 MR. STOCK: Okay.</p> <p>9 CHAIRMAN FOX: You're asking us to 10 give a recommendation as to whether we want the 11 low elements permitted and inspected.</p> <p>12 MR. STOCK: Correct.</p> <p>13 CHAIRMAN FOX: Okay. That's as 14 simple as I can make it.</p> <p>15 MR. STOCK: That's really -- and 16 basically, it's really a clarification. Do you 17 want us to include them as inspectors, and do we 18 need to be coaching our clients that we do the 19 inspections for them, and that they need to 20 include that? Specifically, if that's the only 21 activity they have, if it's -- because there are 22 camps who have low-challenge courses that don't 23 have ziplines; they don't have climbing walls; 24 they don't have just high-challenge courses that 25 use belay systems. They only may have a wooden</p>	<p style="text-align: right;">Page 29</p> <p>1 box sitting on the ground that you use to step a 2 group of people up, and that's a low-course 3 element. You can pick it up and take it with you. 4 But it's a low-challenge element.</p> <p>5 So the question that is out there 6 that I'm trying to answer for the people who are 7 looking at me going, "What is going on?" is when 8 and where are you going -- do you want to permit 9 and require permitting for just low-challenge 10 courses, and then wherever they exist, whether 11 they're with -- combined with a low course, high 12 course, whatever. We just need to know. Whatever 13 you want to do is fine. We just need to know so 14 we can do what we're supposed to do.</p> <p>15 MR. BAILEY: Mr. Chairman, it would 16 not be proper for this board to make a 17 recommendation as to whether or not this should be 18 regulated. That falls on the Amusement Device 19 Unit to make that decision. And if that decision 20 is subsequently challenged, it's going to come 21 before this board to rule. So it wouldn't be 22 proper for the board to make a recommendation on 23 something that they may eventually have to be the 24 adjudicator of.</p> <p>25 CHAIRMAN FOX: Okay.</p>

<p style="text-align: right;">Page 30</p> <p>1 MR. BAILEY: And as far as climbing 2 walls, the inconsistency, I hear what you're 3 saying, but that was -- the legislature 4 specifically excluded that from the statute, so we 5 have no control over that.</p> <p>6 CHAIRMAN FOX: So the question, 7 then, would be do we presently require that all 8 elements, high, low, or whatever, that they are 9 inspected and/or permitted? Correct?</p> <p>10 MS. JEFFERSON: Yes, that's 11 correct.</p> <p>12 CHAIRMAN FOX: Okay. All right. 13 So at this time, this becomes a moot issue; is 14 that right?</p> <p>15 MR. BAILEY: It's moot unless 16 someone appeals that decision.</p> <p>17 CHAIRMAN FOX: Okay.</p> <p>18 MR. STOCK: I'm trying to do what 19 you asked me to do. I came to -- because this 20 issue came up -- I didn't bring this to the board. 21 The amusement device department got in contact 22 with me because there was confusion related to it, 23 and I followed up with trying to help, so --</p> <p>24 MS. JEFFERSON: It's -- okay. 25 Exactly. And I think I understand what's going</p>	<p style="text-align: right;">Page 31</p> <p>1 on. If someone is here -- and Dan you can correct 2 me if I'm incorrect -- but if they're here to 3 discuss it and to appeal it, the decisions that we 4 have made, then those decisions can go before the 5 board, if they're here to appeal them. And that 6 was my understanding, that he wanted to appeal our 7 decision. Because our decision within the unit is 8 that these devices are currently regulated, 9 because they don't fall under an exemption, is the 10 way we see it. So if that's the case, then we 11 need to know whether or not you can proceed.</p> <p>12 MR. BAILEY: Well, I mean, I guess 13 you can treat it that way. I mean, it wasn't 14 presented as being an appeal.</p> <p>15 MR. STOCK: And that was absolutely 16 not my intention at all. I thought I was doing a 17 service to the device unit and the board by 18 helping get clarification on this. Because the 19 issue arose -- because in our initial discussions, 20 low-challenge courses were not things that were 21 being considered because they didn't involve belay 22 systems and all of that sort of stuff. They kind 23 of came, even, into the topic, in discussion, 24 later on because they got put on device lists. 25 Because low-challenge courses -- I mean, I was in</p>
<p style="text-align: right;">Page 32</p> <p>1 all of these meetings, so I know we had the 2 discussion about low-challenge courses, and they 3 were not -- that's not where the focus was. These 4 kind of drifted in because of some nebulous thing. 5 I'm just trying to tell -- so you're telling me 6 that they are regulated and that's how it is. And 7 if they're wanting to change that, then I have -- 8 then someone needs to appeal it. Is that 9 accurate?</p> <p>10 MS. JEFFERSON: That's my 11 understanding.</p> <p>12 MR. HALE: So is that what we're 13 saying -- what y'all are saying, whichever one 14 wants to answer it -- that low-challenge courses 15 are regulated, and if somebody wants to appeal 16 that, they can.</p> <p>17 MS. JEFFERSON: Correct.</p> <p>18 MR. HALE: And I think that's the 19 answer he's looking for.</p> <p>20 MR. STOCK: Yeah. All -- I was 21 just hoping to -- I thought we were coming to 22 decide whether that was true or not. I didn't 23 know that that didn't --</p> <p>24 MS. JEFFERSON: And, you know, 25 that's the way -- we're learning, as far as this</p>	<p style="text-align: right;">Page 33</p> <p>1 unit is concerned, as far as the board is 2 concerned. We now understand that in order -- you 3 can't really bring issues before the board unless 4 the unit has made a decision. Okay?</p> <p>5 MR. STOCK: Okay.</p> <p>6 MS. JEFFERSON: And so since the 7 unit has made a decision on this particular issue, 8 you can appeal. I think that's what Dan was 9 stating earlier.</p> <p>10 MR. STOCK: Okay.</p> <p>11 MS. JEFFERSON: The way we went 12 about it may not have been proper. We probably 13 should have told you to actually make an appeal to 14 the board. But that's where we are now because we 15 didn't instruct you to make an appeal to the 16 board.</p> <p>17 MR. STOCK: Sure. Because that's 18 not my -- that was not my whole entire precedence, 19 not even close to my purpose. I was trying to get 20 clarification on whether they were or not because 21 I needed to be able to communicate to my folks and 22 as an inspector.</p> <p>23 MS. JEFFERSON: And we now 24 understand that we can't just have folks that come 25 before -- representatives or associations or</p>

<p style="text-align: right;">Page 34</p> <p>1 organizations -- come before the board and ask for 2 that type of interpretation. And the reason why 3 is because the board ultimately will make a 4 decision on those matters, so they have to serve 5 as an independent body. So we can't have them to 6 make an interpretation of the meeting and then 7 have somebody else to come back later. That's not 8 the proper way.</p> <p>9 MR. STOCK: Okay.</p> <p>10 MS. JEFFERSON: The proper way is 11 for us to actually, within the unit, to decide 12 whether or not it's proper. And then if we're 13 incorrect, if you think that we're -- we didn't 14 make the proper decision, then you have an 15 opportunity to come before the board. And they 16 can explain whether or not we were proper, or not.</p> <p>17 MR. STOCK: Understood. Great 18 instruction and procedure. Not my agenda or 19 understanding, so we're good. The answer I came 20 for was yes or no. Anything else?</p> <p>21 CHAIRMAN FOX: Thank you, 22 Mr. Stock.</p> <p>23 MR. STOCK: Okay. No problem.</p> <p>24 CHAIRMAN FOX: As always, you did a 25 great job. Thank you.</p>	<p style="text-align: right;">Page 35</p> <p>1 MR. HALE: Just one other comment 2 and then we can move on. But I just want us to be 3 mindful that we don't get in the business of 4 inspecting every playground in the state of 5 Tennessee.</p> <p>6 CHAIRMAN FOX: Okay. Any other 7 comments or questions on that particular topic? 8 (No verbal response.)</p> <p>9 CHAIRMAN FOX: All right. Moving 10 on to new business, 18-06 has been deleted at this 11 point. 18-07, Sustainability, and we have talked 12 about the fee structure process.</p> <p>13 Ms. Jefferson, I have to defer to you 14 as to where we're at and are we going to move 15 forward and so forth and so on. Enlighten us, 16 please.</p> <p>17 MS. JEFFERSON: Well, at this 18 particular time, the Governor's office, the 19 Governor included this amount or a certain amount 20 for the device unit in the budget. We have to 21 appear before the legislature in order to have it 22 approved. So that's where we are. We are pending 23 approval.</p> <p>24 As you all know, we did not have 25 separate funding for the amusement device unit in</p>
<p style="text-align: right;">Page 36</p> <p>1 previous years, but we were able to obtain funding 2 for the fiscal year 2016-17 and fiscal year '17 3 and '18. But that was temporary funding or 4 nonrecurring funding. So what we've done is we 5 requested recurring funding so that we could have 6 it from year to year. So that's pretty much where 7 we are now.</p> <p>8 We didn't take the other route in 9 changing the rulings because we felt like this 10 would be a better option for the unit because it's 11 more permanent versus having to determine whether 12 or not we're going to assess enough penalties, so 13 to speak, in order to sustain that particular 14 unit. We didn't want that burden to fall on the 15 Amusement Device Unit. So that's pretty much 16 where we are at this point.</p> <p>17 CHAIRMAN FOX: Okay. So the 18 elephant in the room, what happens if we don't get 19 the funding from the State?</p> <p>20 MS. JEFFERSON: Then we'll take a 21 different route. We'll have to take a different 22 route. But we couldn't do both. We had to pursue 23 one or the other. We pursued -- and understand, 24 we pursued a number of options. First, we asked 25 for funding, okay, the first year. The first</p>	<p style="text-align: right;">Page 37</p> <p>1 year, it was actually too late to have that 2 funding included in the budget. The second year, 3 we asked for funding and we received funding for 4 fiscal year '16-'17 and '17-'18.</p> <p>5 So now we're at the point we're 6 requesting recurring funding. And if we receive 7 that, which, hopefully we will, then we won't have 8 to worry about this issue going forward. If we 9 don't receive it, then we'll have to take another 10 route and we'll have to look at changing the 11 fee-on-fee structure.</p> <p>12 CHAIRMAN FOX: Okay. Ma'am, in all 13 things in life, I have a Plan B, whatever that is. 14 What is our Plan B?</p> <p>15 MS. JEFFERSON: Well, our Plan B is 16 to look at the rules, change the rules; look at 17 changing the rules in the event that we're not 18 given money through the budget.</p> <p>19 CHAIRMAN FOX: Okay.</p> <p>20 MS. JEFFERSON: That's our Plan B.</p> <p>21 CHAIRMAN FOX: Okay. And what is 22 the drop-dead date or the date certain, I should 23 say --</p> <p>24 MS. JEFFERSON: That we will know 25 something?</p>

<p style="text-align: right;">Page 38</p> <p>1 CHAIRMAN FOX: -- to make that 2 happen and -- to know something and then to make 3 that happen for the upcoming budget. 4 MS. JEFFERSON: Okay. Well, 5 actually, we'll know something by the end of the 6 legislative session. The legislative session ends 7 probably March-April. And at that time, we will 8 know whether or not we will have funding for 9 July 1st, 2018, forward. 10 We will have a board meeting in June, 11 I believe it is -- 12 CHAIRMAN FOX: Yes. 13 MS. JEFFERSON: -- so we will know 14 something, you know, closer to time. We will be 15 able to come back and make another report. If we 16 see that we're not going to obtain funding, then 17 we need to prepare to have our -- I guess, go back 18 and take a look at the rules to determine what we 19 need to do. 20 We already have information in place 21 because we were prepared to go forward with the 22 rules before. And we were instructed to hold off 23 on that because we were going to try to do it 24 through the budget. And so that's what we did, so 25 we have everything already in place.</p>	<p style="text-align: right;">Page 39</p> <p>1 With the board's help, we considered 2 all of the devices and a fee structure. We came 3 to an agreement, as far as that's concerned. We 4 came to an agreement, as far as inflatables, 5 because we took the inflatable devices outside of 6 that. So we have a Plan B. In the event that we 7 have to propose that, I believe we have to -- 8 There's no certain date to propose 9 the rules, right? 10 MR. BAILEY: No. There's no, like, 11 drop-dead date, but there's time frames involved 12 in getting the rules passed and implemented. And 13 if it involves a fee increase, if that is not done 14 prior to July 1, then the fee increase would have 15 to wait until the following July 1. 16 CHAIRMAN FOX: Okay. And that's 17 the reason I don't want to get caught in the box. 18 I want to be able -- again, I want us to look 19 forward. And if we do not get funding, I would, 20 first of all, ask that you notify the board, one 21 way or the other, whether we're getting funding or 22 not. And second of all, if, in fact, we're not, 23 then we need to know the dates, or whatever it is, 24 to make sure that we get in the next session's 25 funding or whatever process we're going to do,</p>
<p style="text-align: right;">Page 40</p> <p>1 whatever Plan B is, because we obviously do not 2 know. 3 MS. JEFFERSON: Well, believe me 4 when I say that we want funding just as bad as the 5 board, because this funding determines whether or 6 not we have employees for the Amusement Device 7 Unit. And right now we have five employees based 8 on previous funding that we obtained. If we don't 9 have any funding, then we have no employees, we're 10 unable to process amusement device permits. We're 11 unable to issue those to our customers. So we 12 want this as bad as anyone else because I don't 13 want to see any of my employees leave the 14 department. And I'm confident. I'm confident 15 that something is going to work out so that we can 16 pursue, because we've been very fortunate in the 17 past years, and things have worked out for us. So 18 I'm confident that we'll be okay. 19 And if for some reason we don't 20 receive it through the budget, we do have a 21 Plan B, and everything is already in place. All 22 we have to do is just -- ask Dan. He's our 23 liaison for that portion to proceed. After we 24 obtain the Commissioner's approval, that's what we 25 would do.</p>	<p style="text-align: right;">Page 41</p> <p>1 MR. BAILEY: Just to be clear, 2 though, given the time frame of when we will find 3 out whether we get this reoccurring funding, and 4 given the time allotment for getting a rule 5 passed, it would not -- I don't see it getting 6 done before this July 1. So it would be July 1 of 7 2019, if we have to go that route. 8 MS. O'CONNOR: If we have to go 9 that route, would a specially called meeting prior 10 to the June meeting help? Because I know we have 11 to have the wait period for a public hearing and 12 all of that. So if we knew that we weren't 13 getting funding through the budget and we called a 14 specially called meeting in April, early April, 15 for example, would that help our time frame to get 16 it through this coming budget? 17 MR. BAILEY: What would be the 18 purpose of the special-called meeting? 19 MS. O'CONNOR: To move up the 20 timeline so that the timeline -- the wait period 21 happens prior. Because if I'm understanding it, 22 if we don't get it in during this time frame, then 23 we don't -- we're kind of in limbo for a year, 24 until it gets in for next year's budget; is that 25 correct?</p>

<p style="text-align: right;">Page 42</p> <p>1 MR. BAILEY: Yeah. Unless -- well, 2 unless there's some temporary funding that's given 3 to carry us to the next July. But the rulemaking 4 process -- if you're talking about fee increases, 5 you're going to have to have rulemaking hearings 6 where you -- which those are open to the public. 7 MS. O'CONNOR: Right. 8 MR. BAILEY: You've got to schedule 9 those. You've got to decide you're going to have 10 more than one. You've got to respond to all the 11 comments, submit all that to the AG's office, wait 12 for their approval -- this is first after you have 13 gotten the governor's office approval, which we 14 didn't the last time. And then once the AG's 15 office approves it, then it's got to be submitted 16 to the Secretary of State's office, and then 17 there's a 45-day waiting period once you get to 18 that point before the rule becomes effective. So 19 I don't see how it can happen before this July 1. 20 MS. O'CONNOR: Okay. So it can't 21 happen regardless of when we start the process. 22 MR. BAILEY: Yes. 23 MS. O'CONNOR: If we started the 24 process today, it can't happen. 25 MR. BAILEY: I don't see it</p>	<p style="text-align: right;">Page 43</p> <p>1 happening. 2 MS. O'CONNOR: Okay. 3 MR. BAILEY: Unless the AG 4 immediately approves it. I mean, if everything 5 was, like, done as soon as I submitted it, there's 6 maybe a chance, but that doesn't happen. 7 MS. O'CONNOR: Okay. 8 MR. BAILEY: It just doesn't 9 happen. 10 MS. O'CONNOR: That's all I needed 11 to know. I understood the time period. 12 MR. BAILEY: Right. 13 MS. O'CONNOR: It was just how 14 short is that. Thank you. 15 MR. HALE: So just so that I'm 16 clear, if we don't get reoccurring funding, then 17 come July 1, we don't have any staff and we're 18 back at ground zero. 19 MS. JEFFERSON: Well, we want to 20 take a look at that, because as Dan said, there 21 may be some other way to handle it. We know that, 22 based on a past fiscal audit, it determined that 23 we weren't supposed to fund it from other 24 programs, fund the Amusement Device Unit using 25 other programs' monies. So that's something we</p>
<p style="text-align: right;">Page 44</p> <p>1 want to stay away from. 2 We don't know what's going to happen; 3 however, I am hopeful, because we have made it, 4 you know, really, really far compared to, what, 5 2013-2014. I think we've made lots of 6 improvements, and I'm very hopeful that we will 7 receive funding. So I don't want to alarm. 8 That's not the intent. But the intent is just to 9 kind of put it out there in front of everybody so 10 they'll know what we're dealing with. Because 11 it's not as easy, as Dan said, for us to move 12 things along. We can actually move it out of our 13 office, but just because we move it and give it -- 14 place it in the hands of someone else doesn't mean 15 that it's going to necessarily be expeditiously 16 more expeditious, or as expeditious as we would 17 like for it to be. I'll put it like that. 18 MR. HALE: Is it -- maybe this is a 19 Dan question -- but is it appropriate or helpful 20 for this board to go on record saying we encourage 21 the reoccurring funding or... 22 MR. BAILEY: I really don't know. 23 I mean, it certainly wouldn't hurt. It certainly 24 wouldn't hurt anything. And what I was being -- I 25 mean, if the decision is made not to grant</p>	<p style="text-align: right;">Page 45</p> <p>1 reoccurring funding, they might would grant, like, 2 a temporary funding, you know, like, a one-year 3 temporary funding and say, "Figure it out through 4 the rules. You've got one year," kind of thing, 5 so as not to shut the unit down. That was the 6 point I was making. 7 MR. HALE: But it's time that we 8 get past putting a Band-Aid on stuff. This whole 9 program has been managed along -- not by y'all's 10 fault. That's not a criticism on y'all -- but 11 this whole funding situation has forced this 12 program into, you know, let's put a Band-Aid on it 13 to get by another year, and it's time that we step 14 up and continue to move forward. I mean, we've 15 made some great progress, you know, especially 16 with folks getting through the first level of 17 inspector certification. I don't want to see us 18 back in limbo again. And it seems like we get up 19 and we crawl, and we even get up to walking, and 20 now we're up to sort of maybe even jogging, and I 21 just don't want to see us back crawling again. 22 CHAIRMAN FOX: Anything else? 23 Ms. Kelsey, can you help us out here 24 just a second? 25 MS. KELSEY: Absolutely. I was</p>

<p style="text-align: right;">Page 46</p> <p>1 part -- and I did want to reiterate what Ken said. 2 We were part of the budget process. We went 3 before the budget, which we had minimal -- we're 4 about 88 percent totally funded. Our ask of the 5 Tennessee General Assembly was very small. Okay? 6 And it was clearly articulated to the governor's 7 office, as well as to the budget and to the 8 committees, that this is a nonfunded, a mandatory 9 nonfunded division. And so it is definitely on 10 their radar.</p> <p>11 And to Kim's earlier statement, we're 12 waiting on the budget to be approved. But we have 13 done a really good sell to make sure that everyone 14 understands the importance of this division. 15 There was some dialogue, I think, with some of the 16 legislators, but it has not been approved. But, 17 you know, our hope is that it would be approved. 18 That is our hope, our goal, and our objective. 19 But I think they clearly understand this is 20 nonfunded.</p> <p>21 And they ask a lot of questions in 22 the process during those hearings on how we got to 23 that point. And we clearly articulated the fact 24 that we were taking, previously -- prior to 25 Commissioner Phillips being in the role, we were</p>	<p style="text-align: right;">Page 47</p> <p>1 taking funds, and it was an audit finding. And we 2 can't continue to do that. So I think everyone 3 understands the importance of this division being 4 funded, and I think the ask, again, was very 5 minimal, considering the budget request from our 6 department.</p> <p>7 So we're fingers-and-toes crossed on 8 this one. We're really hoping that this will go 9 through. We don't see any issues with that, but, 10 again, we won't know until the governor's budget 11 is passed by the legislators.</p> <p>12 CHAIRMAN FOX: Would there be any 13 notification from them early on if, in fact, they 14 were going to approve it?</p> <p>15 MS. KELSEY: I have just texted our 16 liaison to see. We have not heard anything. I 17 haven't. We have not received any -- it's pretty 18 fast-paced up there right now, so I don't 19 anticipate -- I think the anticipated time is the 20 latter of March or the first or second week of 21 April, that they should be -- so we should hear 22 something within the next few weeks. That's our 23 anticipation. We don't anticipate that the 24 legislature will go on further, but, you know, we 25 don't know that for sure.</p>
<p style="text-align: right;">Page 48</p> <p>1 CHAIRMAN FOX: Okay.</p> <p>2 MS. KELSEY: This department did a 3 really good job presenting that in the committee, 4 pre-committee before we went to present it to the 5 governor's budget. And then we had to go before 6 some committees, as well, and explain why the ask, 7 and our department was very well represented. And 8 I think everybody around the room asked a lot of 9 questions, and they clearly understand what's at 10 stake.</p> <p>11 CHAIRMAN FOX: Okay. Thank you.</p> <p>12 MS. KELSEY: Yes.</p> <p>13 CHAIRMAN FOX: Again, if we find 14 out that information, if you would, just notify 15 the board so that we know where we're going and 16 what we're doing, please.</p> <p>17 MS. JEFFERSON: Sure.</p> <p>18 MR. HALE: And I'd like to clarify 19 that I, in no way, was being critical of what 20 y'all are accomplishing. I think that all of you 21 have worked diligently to move this to where we 22 need to be. I really was seeking whether I -- we, 23 as a board, could do something to be more 24 supportive, additionally supportive, of what 25 you-all are trying to accomplish.</p>	<p style="text-align: right;">Page 49</p> <p>1 CHAIRMAN FOX: In addition, we 2 didn't want to lose any deadlines that may be 3 incumbent upon us.</p> <p>4 MS. JEFFERSON: Right.</p> <p>5 CHAIRMAN FOX: If there's a 6 decision that we need to make or a recommendation 7 that we need to make, then let us know ahead of 8 time. I think we can make that happen, one way or 9 the other.</p> <p>10 MS. JEFFERSON: Thank you.</p> <p>11 CHAIRMAN FOX: Then that brings up 12 the next topic of inspector fees. That makes it a 13 moot issue until we find out.</p> <p>14 Item Number 11, Discussion Items. 15 Amusement device cease-and-desist notice of banned 16 amusement rides.</p> <p>17 Ms. Jefferson, are you going to 18 address that?</p> <p>19 MS. JEFFERSON: Sure. I'll be 20 happy to.</p> <p>21 Basically, the ban came about because 22 of the public's safety. Of course, that's the 23 Department's number one concern. Due to that 24 accident in Ohio last year, there was a concern, 25 whether or not the children and other patrons who</p>

<p style="text-align: right;">Page 50</p> <p>1 ride these amusement devices all across the state 2 would be protected. Our goal was to ensure that 3 nothing like that happened in Tennessee. And out 4 of an abundance of caution, the Commissioner 5 decided to prepare -- he asked the unit to prepare 6 a list of similarly situated devices. And to the 7 best of our ability, we've prepared that list, and 8 that's the list that is located on the website. 9 We have sought legal advice from the 10 attorney general's office. The attorney general's 11 office, when they contact us -- we haven't heard 12 back yet -- but once they contact us, we hope that 13 they inform us on whether the ban shall stay, 14 shall remain as it is, whether or not it should be 15 modified in any way, or whether or not it should 16 be lifted altogether. So we're just waiting to 17 hear back from the attorney general's office. 18 CHAIRMAN FOX: Okay. Any 19 questions? 20 (No verbal response.) 21 CHAIRMAN FOX: There's some other 22 folks here to speak to this. And with that, 23 unless Mr. Bailey, is there an objection to these 24 folks talking to us on this? 25 MR. BAILEY: No.</p>	<p style="text-align: right;">Page 51</p> <p>1 CHAIRMAN FOX: So there's some 2 gentlemen here. I know Mr. Sheehan. He's the one 3 sitting closet to the wall. That's the only way I 4 know -- he's first up, so if you're wanting to 5 speak to this, I would ask you to move to the 6 table. Give us your name, again, for the record, 7 and let us know what you need us to know. 8 MR. SHEEHAN: Thank you, Chairman. 9 Fine. 10 MR. HALE: While he's handing that 11 out, can I ask, Mr. Bailey, can information that 12 is presented today be forwarded to the attorney 13 general's office to become part of their 14 decision-making process? 15 MR. BAILEY: Yes, it can. 16 MR. HALE: Does that not require an 17 action of the board to do that? 18 MR. BAILEY: No, sir. 19 MR. POPE: Chairman, I would like 20 to ask one question before Mr. Sheehan starts. 21 CHAIRMAN FOX: Yes, sir. 22 MR. POPE: Was -- and not with 23 Mr. Sheehan but with the board or the unit 24 itself -- did we have a list of requirements that 25 we went through for these rides? Or is this just</p>
<p style="text-align: right;">Page 52</p> <p>1 something -- I mean, what did you use to come up 2 with these 18 rides? 3 MR. HARDY: We were told to -- that 4 the previous ban came out just after the tragic 5 accident in Ohio. And going into the end of the 6 calendar year, we were told that we would continue 7 that, and, also, that the ban would be enhanced. 8 We wanted to also include similar devices from 9 other manufacturers. And that's -- as Kim said, 10 to the best of our ability, that's what we put 11 together and came up with. 12 MR. POPE: Similar in appearance, 13 similar in engineering? 14 (No verbal response.) 15 MR. POPE: Just similar. 16 MS. JEFFERSON: Some of the 17 criteria that we looked at -- we looked at other 18 states, because the device at issue was the 19 Fireball, from what I understand. 20 CHAIRMAN FOX: The KMG Fireball. 21 MS. JEFFERSON: Uh-huh. And so we 22 took a look at other states to see if they had 23 banned, because after the accident, other states 24 banned certain items. So we took a look at the 25 Internet. We googled; we found other states. We</p>	<p style="text-align: right;">Page 53</p> <p>1 actually took a look at what they had banned. If 2 they had banned a similar device, we added that to 3 our list. That's how we obtained our list. We 4 didn't go through, as far as engineering, 5 manufacturing, all of that, because we're not -- 6 that's not our expertise. So we took a look at 7 devices that were similar to the Fireball. 8 MR. HARDY: And those similarities 9 include a pendulum, sweeps, and with gondolas that 10 go 180, 360. 11 MR. POPE: So just basically 12 appearance, then, appearance rides, is what 13 we're -- pendulum rides, in general. 14 MR. HARDY: Pretty much. 15 MR. POPE: Okay. Can I ask one 16 last question? 17 CHAIRMAN FOX: Absolutely. 18 MR. POPE: Do we have legislation 19 in place that lets us ban those rides if they have 20 not had an accident in the state? Because the way 21 I read the legislation is that we can shut down a 22 ride if it has an accident until something is 23 decided upon, until that ride is reinspected. So 24 do we have legislation in place that lets us do 25 this?</p>

<p style="text-align: right;">Page 54</p> <p>1 MS. JEFFERSON: Well, actually, out 2 of an abundance of caution, there may be, and 3 that's what we were -- that's why we reached out 4 to the attorney general's office, so they could 5 let us know whether or not the Department can do 6 that in the event that something like this 7 happens, whether -- we want to know how far does 8 his authority extend. That's what the attorney 9 general's office will tell us. And certainly, you 10 know, you're a commissioner of a department, 11 there's certain things that -- you know, if 12 there's an emergency, I would think that you would 13 have the ability to do certain things. However, 14 that's just my interpretation. I may be totally 15 wrong. And that's why we're going to reach out, 16 and we're reaching out to the attorney general's 17 office for them to make that determination. 18 They may come back and say, well, we 19 overreached. And the Commissioner has said he has 20 no problem with that. If they tell us that we've 21 overreached, we need to lift the ban, that's what 22 we'll do. If they tell us that we need to modify 23 this and look at other criteria based on what the 24 board can provide us, then that's what we'll do. 25 But if they tell us that everything that you did</p>	<p style="text-align: right;">Page 55</p> <p>1 is okay, then we'll leave that ban in effect the 2 way that it is. So it just depends on what the 3 attorney general says. 4 MR. POPE: Chairman, my question 5 and my concern would be that the attorney 6 general's office is not privy to the specs on 7 these rides and things that we've done, other than 8 what we may send to them now that we're asking. 9 If we're going to leave it in their hands to 10 decide, I feel like they're going to be making a 11 decision without any knowledge or experience, if 12 you would, as to what you're doing. 13 MR. HALE: That was kind of my 14 question about -- 15 MR. POPE: I kind of thought that 16 would be what the meeting today was about. 17 MR. BAILEY: If I may, the attorney 18 general's office is strictly going to rule on 19 whether the statutory language gives the 20 Department or the Commissioner the authority to 21 issue -- to preemptively issue a ban of rides that 22 have not had an accident in Tennessee. 23 So, I mean, looking at the specs and 24 looking at things like this is not going to have 25 any relevance on their decision at all. It's</p>
<p style="text-align: right;">Page 56</p> <p>1 strictly reading the statutes and the 2 interpretation of the statutory language to 3 determine if the Department possessed -- if the 4 Legislature has given the Department the authority 5 to do what we did. So that's it. 6 MR. POPE: I'm going to refrain 7 from any other questions for right now. But I 8 have others. 9 CHAIRMAN FOX: Okay. Well, that's 10 what we're here to do. We're here to talk about 11 this and hopefully come up with a solution or a 12 recommendation. 13 Sir? 14 MR. SHEEHAN: Thank you. I 15 appreciate the time here. I am an attorney, and 16 I've represented the industry my entire legal 17 career. And just so you know, I'm not just 18 talking as an attorney. I'm a licensed aircraft 19 mechanic. I worked five years as an amusement 20 ride mechanic before I went to law school. I am 21 the only attorney in the United States to have a 22 Level 2 NAARSO inspection certificate. 23 I give back a lot of my time to help 24 keep this industry safe. I've been on AIMS board 25 of directors, who I'm representing here. I'm</p>	<p style="text-align: right;">Page 57</p> <p>1 involved with IAPA, the International Amusement 2 Park Association. I've been on their board of 3 directors. I'm currently on their global safety 4 committee. I'm also on their global manufacturers 5 and suppliers committee. I represent many 6 manufacturers across the U.S. and internationally. 7 So I do not take safety lightly, and I work very 8 hard and give away a lot of my time to keep the 9 industry safe. 10 That said, I think it's inappropriate 11 for this state or any other state to take an 12 action without understanding what really happened 13 in Ohio. And from what I've observed, I see a 14 knee-jerk reaction. We see rides banned because 15 they're, quote, "similar." We see the Fireball 16 banned because it had this incident in Ohio. 17 Can I ask what research was done with 18 regard to the Ohio incident? 19 MS. MS. JEFFERSON: Well, actually, 20 after that accident we were in touch with several 21 of the third-party inspectors. We obtained the 22 accident reports. We actually took a look at -- 23 like I said, we Googled. We actually found other 24 states that had banned that particular device. So 25 we did do research, and I had the amusement device</p>

<p style="text-align: right;">Page 58</p> <p>1 manager to actually perform additional research 2 prior to the ban.</p> <p>3 MR. SHEEHAN: Do you realize that 4 the Fireball is not banned in Ohio?</p> <p>5 MS. MS. JEFFERSON: Well, that -- I 6 understand that, but Tennessee wanted to ensure 7 that the people here were safe. Because we have 8 had accidents. This stems from -- it's not a 9 state -- Tennessee is not a state that is -- that 10 hasn't had amusement device accidents, because 11 we'd had an amusement device accident the year 12 before last, and three little girls were severely 13 injured. We take it very seriously. So what we 14 did -- this is out of an abundance of caution, 15 like I said. It's not that we wanted to be 16 arbitrary, capricious, or anything like that. 17 That wasn't the goal. The goal was public safety. 18 However, in the event that we have overreached, 19 we're willing to do what's proper. That's what I 20 want to stress.</p> <p>21 MR. SHEEHAN: Well, and I 22 appreciate the safety goal, but I do feel what 23 happened here was arbitrary and capricious. And 24 I've presented to you a booklet I'd like to walk 25 through where I have a series of photos of the</p>	<p style="text-align: right;">Page 59</p> <p>1 Ohio ride.</p> <p>2 When the incident first happened, 3 there was misinformation in the news that this was 4 hidden corrosion that could not be detected. And 5 I know a lot of states have reacted because of 6 that news article. Well, that was incorrect. In 7 the words of our President, that was fake news.</p> <p>8 And I'd like you to see actual photos 9 of the ride, which I'm presenting to you right 10 here. If you look at Tab Number 1, this is a 11 control panel of the Ohio ride. And as you can 12 see -- I'm sorry. I've passed out all the 13 booklets I have. If you don't find sharing, I 14 would appreciate it.</p> <p>15 If you look at the second tab, this 16 is a photo of an electrical box on one of the 17 sweeps. As you can see, there's corrosion that's 18 eaten holes into it. And that's clearly very 19 visible.</p> <p>20 The next tab, Number 3, is from the 21 incident sweep. And as you can see, that also had 22 corrosion holes, and the incident pulled the wires 23 right through the bottom of the metal. That's how 24 weakened it was. If we look at Tab Number 4, you 25 can see what appears to be a crack. And when</p>
<p style="text-align: right;">Page 60</p> <p>1 you're an inspector, if you see what appears to be 2 a crack in the paint, you're supposed to assume 3 that there's a crack in the current metal 4 underneath. And so this is a different sweep, and 5 as you can see, there's what appears to be a 6 crack.</p> <p>7 If we go to Tab Number 5, we're yet 8 onto another sweep. And as you can see, at least, 9 the paint is cracked here.</p> <p>10 If we go to Tab Number 6, we have yet 11 another sweep with what appears to be a crack in 12 the paint, at least.</p> <p>13 If we go to Tab Number 7, you can see 14 that there is a hole that was used to mount a 15 cover to the sweep, and you can see rust leaking 16 down the outside.</p> <p>17 CHAIRMAN FOX: Mr. Sheehan, may I 18 ask a question?</p> <p>19 MR. SHEEHAN: Yes, sir.</p> <p>20 CHAIRMAN FOX: Is this a weep hole, 21 or is this something that has been placed into the 22 side of this? Or did someone drill this?</p> <p>23 MR. SHEEHAN: That was something 24 that was placed into the side of it.</p> <p>25 CHAIRMAN FOX: So it's not a weep</p>	<p style="text-align: right;">Page 61</p> <p>1 hole.</p> <p>2 MR. SHEEHAN: No, sir, it's not.</p> <p>3 CHAIRMAN FOX: Okay.</p> <p>4 MR. BAILEY: So it wasn't 5 manufactured like that, then, right?</p> <p>6 MR. SHEEHAN: That's correct. And 7 if we go on to Tab Number 8, you can see another 8 crack in the paint, at least. Same with Number 9. 9 There's a whole series of cracks in the paint. 10 And this is on the exterior of the ride.</p> <p>11 If we go to Tab 10, this is a photo 12 that we received from the Ohio State Police 13 Department. This is a photo that was taken by a 14 fair patron of the ride, just happened to take a 15 photo, and capture this sweep. And as you can 16 see, there's a crack across the paint right there. 17 That, in fact is the sweep that failed.</p> <p>18 So we have a fair-goer with a camera 19 being able to see and record what turned out to be 20 the fatal crack. It was evident.</p> <p>21 And if we take a look at yet the next 22 tab, Number 11, this is another sweep, the same 23 location on the sweep where the one failed, and, 24 again, we can see cracks in the paint. So it 25 would appear that there were systemic problems on</p>

<p style="text-align: right;">Page 62</p> <p>1 this ride that, in fact, were visible.</p> <p>2 And if we go to Tab 12, again,</p> <p>3 addressing the fake news about this being an</p> <p>4 interior closed-beam, unable to be inspected, what</p> <p>5 we have here are the gondolas removed from the</p> <p>6 ride. And each and every time that ride is moved,</p> <p>7 the gondolas come off. And as you see in this</p> <p>8 photo, you can stand on the seat and look inside</p> <p>9 that box beam and observe what's going on there.</p> <p>10 So with all the other indications on</p> <p>11 the outside of the ride, there was certainly cause</p> <p>12 to look inside. And it was not impossible to do.</p> <p>13 It was very easy to do, as you can see here.</p> <p>14 The next tab is the data plate on the</p> <p>15 ride. This was a 19-year-old ride. How many</p> <p>16 pieces of capital equipment do you have out there</p> <p>17 in 19 years of hard service without being properly</p> <p>18 inspected, without being properly maintained,</p> <p>19 without problems?</p> <p>20 This ride, during the off-season,</p> <p>21 would be sent by ocean freighter to play in the</p> <p>22 Caribbean. So it was exposed to a corrosive</p> <p>23 environment. And that's evident by the photos</p> <p>24 with the rust and the cracks.</p> <p>25 Immediately after the incident, what</p>	<p style="text-align: right;">Page 63</p> <p>1 did KMG do? They issued a stop-operation order on</p> <p>2 every one of their rides. They sent it out to</p> <p>3 every owner. Why? Because they wanted to do a</p> <p>4 proper inspection, a proper analysis, to figure</p> <p>5 out what happened to make sure it doesn't happen</p> <p>6 again.</p> <p>7 So all the rides were shut down by</p> <p>8 order of the manufacturer. That's what's supposed</p> <p>9 to happen with their system, and that's what ASTM</p> <p>10 is all about. And then what did KMG do? They</p> <p>11 followed up with the service bulletin, which is at</p> <p>12 Tab 14, instructing how to do proper inspections</p> <p>13 on this area of the ride, how to do a</p> <p>14 nondestructive test. And if the ride passed, it</p> <p>15 could be put back into service. If there was a</p> <p>16 marginal issue, the ride would remain in service</p> <p>17 with a lower, you know, arch to reduce the forces.</p> <p>18 Just through the end of last year,</p> <p>19 after December 31st, those rides were not allowed</p> <p>20 to operate unless they passed the NDT test or if</p> <p>21 they received entirely new gondolas. And that</p> <p>22 service bulletin remains in force to this day.</p> <p>23 So what we're saying right here, you</p> <p>24 know, in the state of Tennessee, is we're going to</p> <p>25 ground every single airplane that has a certain</p>
<p style="text-align: right;">Page 64</p> <p>1 type of tail or a certain kind of action, whether</p> <p>2 or not there was, you know, an FAA bulletin to</p> <p>3 correct it. There is a service bulletin out to</p> <p>4 correct this. There is a service bulletin out for</p> <p>5 your team to do the proper thing to make sure that</p> <p>6 the inspections are done, that the NDT is done,</p> <p>7 that that ride is safe to operate.</p> <p>8 What about the owners who have a</p> <p>9 one-year-old Fireball who have done everything</p> <p>10 right, a five-year-old Fireball and everything is</p> <p>11 perfect? We're not going to allow them to operate</p> <p>12 because of one incident in another state on an</p> <p>13 aged ride that had some inspection issues? That's</p> <p>14 arbitrary and capricious to deprive the</p> <p>15 manufacturer the ability to sell those rides, the</p> <p>16 ability of the owners to operate those rides, and</p> <p>17 that's just not proper.</p> <p>18 If we go on to the next tab, I</p> <p>19 worked, you know, donated my time with a whole</p> <p>20 group of manufacturers following Ohio State. What</p> <p>21 did we learn? What can we carry out to the entire</p> <p>22 industry to prevent anything like this from</p> <p>23 happening? To tell you the truth, this happened</p> <p>24 to be a KMG ride, but if corrosion is present and</p> <p>25 people are overlooking it, it could have been any</p>	<p style="text-align: right;">Page 65</p> <p>1 manufacturer's ride. It didn't have to be a</p> <p>2 pendulum ride. It could have been a roller</p> <p>3 coaster. It could have been a Ferris Wheel. It</p> <p>4 could have been anything. And I don't think</p> <p>5 you're about to ban all the rides.</p> <p>6 So what we did is we worked together</p> <p>7 collaboratively to come up with a bulletin to</p> <p>8 instruct regarding corrosion inspection. The one</p> <p>9 that I attached here was the first to issue the</p> <p>10 Chance bulletin. And since then, other</p> <p>11 manufacturers -- ARM, Larson, Battech -- have</p> <p>12 issued similar bulletins, and other manufacturers</p> <p>13 are following suit.</p> <p>14 So really, the issue is let's beef up</p> <p>15 our inspections; let's make sure that everything</p> <p>16 is correct; let's do our NDT and rides are safe to</p> <p>17 operate. This is not just a Fireball issue.</p> <p>18 Again, it happened to be that ride.</p> <p>19 I also included, in what I handed out</p> <p>20 to you, an article, a news article. And there is</p> <p>21 an interesting quote from the plaintiff's</p> <p>22 attorney. And obviously, the plaintiff's attorney</p> <p>23 is charged with protecting his client's interest.</p> <p>24 And, you know, they're going to do so very</p> <p>25 aggressively. And I can read the quotes here;</p>

<p style="text-align: right;">Page 66</p> <p>1 that he believes that state inspectors, quote, 2 "failed to adequately do their jobs," end quote, 3 and that the ride was a, quote, "visible bucket of 4 rust." 5 So once again, there was nothing 6 hidden here, that this was, you know, discoverable 7 and that the ban on this ride or any other similar 8 rides is totally inappropriate. We have a service 9 bulletin that addresses the issue of the corrosion 10 on the KMG ride that instructs how to do the NDT 11 test, and what's acceptable and what's not. You 12 know, with that present, I see no reason for there 13 to be a ban on the Fireball or any other similar 14 rides. 15 And I'm happy to address any of your 16 concerns or questions. I appreciate the goal; 17 just not how we're going about it. 18 MS. MS. JEFFERSON: I can respect 19 that. 20 MR. SHEEHAN: Thank you. 21 CHAIRMAN FOX: Any questions from 22 the board for this gentleman? 23 MR. HALE: Do you agree that 24 Florida's response of requiring additional 25 testing, additional NDT, for instance, is an</p>	<p style="text-align: right;">Page 67</p> <p>1 appropriate response? Florida's regulations have 2 changed and required some additional testing and 3 so forth. Is that a more reasonable response? 4 MR. SHEEHAN: Definitely more 5 reasonable. You know, this bulletin sets out 6 great detail, what NDT needs to be done on the 7 Fireball. But if the State wants some additional 8 NDT, you know, to raise their comfort level, 9 that's appropriate, as opposed to banning rides. 10 The issue is the corrosion, it's detection in 11 prevention of it continuing to operate in a 12 deficient condition. Not banning rides. That's 13 not what we're about. 14 CHAIRMAN FOX: Any other questions 15 or comments from the board? 16 MR. SHEEHAN: Is there any 17 procedure that the, you know, commission follows 18 in trying to decide what rides could be or should 19 be banned? I would sort of like to know how it 20 came about. 21 MS. MS. JEFFERSON: Well, this is, 22 like I said, based on what happened with those 23 three little girls that were injured in 24 Greenville. As I said, Tennessee is not a state 25 that hasn't been without accident. Because of the</p>
<p style="text-align: right;">Page 68</p> <p>1 accident, our goal was just to take preventative 2 measures so that nothing like that, at least under 3 our watch, would happen. Because after that 4 happened -- of course, you know, it was a national 5 disaster, as well as a disaster for those children 6 and their families. So our goal was to ensure 7 that nothing like that happened. We were just 8 trying to take an extra measure of caution to 9 ensure that nothing that like that happened in 10 Tennessee. And that's our goal. 11 In the event that the attorney 12 general's office decides that we overreached, I 13 would certainly rather be on the side of caution 14 and to say that we tried, in the event that 15 something happened and -- you know, everything 16 forbids that something like that happens in 17 Tennessee again. But we just wanted to be on the 18 side of caution, and that's why we took those 19 extra measures. 20 It was not -- in my opinion, it was 21 not arbitrary and capricious. We didn't set out 22 to do anything to cause these companies harm. But 23 at the same time, you have to weigh public safety 24 against what these companies were saying. You 25 know, they said the devices were safe, however,</p>	<p style="text-align: right;">Page 69</p> <p>1 during the time of the Ohio accident, if I 2 remember correctly, three different inspectors, 3 third-party inspectors -- and that could include 4 the state inspectors -- they actually inspected 5 that device. And out of all those three 6 inspectors, nobody found anything wrong. 7 So our goal, again, was just to 8 protect. And what's we do within this entire 9 division, workplace regulations and compliance. 10 What we do is protect the public to the best of 11 our ability from those type of situations. 12 MR. SHEEHAN: I understand and, 13 again, appreciate that. But we have the whole 14 spectrum of banning every single amusement ride in 15 the world and keeping everybody safe, or having 16 some standard to apply, whether a ride can operate 17 or not. And that's what I'm looking for. Is 18 there a standard that you're applying, and how do 19 we know that we can meet a standard? 20 MS. MS. JEFFERSON: Right. And 21 that's what this information will do. It will 22 better enable us to take a look at as standards. 23 Because, like I said previously, we're not -- as 24 far as what these folks do, they just recently 25 became certified as NAARSO inspector ones. So as</p>

<p style="text-align: right;">Page 70</p> <p>1 you can see, prior to that time, of course, we 2 didn't have anyone who was even certified or -- 3 MR. SHEEHAN: And that's great. 4 Congratulations. 5 MS. MS. JEFFERSON: Yes -- who was 6 in a position to even make those type of -- even 7 take a look at this information and even 8 understand it and interpret it. At least now we 9 do have folks who can interpret it. But like I 10 said, the attorney general's office, once they 11 give us more direction -- we look to them for 12 guidance so that we can see where to go from here. 13 MR. SHEEHAN: And I'm happy to be a 14 resource to you and your team or even the A.G.'s 15 office. Again, I see too many sad events, you 16 know, with what I have to deal with that I 17 certainly want to prevent. 18 MS. MS. JEFFERSON: Thank you. 19 MR. BAILEY: Mr. Chairman? 20 CHAIRMAN FOX: Sir? 21 MR. BAILEY: How is it that, do you 22 think, these rides passed the inspection at Ohio 23 prior to this accident? 24 MR. SHEEHAN: That is a great 25 question. And I think it's going to come out in</p>	<p style="text-align: right;">Page 71</p> <p>1 the ensuing litigation. 2 MR. BAILEY: I mean, because these 3 pictures are -- and I'm sorry. I didn't mean to 4 interrupt you. But it seems like there's some 5 pretty obvious, you know, red flags that should 6 have been spotted, and they weren't. 7 MR. SHEEHAN: You know, I really 8 can't answer that. And it is under litigation. 9 You know, just a personal viewpoint, I don't know 10 if sometimes the inspectors get fixated on an 11 assembly inspection, you know, is everything 12 bolted together correctly, as opposed to, you 13 know, let me look at the whole thing, let me look 14 at everything. But it's an issue where three 15 different sets of inspectors allowed this to run. 16 MR. BAILEY: Do you know if they 17 inspected it with the gondola arms off where they 18 could look at -- 19 MR. SHEEHAN: I don't have an 20 answer for that. But, you know, as you can see in 21 the photo, it's very easy to do. 22 MR. BAILEY: Right. But whether it 23 was done is the question. 24 MR. SHEEHAN: That's the question. 25 That's the question.</p>
<p style="text-align: right;">Page 72</p> <p>1 MR. BAILEY: And, also, these 2 manufacturers' bulletins that you have here, and 3 these are both in effect currently, correct? 4 MR. SHEEHAN: Absolutely. 5 MR. BAILEY: You know, our 6 statute -- in the statute it says the rides must 7 meet ASTM or ACCT standards. As long as they meet 8 those standards and they're insured, then we're 9 supposed to permit them. But certainly, I would 10 imagine, and I'm pretty sure it does, the ASTM 11 standards require that you follow the 12 manufacturer's recommendations. 13 MR. SHEEHAN: Absolutely. Including 14 the bulletins. 15 MR. BAILEY: Right. 16 MR. SHEEHAN: Yes, sir. 17 MR. BAILEY: Now, have these 18 recommendations, these bulletins here been 19 distributed to all amusement device inspectors? 20 MR. SHEEHAN: The pilot, the way 21 it's required to be distributed is to the owners 22 of the rides, which was done. And in this 23 instance, because I have involvement with NAARSO, 24 we sent a copy of the bulletin to NAARSO for 25 NAARSO to distribute. NAARSO also has a website</p>	<p style="text-align: right;">Page 73</p> <p>1 that contains bulletins that's available to all 2 the inspectors. 3 In addition, for the first time ever, 4 I was able to get IAPA to issue this bulletin 5 through their resources. So it literally went 6 worldwide. You know, clearly, I recognize the 7 importance of this and the issue of corrosion. 8 And so I wanted it to get to people who didn't own 9 a KMG ride only so that they could consider the 10 issue of corrosion in inspection. So it's had the 11 widest distribution of any bulletin I'm aware of 12 in the history of the industry. 13 MR. BAILEY: So as I see it, if the 14 ban on the ride is lifted at some point in time, 15 with these manufacturers' bulletins being in 16 effect, Tennessee inspectors would have to take 17 those into account when performing inspections. 18 So they would have to take into account the 19 corrosion aspect. Like, in this KMG, it gives 20 three different procedures for inspecting. 21 MR. SHEEHAN: Correct. 22 MR. BAILEY: And as I understand 23 it, if it flunks any one of those, do not operate. 24 MR. SHEEHAN: Absolutely correct. 25 MR. BAILEY: So I guess that's</p>

<p style="text-align: right;">Page 74</p> <p>1 something that, you know, if these rides come off 2 a ban list, I would certainly want our unit to 3 communicate that to any third-party inspector that 4 is part of your inspection process now, and any 5 other bulletins that are out there. 6 And you say they're on the NAARSO 7 website, right? 8 MR. SHEEHAN: That's correct. And 9 you're going exactly the way the bulletins are 10 meant to go. The state inspectors are really an 11 important tool to make sure that the bulletins are 12 followed. So if the state inspectors, you know, 13 have this, you know, they can make sure that the 14 third-party inspectors have followed it and 15 checked it off. 16 Are you aware of the bulletin? 17 MR. HARDY: Yes. Yes, I am. 18 MR. SHEEHAN: Great. Great. So, 19 you know, again, as long as we have the proper 20 thickness that meets the manufacturer's 21 specifications, it's no different than any other 22 ride, brand new or otherwise. And, you know, 23 basically, KMG has been requiring gondolas to be 24 replaced. And so if you have a ride operator with 25 new gondolas or gondolas that passed the</p>	<p style="text-align: right;">Page 75</p> <p>1 inspection, it's good to go. 2 MR. BAILEY: And as I read this 3 memo, it depends on the age of the gondola, as to 4 what procedures you follow. 5 MR. SHEEHAN: Yes, sir. The 6 bulletin speaks for itself, as we say. 7 MR. BAILEY: Right. 8 CHAIRMAN FOX: Mr. Bailey, I might 9 just break that down into laymen's terms. If you 10 don't adhere to the bulletin as an inspector, you 11 do so at your own peril. And not to mention 12 people getting hurt, but the onus falls back on 13 you as an inspector if you do not adhere to that 14 or make that company who owns that adhere to that 15 bulletin. 16 MR. BAILEY: Yes, sir. 17 CHAIRMAN FOX: That's Fox terms, as 18 we say. 19 MR. BAILEY: Well, and -- I mean, 20 as I see it, that is part of the inspection 21 process. 22 CHAIRMAN FOX: Yes, sir. 23 MR. BAILEY: As long as that 24 manufacturer says this is how you inspect our 25 rides, that's as good as a rule or anything else</p>
<p style="text-align: right;">Page 76</p> <p>1 that we might have. 2 MR. SHEEHAN: Absolutely. 3 MR. BAILEY: We always follow the 4 manufacturer's recommendations. 5 MR. SHEEHAN: See, I would 6 completely agree with the ban on the Fireball if 7 there was no bulletin in the wake of the Ohio 8 incident. So one of the focuses of your group 9 needs to be did this bulletin address the issue. 10 And if a ride is compliant with the bulletin, why 11 can't it operate, as opposed to -- this is where 12 the arbitrary and capricious comes in -- banning 13 it without considering what actions the 14 manufacturer took. And so please consider the 15 actions of the manufacturer as you move forward 16 here. 17 MR. POPE: Mr. Sheehan? 18 MR. SHEEHAN: Yes, sir? 19 MR. POPE: Would you explain to the 20 unit that this is not something new, that this has 21 been done for years and years and years, as far as 22 bulletins, from all ride companies and 23 manufacturers? 24 MR. SHEEHAN: Absolutely. 25 MR. POPE: And I'm going to put it</p>	<p style="text-align: right;">Page 77</p> <p>1 in areas that weren't as sensitive as this may be 2 and as sensitive as this may be. 3 MR. SHEEHAN: Sure. You're 4 absolutely correct, Mr. Pope. 5 The manufacturers have always been 6 required to issue bulletins where there's a safety 7 issue. And I worked with ASTM. I've been on that 8 committee over 30 years and helped draft the 9 bulletin process. And what I did is I adopted 10 what the FAA does, in terms of what they call 11 airworthiness directives. And there's different 12 levels, you know. The ones that need to be done 13 in so many days, those that are just a 14 notification, you should look out for this. In 15 those that are mandatory, you've got to do it 16 right now. Because if you take a look at the KMG 17 bulletin, it's safety alert with the red. And the 18 colors are part of the ASTM bulletin hierarchy. 19 If it's red, you shut it down, and you can't run 20 until you comply. Same thing with an aircraft. 21 And so, you know, this bulletin procedure has been 22 out there for years. It's mandatory on the 23 manufacturers. And, you know, in terms of the 24 investigation in Ohio, the CPSC, the Consumer 25 Product Safety Commission, actually has</p>

<p style="text-align: right;">Page 78</p> <p>1 jurisdiction over portable rides, but not over 2 fixed park rides. For whatever historic reason, 3 that's the way it is.</p> <p>4 So the CPSC was involved with 5 inspecting the Ohio state incident. I worked with 6 their investigators. The CPSC, as you know, has 7 great power to recall anything -- lawnmowers, 8 toasters, you know, whatever else -- and they 9 could have issued a recall on the Fireball. They 10 did not.</p> <p>11 Between their investigation and the 12 service bulletin, the CPSC was satisfied. And 13 this is an over-arching organization that has 14 jurisdiction in every one of our states. So 15 that's something else that I suggest you consider, 16 too, while you're deciding how to move forward.</p> <p>17 CHAIRMAN FOX: Any questions?</p> <p>18 MS. O'CONNOR: I have one. And I 19 don't know if this is for Mr. Sheehan or 20 Mr. Hardy.</p> <p>21 In general inspections, when there 22 isn't a bulletin, just your average inspection, 23 how much is corrosion the target?</p> <p>24 MR. HARDY: Well, first of all, and 25 I wanted to clarify a minute ago, Tennessee does</p>	<p style="text-align: right;">Page 79</p> <p>1 employ inspectors. We use a hundred percent 2 third-party inspectors. So to -- and as Dan and 3 some of you mentioned earlier, they're required to 4 inspect by either ASTM or ACCT, depending upon the 5 type of device.</p> <p>6 So we have -- Kevin and I have just 7 obtained our certification. We have done some 8 oversight of inspections in the state, but the 9 primary responsibility in what we accept are those 10 third-party inspections. So we require them to 11 do -- to hold their certification and to do what 12 they're expected to do.</p> <p>13 MR. SHEEHAN: Do you have a form 14 that they have to fill out, the things that 15 they --</p> <p>16 MR. HARDY: There's an online 17 inspection report in the state of Tennessee that 18 we require for every inspection that comes in.</p> <p>19 MR. SHEEHAN: Right. Do you have a 20 field on there for them to verify whether they 21 checked for service bulletins in compliance 22 with --</p> <p>23 MR. HARDY: No, sir. So the 24 acceptance criteria on our inspection reports is 25 whether or not they meet either the ASTM or the</p>
<p style="text-align: right;">Page 80</p> <p>1 ACCT standards.</p> <p>2 MR. SHEEHAN: All right. You know, 3 I'd be happy to look at your form and, you know, 4 toss ideas around with you, you know, again, for 5 the common good. Because I just don't want 6 anything like this...</p> <p>7 MR. HARDY: Did that answer your 8 question? I didn't really --</p> <p>9 MS. O'CONNOR: Not at all. But 10 that's okay.</p> <p>11 MR. SHEEHAN: Do you want the 12 lawyer to interpret?</p> <p>13 MS. O'CONNOR: Sure.</p> <p>14 MR. BAILEY: Well, her question was 15 just in general inspections, is corrosion taken 16 into account. Is that --</p> <p>17 MR. HARDY: Well, from what Kevin 18 and I learned in the seminar, yes, it is. Visual 19 inspection is the most common method of 20 nondestructive testing inspections.</p> <p>21 MR. SHEEHAN: Absolutely. And the 22 goal of the visual inspection is to determine 23 whether any further level of NDT is required. 24 Because there's a visual inspection. That's, you 25 know, the most crucial one. And then you have</p>	<p style="text-align: right;">Page 81</p> <p>1 what's called dye penetrant, where you can find 2 out if there are cracks; and then there's 3 ultrasonic; there's magnetic particle. There's a 4 whole series.</p> <p>5 And normally, the visual inspection 6 tells you whether you need to go to a higher 7 level, unless, like in this bulletin, the 8 manufacturer identifies a higher stress area, and 9 then gives an interval for the higher-level 10 inspection -- again, magnetic particle or 11 ultrasonic. So hopefully that answered it.</p> <p>12 MS. O'CONNOR: It did. Thank you.</p> <p>13 MR. POPE: If I can break it down a 14 little bit more in laymen's terms. I own a few 15 rides, and the visual inspection, absolutely, is 16 one of the most commonly used.</p> <p>17 And in my lifetime and the way I have 18 done things in other states and through different 19 inspections is -- like I said, they know the 20 stress areas of these rides. When accidents like 21 these happen, these are documented to record it, 22 and that goes on to further amusement ride owners 23 and things like that. So it's a -- you know, 24 there's rides out there that are 50 years old. 25 There's rides out there that are 60, 70 years old.</p>

<p style="text-align: right;">Page 82</p> <p>1 MR. SHEEHAN: Some that are 2 100 years old.</p> <p>3 MR. POPE: That's exactly right. 4 And, you know, that doesn't make them any less 5 safe, depending on what stress areas there are and 6 things to look at. And I'm going to refer -- and 7 correct me if I'm wrong, but just like looking at 8 the control box on the ride, it looked very bad. 9 As long as the electrical inside of that control 10 box was okay, then the control box doesn't matter 11 as much as, say, the sweep would, which was a 12 stress -- or a load-carrying beam. So that's 13 where the difference comes, that each one of your 14 inspectors should have that common knowledge and 15 that common sense to know where to look and what 16 to look for. And that's the way I see it. 17 Correct me if I'm not saying it correctly.</p> <p>18 MR. SHEEHAN: You're correct. 19 CHAIRMAN FOX: Anything else for 20 Mr. Sheehan? 21 MR. SHEEHAN: Thank you for your 22 time. 23 MR. MOORE: I have one more 24 question, slash, comment. In looking at this, and 25 also reading the article, it mentioned that, you</p>	<p style="text-align: right;">Page 83</p> <p>1 know, there was an opportunity for these mobile 2 to -- for moisture to enter during transport. I 3 would have felt a lot better if KMG had said we 4 need to plug that up during transport. But in 5 addition to that, it does mention that -- well, 6 from what I've read in their service bulletin, the 7 procedure D must be performed every 20 operating 8 days. And that's the only repeated test that I 9 see in this. Is there another that I've missed?</p> <p>10 MR. SHEEHAN: That was for the 11 rides that had some reduced-wall thickness, but 12 enough to maintain operation through December. So 13 that part of the bulletin has phased out.</p> <p>14 MR. MOORE: Okay. 15 MR. SHEEHAN: So either it meets 16 the entire criteria or it doesn't, at this point 17 going forward. 18 MR. MOORE: And is there a paper 19 trail? Because from what I understood, it said 20 that once these inspections were maintained or 21 performed, it had to be sent back to the 22 manufacturer. So we should be able to request 23 that information from the manufacturer from where 24 these -- 25 MR. SHEEHAN: Where you should get</p>
<p style="text-align: right;">Page 84</p> <p>1 it from is from the operator. The operator is to 2 maintain a copy of their own. 3 MR. MOORE: Okay. 4 MR. SHEEHAN: So when your 5 third-party inspectors are there at the carnival, 6 the carnival should have those documents for your 7 third-party inspectors to verify. If they don't 8 have the documents, the ride doesn't operate. 9 It's that simple. So, you know, out of an 10 abundance of caution, KMG wanted copies so they 11 could learn what's been happening out in the 12 field. 13 MR. MOORE: And I guess all that, 14 to my point, is this was a 19-year-old ride. And 15 there's nothing wrong with a 19-year-old ride. 16 We've still got elevators in operation from the 17 '30s at my company, so it's excellent equipment. 18 However, if there's nothing done to prevent this, 19 a five-year-old ride can corrode bad enough to 20 where this could happen again. 21 MR. SHEEHAN: Especially in 22 corrosive atmospheres. 23 MR. MOORE: Absolutely. And 24 maybe -- I guess what I'm saying is if it could 25 happen at that point, it could happen at any</p>	<p style="text-align: right;">Page 85</p> <p>1 point, depending upon the corrosive environment. 2 And I question metal fatigue as much as I do the 3 corrosion itself. Especially what appears to be a 4 significant stress point in the ride where it did, 5 in fact, crack. 6 But I just feel like there needs to 7 be -- and I'm not laying this on you -- I'm just 8 saying that if you ever have a failure, that's the 9 primary spot to look. It looks like, to me, that 10 yes, this is supposed to happen. Now, how 11 frequently does it happen after that? How often 12 do they go back and do this testing to make sure 13 that there's no internal stress cracks, no 14 corrosion that's -- I know it happened once. I 15 mean, we've got that evidence. But how often do 16 they do that? Is there requirements? 17 MR. SHEEHAN: Again, typically, 18 it's done yearly. 19 MR. MOORE: Yearly. 20 MR. SHEEHAN: Yeah, in the 21 high-stress areas once you know there's an issue. 22 You know, amusement rides are unique devices. 23 There's nothing else like it, you know, out there. 24 And so the feedback from the field, from the 25 inspectors, becomes important. And when an, you</p>

<p style="text-align: right;">Page 86</p> <p>1 know, issue is identified, then it becomes an 2 annual NDT requirement.</p> <p>3 CHAIRMAN FOX: Any other questions 4 from the board?</p> <p>5 (No verbal response.)</p> <p>6 CHAIRMAN FOX: Thank you. I do 7 want to say one thing.</p> <p>8 MR. SHEEHAN: Yes, sir.</p> <p>9 CHAIRMAN FOX: The initial stopping 10 of this ride operating in the state of Tennessee, 11 I think, was the proper move, until we found out 12 more evidence.</p> <p>13 MR. SHEEHAN: Agreed.</p> <p>14 CHAIRMAN FOX: So I just wanted to 15 clarify that. I think the unit made the proper 16 move in stopping that particular ride from 17 operating.</p> <p>18 MR. SHEEHAN: No problem.</p> <p>19 CHAIRMAN FOX: We just needed more 20 information.</p> <p>21 MR. SHEEHAN: I'm happy to give you 22 whatever information I can. So again, thank you 23 for your time.</p> <p>24 CHAIRMAN FOX: Thank you, sir. 25 Mr. Johnson, you just happen to be</p>	<p style="text-align: right;">Page 87</p> <p>1 sitting next to the wall right now.</p> <p>2 MR. JOHNSON: I was going to wait 3 for him.</p> <p>4 Good morning again. Bob Johnson.</p> <p>5 I'm president of the Outdoor Amusement Business 6 Association. We are a national trade group for 7 over 53 years representing the mobile amusement 8 industry. And that includes carnivals, circuses, 9 food-and-game concessioners and others associated 10 with the portable industry.</p> <p>11 We, as an industry, rely on our 12 county and state fairs for major revenue during 13 the seasonal months. Typically, depending upon 14 the season, my state of Florida as an example, we 15 are running full board right now with many county 16 fairs and having just finished up the state fair, 17 going into other big fairs coming up in the near 18 future. So we have -- and I might add, also, that 19 I chair the advisory board for the State of 20 Florida, as appointed by the commissioner of 21 agriculture. And we have all the big parks 22 represented on the board, and we inspect and 23 permit -- I should say permit over 10,000 24 amusement rides, okay, to give you an idea of the 25 size of the amusement industry in the state of</p>
<p style="text-align: right;">Page 88</p> <p>1 Florida.</p> <p>2 But I'm glad to hear that the state 3 of Tennessee is open for business, and you-all are 4 rising to the occasion with your inspections and 5 your permitting, and that's a good thing.</p> <p>6 And again, I can't criticize what you 7 did. I think it's appropriate under, you know, 8 the reaction of many states. I dealt with the 9 state of Illinois; I've dealt with North Carolina; 10 I've dealt with Georgia. We're dealing now with 11 your state. And many other states have had 12 similar reactions.</p> <p>13 I think, you know, I'm not going to 14 be critical of how you did it or what you did or 15 whether the board was involved or not, but -- you 16 know, that's your business -- but, you know, we as 17 an industry, you know, rely on the revenue stream 18 from these rides. And you'll hear from 19 Mr. Reithoffer here shortly, a major carnival 20 operator with a great deal of experience and a 21 very large company that deals in -- works in many 22 states throughout the northeast, and the west, 23 too, for that matter; as far west as New Mexico.</p> <p>24 So our members, when this happened, 25 were very, very concerned. And I guess you could</p>	<p style="text-align: right;">Page 89</p> <p>1 say it was a wake-up call. The catastrophic 2 effect of this ricocheted throughout not only 3 theme parks, the carnivals, and the entire 4 manufacturing industry, that Mr. Sheehan alluded 5 to.</p> <p>6 Now -- and I have to tell you, in my 7 40 years of experience in the amusement industry 8 with Six Flags theme parks and 23 years with this 9 trade association, accidents are going to happen. 10 We can't minimize those accidents. And -- we can 11 minimize the effect, but we can't say that we can 12 a hundred percent assure you that you'll never 13 have an accident on a ride. There will be. And 14 they're caused by -- as we know, in the state of 15 Florida, 60 percent of the incidents in our state 16 are caused by patrons misbehaving, doing things 17 they shouldn't be doing, not following the safety 18 rules or posted signs or whatever, or the operator 19 instructions. So things do happen, and -- but 20 we're trying to mitigate the accidents and the 21 incidents.</p> <p>22 Yes, we come under the CPSC 23 jurisdiction. They have attended the ASTM 24 meetings recently in New Orleans. They wrote a 25 rather lengthy report to the ASTM body. As a</p>

<p style="text-align: right;">Page 90</p> <p>1 result, the ASTM Standards, F-24 Committee 2 standards-setting organization with some 38 states 3 that recognize the ASTM standards, you know, 4 quickly reacted to this. And I say quickly 5 because ASTM doesn't react very quickly in many 6 cases. It took six, seven years to develop a 7 manufacturing and design standard. But that's 8 okay. They want to get it right. And there's 9 over a thousand experts around the world that are 10 members of ASTM.</p> <p>11 So this is not -- this is a serious 12 situation. The ASTM folks are reacting to it. 13 I'm on their board, their executive board, and 14 they very quickly energized an individual to be 15 responsible for three subtask groups. They call 16 them evolution groups in manufacturing and design. 17 They also were concerned about operations and 18 inspection and so forth.</p> <p>19 But there's three groups that were 20 working diligently, since October of last year to 21 a recent meeting in New Orleans, to address some 22 of these issues with metal fatigue and corrosion 23 that weren't necessarily in the standards before. 24 You know, such things as the NDT inspector's 25 certification, their eyesight, their -- all kinds</p>	<p style="text-align: right;">Page 91</p> <p>1 of things they're looking at. 2 So with those meetings that recently 3 took place in New Orleans, we are going to see, as 4 an industry, and those who are members of ASTM, 5 which most carnivals and most theme park people 6 are, that we're going to see some changes in these 7 standards. And being an ASTM state, you-all 8 hopefully will recognize those changes and will 9 take a look at the inspection protocols in that 10 regard.</p> <p>11 So again, Mike, I appreciate your NAARSO 12 certification. That's a good step, and I hope you 13 continue to go further with NAARSO. And there's 14 also AIMS, too. And somebody else can talk to 15 AIMS, but I think it's a great -- it's a great 16 program. And it's run by many state regulators 17 and many people who understand ride safety and 18 people that teach it and are third-party 19 inspectors. So it's a great -- it's a great 20 program.</p> <p>21 We provide scholarships to both AIMS and 22 NAARSO as a trade association, and we encourage 23 our people to attend these. There's many other -- 24 Pennsylvania has a good program. Northwest 25 Showmens have a good safety program. There's a</p>
<p style="text-align: right;">Page 92</p> <p>1 number of them. But AIMS and NAARSO are the two 2 big ones that we recognize as certifying bodies 3 for safety.</p> <p>4 A couple of things: In my letter to 5 Ms. Jefferson, you know, I pointed out the 6 reaction of the industry when, you know, there's 7 an outright ban to -- of certain amusement rides. 8 I had a chance to talk with -- our 9 safety board in Florida reviewed the situation 10 well before the manufacturers came out with their 11 bulletins and everything else. And, you know, I 12 like to think that your state as well as Florida 13 and others are proactive. We want to correct 14 this. We don't want it to happen on our watch. 15 None of us do.</p> <p>16 I addressed the Commissioner of Labor in 17 the state of North Carolina, and she said the same 18 thing. Look, we can't have this. But, on the 19 other hand, we can't have fairs without carnivals 20 and carnival rides. Because the revenue stream 21 for our county fairs that are promoting 22 agriculture and where your food product comes 23 from, and community -- you know, agriculture is 24 important to the state. It's important to our 25 state. It's important to every state.</p>	<p style="text-align: right;">Page 93</p> <p>1 So we need the fairs. They need us. 2 And the revenue that's derived from the carnival 3 rides go to improving capital for the fairs, 4 capital in buildings and scholarships and a 4-H 5 program and all of those things that are critical 6 to this industry and to your agriculture.</p> <p>7 So I think that -- you know, I'm not 8 going to -- I'm going to open it up for questions 9 because I could continue to talk on all morning. 10 But I think that -- I would urge you, recommend 11 that you, you know, reconsider. And I understand 12 your attorney general is looking at the 13 wherewithal and why the decision was made, but go 14 beyond that and say, look, can we, as a board, 15 look at what the manufacturers are doing? Can we 16 look at what other states are doing, okay, that 17 have already reacted to this, and are asking for 18 additional NDT testing, et cetera? Can we reverse 19 that and maybe, you know, make sure that our fairs 20 and our state have -- and festivals have amusement 21 rides that are good rides that should be 22 operating, and operating safely to your patrons?</p> <p>23 You know, again, we're not in the 24 business of hurting people. That's not what we 25 do. We provide good, clean, wholesome family</p>

<p style="text-align: right;">Page 94</p> <p>1 entertainment. And, you know, as I travel this 2 country and I address different safety commissions 3 and safety boards and hearings, you know, there's 4 not anyone in this industry that doesn't put 5 safety first and foremost. Okay?</p> <p>6 Now, the company that had this accident, 7 they're a good family. They're a 8 fourth-generation family business. And 9 unfortunately, this ride was inspected in many 10 other states, inspected in Ohio before the 11 incident. So there's an issue that we have to 12 address, that everyone has to address. You know, 13 our inspection protocols, our third-party 14 inspectors, our manufacturers' bulletins, all of 15 these things. There's a lot going on.</p> <p>16 Now, unlike theme parks, Mr. Chair, we 17 don't have lines of, you know, supervision to, you 18 know, look at this stuff. We don't have engineers 19 on our staffs, for the most part. I don't think 20 there's a carnival out there that has an engineer 21 on their staff. But we rely on the manufacturers 22 to tell us what to do. We have to. That's the 23 law, that's the rule, and that's the way we do 24 business.</p> <p>25 So with that, I'm going to open it up</p>	<p style="text-align: right;">Page 95</p> <p>1 for questions.</p> <p>2 CHAIRMAN FOX: Any questions?</p> <p>3 MR. HALE: I'm going to make a 4 statement, and you tell me whether you agree or 5 not. A loss of a ride, a spectacular ride like we 6 have banned, has a major financial impact on 7 particularly a smaller carnival, but on all 8 carnivals.</p> <p>9 MR. JOHNSON: Yeah. The 10 broad-brush ban, yes, certainly, it is. But, on 11 the other hand, you know, we can appreciate the 12 caution and the reaction. But on the other hand, 13 and Mr. Reithoffer can address, you know, in his 14 comments, what a ride like that will bring in 15 terms of revenue, or spectacular rides like are on 16 this list can generate in revenue. But, you know, 17 it's not about revenue. It's about safety. And I 18 think --</p> <p>19 MR. HALE: I agree.</p> <p>20 MR. JOHNSON: Yeah.</p> <p>21 MR. HALE: And I agree that it is 22 about safety.</p> <p>23 MR. JOHNSON: Right.</p> <p>24 MR. HALE: However, I think that if 25 those safety standards are met, if that ride owner</p>
<p style="text-align: right;">Page 96</p> <p>1 has been responsible and met all of the 2 requirements of the safety bulletins and all, to 3 lose that ride without cause is a major financial 4 impact for him.</p> <p>5 MR. JOHNSON: Absolutely. 6 Absolutely.</p> <p>7 MR. HALE: And that, in turn, is a 8 major financial impact to his fairs or festivals 9 that he's working.</p> <p>10 MR. JOHNSON: Right. And there are 11 other carnivals in the room, too, David. The fact 12 is that many carnivals and, you know, a smaller, 13 family-owned carnival with maybe 10 or 15 rides, 14 can't afford these rides that are on your list, 15 okay, first of all. The ones that can, have 16 bigger events, larger county fairs or state fairs. 17 So, you know, when you look at the cost of a 18 Fireball ride today, you're talking a million 19 dollars. Think about it. These rides are more 20 than most homes, the cost of most homes, and the 21 fact is that not everyone can afford these type of 22 rides. But your larger county fairs, your state 23 fairs, your larger carnival operators or 24 independent ride owners will have these type of 25 rides, because they generate income, big revenue</p>	<p style="text-align: right;">Page 97</p> <p>1 for the fairs. Okay? Does that answer your 2 question?</p> <p>3 MR. HALE: Yes, sir.</p> <p>4 CHAIRMAN FOX: Yes, ma'am?</p> <p>5 MS. O'CONNOR: I'm curious. And 6 this is not a counter-point. I'm just curious 7 with what Mr. Hale just said. Have there been any 8 studies done as to the effect of a serious 9 accident on the -- the financial impact of fairs?</p> <p>10 MR. JOHNSON: Well, maybe 11 Ms. Pitcock can address that from the State of 12 Tennessee. I don't necessarily know. I can tell 13 you from my experience in the industry, the 14 biggest tragedy we had at Six Flags amusement 15 parks over the years that I was there, it was not 16 a ride fatality. It was a fire in a haunted 17 house. Okay?</p> <p>18 So I can tell you the impact of that. 19 We were a 3-million-attendance park at that time. 20 It's the Great Adventure in New Jersey. The 21 attendance the following year dropped down to 22 about a million, a million and one. Okay? It 23 took us four or five years to rebuild, to get to 24 that level again. I mean, it -- you know, and it 25 was a horrible tragedy. Horrible. You know, you</p>

<p style="text-align: right;">Page 98</p> <p>1 can't minimize the effect on families and the 2 community when something like that happens, and 3 the media, too.</p> <p>4 MR. REITHOFFER: I can speak to a 5 little bit of that, the accident in Ohio. I don't 6 think there was a fair, state fair or county fair, 7 that we ran after that accident happened that met 8 its previous years' grosses. It was -- it was 9 probably worldwide, the effects of it, the impact 10 that it impacted on us. And every place that we 11 went to, every news media person wanted to know 12 what we were doing to make sure that we were 13 running a safe operation.</p> <p>14 MR. BAILEY: Sir, if you would, 15 state your name for the record.</p> <p>16 MR. REITHOFFER: Richard 17 Reithoffer, Reithoffer Shows.</p> <p>18 MR. POPE: Chairman? 19 CHAIRMAN FOX: Yes? 20 MR. POPE: I would like to 21 reiterate the same thing Mr. Reithoffer said. I 22 was going to say the exact same thing. The fairs 23 that we were setting at, post-accident, were 24 absolutely -- people were traumatized. They were 25 wondering -- they would come by, and much like</p>	<p style="text-align: right;">Page 99</p> <p>1 this unit has done, "Is that the ride?" 2 "Well, no, that's not the ride. That 3 is a similar-type ride. It's been inspected. 4 It's gone through its process." 5 Those rides -- Mr. Reithoffer, 6 Mr. Seibert back there, the carnival that I was 7 on, immediately -- the parks immediately shut down 8 these rides, and, like I said, went through an 9 inspection process, looked to the manufacturers 10 for guidance, looked for the evidence coming out 11 of Ohio. We were all -- you have never seen -- in 12 our business -- and Mr. Reithoffer and Mr. Johnson 13 both will tell you it's like wildfire. An 14 accident can happen and within 15, 20 minutes, 15 it's across the country. We're that tight knit. 16 And I want to reiterate what 17 Mr. Johnson said. There's not a carnival or 18 amusement ride owner out there that wants anything 19 but safe, operable rides. We do it to make a 20 living. We do it to support families, just like 21 my family, 94 years. Mr. Reithoffer said 150? 22 MR. REITHOFFER: 123. 23 MR. POPE: 123 years his family's 24 done it. That's how he's supported his family. 25 That's how his dad supported -- his grandfather.</p>
<p style="text-align: right;">Page 100</p> <p>1 That's how my family did. We don't want 2 accidents. We want safety, but we want to be able 3 to operate also, you know, to the guidelines and 4 specifications that are there.</p> <p>5 MR. HALE: Let me clarify. I 6 wasn't saying that revenue ought to take the place 7 of safety by any means. If I believed that, I 8 wouldn't have been sitting here for 12 years, or 9 however long we've been here. We've been here a 10 long time.</p> <p>11 CHAIRMAN FOX: Whatever it is, yes. 12 We've been here a long time.</p> <p>13 MR. HALE: But instead, to say that 14 if a ride owner has taken the proper steps and 15 they have had the proper inspections, to shut them 16 down because what it looked like, because it 17 looked like something else, is a major financial 18 blow to those owners. And as Mr. Johnson said, 19 there are folks out there that maybe just own a 20 ride. And so if he only rides this particular 21 ride, you have destroyed his business, as far as 22 working in Tennessee, anyway, because that's all 23 he had to do.</p> <p>24 If there's a reason to shut him down, 25 then absolutely, he shouldn't move. But with that</p>	<p style="text-align: right;">Page 101</p> <p>1 reason, you know -- that's what we have to 2 consider, that there has to be reason to do this, 3 other than it looked like something.</p> <p>4 MR. POPE: If I could say, too, 5 Mr. Johnson hit on the fact that the family that 6 owned that particular ride is a very good family. 7 They're a long-time carnival industry family. I 8 personally don't -- I personally know that they 9 would not have wanted this to happen in any way. 10 Obviously, there's some kind of fault 11 there, maybe on their part. But just understand 12 that like he said, they were inspected in a lot of 13 states. Now, whether they had a false confidence 14 in that ride or whatever, but this industry had 15 never seen this type of accident either, until 16 now. So that's why things are changing, and I do 17 think that we need to look at that. I just don't 18 think that the action that we're taking at this 19 point is exactly the correct action.</p> <p>20 Like he said, I think we're looking 21 more at inspections, and now that we know that 22 it's out there -- but it's no different than an 23 accident on a Ferris wheel or something. That's 24 what -- you learn from the accident. It's the 25 same way in the automobile industry, same way in</p>

<p style="text-align: right;">Page 102</p> <p>1 the airline industry and the shipping industry; 2 you learn from accidents.</p> <p>3 MR. JOHNSON: So again, you go back 4 to -- I'm sorry, just one more quick point on 5 that. To go back to the line of questions, we 6 were talking about, you know, following 7 manufacturer's, you know, bulletins, instructions, 8 manual, et cetera. That's what we do as an 9 industry. And without that guidance, we're at the 10 mercy of whatever.</p> <p>11 However, you know, I think a lot of 12 companies go beyond that. A lot of companies go 13 beyond the NDT testing. So here we have a 14 situation where, you know, North Carolina and 15 Illinois and Florida and other states are reacting 16 to this, requiring additional NDT testing. 17 Manufacturers are reacting to this to make sure 18 that, you know, they have no more, you know, 19 liability in these issues as well.</p> <p>20 So, you know, we as an industry are 21 all -- we're trying to work together to resolve 22 this thing. You know, it's not we against you 23 guys. It's the industry doesn't want this to 24 happen again. We're going to try to do our best 25 to prevent it.</p>	<p style="text-align: right;">Page 103</p> <p>1 So, you know, we need guidance from 2 the manufacturers. We need, you know, the states 3 not to overreact, necessarily. But we need a 4 rational, you know, sequence of things to happen, 5 starting with ASTM -- starting with the ride 6 manufacturers first; and then the ASTM; and then 7 other regulatory, third-party inspections; NAARSO; 8 AIMS; whatever, to help us. We are all in this 9 together.</p> <p>10 And so, you know, don't -- let's not 11 hurt our county and state fairs in this state. 12 Let's not hurt the owner for, you know, making a 13 huge investment and having a good ride that is 14 well-inspected and design-wise it's safe. You 15 know, let's not hurt the industry.</p> <p>16 MR. HALE: Do you serve on the 17 state board in Florida?</p> <p>18 MR. JOHNSON: I chair the state 19 board, appointed by Commissioner Putnam.</p> <p>20 MR. HALE: And you were part of 21 that group that made the recommendation for some 22 inspection changes in Florida.</p> <p>23 MR. JOHNSON: It's now a statute, 24 yeah. It was a temporary thing. It's now a 25 statute.</p>
<p style="text-align: right;">Page 104</p> <p>1 MR. HALE: Right.</p> <p>2 MS. MS. JEFFERSON: This is sort of 3 off the subject, but since you're one of the 4 representatives there in Florida, how many stated 5 inspectors do you-all have?</p> <p>6 MR. JOHNSON: Well, it's an 7 expensive program. Florida spends about a million 8 and a half dollars a year on state inspections, 9 and we'll have 15 state inspectors inspecting 10 mostly portable amusement rides as the season goes 11 on.</p> <p>12 Now, the large parks in the state of 13 Florida have an exemption. And years ago their 14 lobbyist prevailed and they had a thousand 15 full-time employees. They were not inspected by 16 the State of Florida. I have no idea why that 17 happened, but it did. That's okay. But I can 18 tell you that every large park in Florida with a 19 thousand or more employees has an audit annually 20 by the State Department of Community and State 21 Fairs.</p> <p>22 And they work together. We have 23 members of the theme parks on the board as well, 24 and they participate and work with us to develop 25 good safety protocols.</p>	<p style="text-align: right;">Page 105</p> <p>1 MS. MS. JEFFERSON: Can you tell us 2 a little bit about your fee structure?</p> <p>3 MR. JOHNSON: The fee structure on 4 the rides themselves, well, it's based on the type 5 of ride, first of all. And Florida has 6 inspections weekly by the state inspectors. Okay? 7 They do it weekly.</p> <p>8 MR. REITHOFFER: Or by event.</p> <p>9 MR. JOHNSON: Yeah, by event.</p> <p>10 Right. And so the bigger fairs will operate three 11 or four weekends, in some cases; smaller county 12 fairs, maybe a week or so. And they're still 13 inspected before that ride is open to the public 14 by the state inspectors. So it is expensive.</p> <p>15 The fees have not changed in a number 16 of years. We receive rather extensive audit 17 reports on the rides that are inspected, the rides 18 with stop orders, the rides with -- we have all 19 kinds of reports that Florida generates for the 20 board to make good safety decisions.</p> <p>21 So again, I'm not saying that you 22 want to jump to that point. But, you know, you 23 can reach a point where carnivals will not come to 24 the state. And I'm dealing with that right now in 25 the state of Vermont, because we have a legislator</p>

<p style="text-align: right;">Page 106</p> <p>1 up there that thinks, because of the Gedney 2 (phonetic) incident, that they should have 3 something -- they should have something more than 4 they do now.</p> <p>5 But the fear is the state, one, can't 6 afford it; and secondly, that if the fees are so 7 exorbitant, carnivals are not going to go and 8 support their county and state fairs. So that's 9 what you've got to weigh, you know, what can you 10 afford. And so if the onus is all put back on the 11 carnival owner or the ride owner, they're going to 12 say, "Whoa, maybe this is a state I don't want to 13 operate in."</p> <p>14 So again, it's a fine line. You 15 really have to talk through this as a board and 16 understand the dynamics of your decisions.</p> <p>17 CHAIRMAN FOX: Any other questions 18 for Mr. Johnson?</p> <p>19 MR. JOHNSON: Thank you.</p> <p>20 CHAIRMAN FOX: Thank you.</p> <p>21 Let me recognize Mr. Johnson for 22 one -- I just think I need to tell the board this. 23 Back in 2002, '3 or '4, somewhere along in there, 24 Mr. Johnson came here. We met with some 25 legislators. We met with, actually, a different</p>	<p style="text-align: right;">Page 107</p> <p>1 commissioner at -- I think it was the commissioner 2 of commerce and insurance at that time. He and a 3 group of people did everybody they could to 4 initiate the inspection program for the State of 5 Tennessee. And obviously, it grew and grew, and 6 then this is where we are today. I just want to 7 recognize him for that effort, and certainly tell 8 you that his main goal is for the safety of the 9 people who ride these amusement rides across our 10 state and then many others across this country.</p> <p>11 And that wasn't a paid political 12 announcement, Bob. I just wanted you to know 13 that.</p> <p>14 MR. JOHNSON: Thank you, Mr. Fox.</p> <p>15 MR. BAILEY: Shall we take a break?</p> <p>16 CHAIRMAN FOX: That's where I'm 17 headed. And at 12:11 -- excuse me. I'm on 18 Eastern Time. We will reconvene at 11 after the 19 hour. How's that. Let's take a break.</p> <p>20 (Recess observed.)</p> <p>21 CHAIRMAN FOX: Mr. Reithoffer, 22 you're up next.</p> <p>23 MR. REITHOFFER: Richard 24 Reithoffer. Reithoffer Shows, Incorporated. I am 25 a fourth-generation owner of an amusement company,</p>
<p style="text-align: right;">Page 108</p> <p>1 and my sons are fifth generation. And this will 2 be the start of our 123rd season.</p> <p>3 I came here because I think that it's 4 important for us to be following the rules and 5 regulations that Mr. Sheehan and Bob Johnson are 6 talking about. And I wanted you to know that I 7 own a Fireball ride. I own a Freak Out ride, and 8 I own a Technical Park Stinger ride. All of these 9 rides are pendulum-type rides; they're all super 10 spectaculars; and they all cost in excess of over 11 a million dollars. But my rides are safe. I ride 12 them myself. My kids ride them themselves. And I 13 wouldn't allow any of any patrons to ride them if 14 I didn't know that they weren't safe.</p> <p>15 My ride is only -- the KMG Fireball 16 is only a year younger than the one that was 17 depicted at the Ohio State Fair. And five minutes 18 after that accident became known to us, which was 19 that very evening, probably 15 minutes after the 20 accident, we shut our ride down voluntarily.</p> <p>21 The State of New Jersey came out the 22 next day and told us, "We're here to shut your 23 ride down." I said, "Relax, fellows. My ride is 24 already shut down."</p> <p>25 We took it to the state fair the</p>	<p style="text-align: right;">Page 109</p> <p>1 following week and parked it in the back. I 2 contacted the folks from KMG, who I know 3 personally. They kind of gave me a heads-up as to 4 what we were going to be doing. We sandblasted 5 our arms, and we awaited the bulletin to come out 6 to tell us where we were going to have to get it 7 NDT tested.</p> <p>8 We got the testing done while we were 9 at the state fair and sent the reports off to KMG 10 engineers to tell us what we are going to have to 11 do to operate our ride.</p> <p>12 The ultimate decision was that our 13 ride was in good enough shape that it could 14 continue to operate for the rest of the season, at 15 which time we were going to have to order new 16 gondolas. I made the decision for Reithoffer 17 Shows to take my ride and park it for the rest of 18 the season. I didn't want the bad media coming 19 out and saying, "Oh, is this the ride that had the 20 incident at Ohio?"</p> <p>21 "No, it wasn't. It wasn't this ride. 22 It was a ride like it." But I didn't want that 23 bad media. And so we kind of got ahead of it to 24 try to stop the bleeding, if you will, for the 25 Reithoffer shows. But I do also own a KMG Freak</p>

<p style="text-align: right;">Page 110</p> <p>1 Out and the Stinger ride. I also own a KMG Speed 2 ride and a KMG Tango ride. And these rides had to 3 be NDT tested before they could operate the rest 4 of the season, per the requirements that the state 5 of Florida came up with and some of the other 6 states that took immediate action to make sure 7 that all these rides are safe.</p> <p>8 Since then, this winter, bulletins 9 have come out from every manufacturer all over the 10 world and the United States talking about 11 corrosion, interior, exterior, and so on and so 12 forth. And we have spent the winter inspecting 13 every piece of equipment we own to make sure that 14 we don't have any issues.</p> <p>15 I just opened up, since the end of 16 the season, in Sebring, Florida. That's a smaller 17 county fair. And then from there to Fort Myers. 18 Fort Myers is a much larger fair. We have over 19 50 rides there set up. Every one of my pieces of 20 equipment opened up on time without fail and 21 without a problem.</p> <p>22 My KMG Freak Out and my Tango all got 23 inspected before I went into the state in October 24 and were allowed to operate in Pensacola, Florida; 25 and then from there, we jumped to the largest fair</p>	<p style="text-align: right;">Page 111</p> <p>1 in Alabama, the National Peanut Festival.</p> <p>2 So the rides are being inspected 3 properly. We're making sure that they don't have 4 an internal rust problem, and we're following all 5 the rules and regulations to make sure that we're 6 running a safe operation.</p> <p>7 And for me, it's important for all 8 operators to do this and do it right and to make 9 sure that all the states kind of go along with 10 this process so that none of these rides are shut 11 down arbitrarily.</p> <p>12 County fairs and state fairs need 13 these big rides to get the revenue stream that 14 they produce. I need them because it's a huge 15 investment for my company. I have three of these 16 rides. They're all over a million dollars. I've 17 also ordered a brand-new set of gondolas for my 18 KMG Fireball. That's going to cost us over 19 \$200,000 to bring those gondolas in and reinstall 20 them onto the ride. I want the ride back. It's a 21 great ride.</p> <p>22 On my top 10, the KMG Fireball 23 probably runs from Number 7 to Number 5, in the 24 top 10 of best rides out there. So it's important 25 to have these rides on our midway to offer them to</p>
<p style="text-align: right;">Page 112</p> <p>1 our fairgoers, and we're going to make sure 2 they're safe before they ride them. I'll ride 3 them first before my patrons ride them. I still 4 ride all my rides. I like my roller coasters the 5 best, though.</p> <p>6 But I just wanted to let you know 7 what we do and how we do it, and to let you know 8 that even though the ride might be 17 or 18 years 9 old or even older, we can keep them safe. All we 10 have to do is make sure that we maintain them 11 properly, follow all our bulletins, and everybody 12 works to make sure that we have, you know, a 13 perfect set of equipment out there to run. And 14 all of our state inspectors come out and check 15 them out and make sure we're doing the job right.</p> <p>16 And we travel through a lot of states 17 that have great inspection programs that do that. 18 And we also have some states that require 19 third-party inspections to do that. All these 20 different sets of eyes come look at me on a weekly 21 or biweekly situation to make sure that the 22 equipment is in good shape. And when they get 23 done, I know we're in good shape. And I know that 24 we can ride our customers and run a safe 25 operation.</p>	<p style="text-align: right;">Page 113</p> <p>1 And it's important for all the states 2 to try to follow everybody's guidelines and make 3 sure that we do this. We've already done all the 4 testing to start the new year off in the state of 5 Florida. Brand new NDT testings on all these 6 different rides. So we've done the work. We've 7 paid for the work to be done. And we would like 8 all the other states to take a look at these 9 reports that we have to do annually, and show them 10 what we've done, and they go ahead, and then they 11 do their inspections, and boom, we're allowed to 12 open. That's the process. It's how it works. 13 And it works very well.</p> <p>14 CHAIRMAN FOX: May I ask you a 15 question, sir? You're playing in Tennessee 16 somewhere this year.</p> <p>17 MR. REITHOFFER: I am.</p> <p>18 CHAIRMAN FOX: Where at, may I ask?</p> <p>19 MR. REITHOFFER: The Wilson County 20 Fair for the first time. Very excited about being 21 there, too.</p> <p>22 CHAIRMAN FOX: Okay. How many 23 pieces of equipment will you have there?</p> <p>24 MR. REITHOFFER: I'm hoping to put 25 in about 50.</p>

<p style="text-align: right;">Page 114</p> <p>1 CHAIRMAN FOX: Okay. Good deal.</p> <p>2 MS. MS. JEFFERSON: Do you retain</p> <p>3 your annual permit for Tennessee?</p> <p>4 MR. REITHOFFER: I don't know if</p> <p>5 we've got them yet but we're planning on it.</p> <p>6 MR. HARDY: Yeah. We talked to</p> <p>7 some of Reithoffer's folks down when we were at</p> <p>8 the convention, and we are already in</p> <p>9 communication with them. There shouldn't be any</p> <p>10 issues there. They understand the process and</p> <p>11 we're working with them.</p> <p>12 MS. JEFFERSON: I have the same</p> <p>13 question that you had. I wanted to verify where</p> <p>14 you are playing; so it's just at Wilson County?</p> <p>15 MR. REITHOFFER: Yes, ma'am.</p> <p>16 MS. JEFFERSON: Okay. And the</p> <p>17 NDT testing that you refer to, how often do</p> <p>18 you-all normally have that performed?</p> <p>19 MR. REITHOFFER: Typically, you</p> <p>20 would do it annually for each -- each state that</p> <p>21 you go into, you get it done, you know, once a</p> <p>22 year, and then you can bring those reports.</p> <p>23 Typically, we get them done in Florida, because</p> <p>24 they require them, and that's the first place I</p> <p>25 start off in the year. And then I bring them up.</p>	<p style="text-align: right;">Page 115</p> <p>1 I have to give them to New Jersey, Maryland,</p> <p>2 Massachusetts. All the, you know, northeastern</p> <p>3 states that I play in, later on in the fall, we</p> <p>4 have to bring those same reports to North</p> <p>5 Carolina, South Carolina, and Georgia, and show</p> <p>6 them all those, and also out as far west as the</p> <p>7 New Mexico State Fair.</p> <p>8 MS. JEFFERSON: Okay. So there</p> <p>9 wouldn't be a problem submitting those reports to</p> <p>10 Tennessee -- we have an inspection report that</p> <p>11 allows inspectors to actually upload those reports</p> <p>12 into our computer system. So I think that would</p> <p>13 be a great idea to go ahead and provide those, and</p> <p>14 Mike will be your liaison to help you to -- to</p> <p>15 help a representative from your company to do</p> <p>16 that.</p> <p>17 MR. REITHOFFER: And it's something</p> <p>18 that we're used to doing, and we carry these</p> <p>19 reports with us from state to state all across the</p> <p>20 country. So it's a normal course of business.</p> <p>21 MR. HALE: And so I'll make a</p> <p>22 disclaimer that I'm involved with the Wilson</p> <p>23 County Fair and say that I know that in his Wilson</p> <p>24 County Fair contract it requires him to have all</p> <p>25 those on-site. It's specified in his contract.</p>
<p style="text-align: right;">Page 116</p> <p>1 He's going to have them on-site. And that's not</p> <p>2 something that's abnormal. It's a pretty standard</p> <p>3 industry thing.</p> <p>4 MR. REITHOFFER: It's something</p> <p>5 that we have to have anyway.</p> <p>6 MS. JEFFERSON: And so the</p> <p>7 inspector can certify those documents, because the</p> <p>8 inspector is the one who actually completes that</p> <p>9 inspection report online. That inspector</p> <p>10 certifies that he's actually been certified by one</p> <p>11 of three agencies that are approved in Tennessee,</p> <p>12 and they also certify that they use the proper</p> <p>13 standard. So that particular inspector would be</p> <p>14 able to certify NDT testing as well?</p> <p>15 MR. REITHOFFER: I'm assuming so,</p> <p>16 yes.</p> <p>17 MS. JEFFERSON: When you say</p> <p>18 "assuming," does that --</p> <p>19 MR. REITHOFFER: Well, I don't know</p> <p>20 to your state's qualifications. It has to look at</p> <p>21 the reports and know that they've been done</p> <p>22 correctly. But they pass all the other states</p> <p>23 that we travel in.</p> <p>24 MS. JEFFERSON: Now, is that</p> <p>25 NDT testing performed by the inspector, or is that</p>	<p style="text-align: right;">Page 117</p> <p>1 performed by someone else?</p> <p>2 MR. REITHOFFER: It's usually</p> <p>3 performed by a third-party inspector that you have</p> <p>4 to bring in who's qualified to operate that type</p> <p>5 of equipment, the nondestructive-type testing that</p> <p>6 is required by the manufacturer.</p> <p>7 MS. JEFFERSON: And that's usually</p> <p>8 one of the certifying agencies, NAARSO, ACCT, or</p> <p>9 AIMS?</p> <p>10 MR. REITHOFFER: They are usually</p> <p>11 part of those organizations. And they also are</p> <p>12 certified by certain states to be able to do that</p> <p>13 type of testing.</p> <p>14 Isn't that correct?</p> <p>15 MR. JOHNSON: Yes. Well, in</p> <p>16 addition, his insurance carrier also requires a</p> <p>17 third-party inspection annually, in addition to</p> <p>18 the other inspections that the state, where he</p> <p>19 operates, performs inspections.</p> <p>20 MR. REITHOFFER: But what I meant</p> <p>21 was the inspector that comes out and does those</p> <p>22 tests usually has to be qualified and have some</p> <p>23 kind of a state license to be able to perform</p> <p>24 those tests.</p> <p>25 MR. SHEEHAN: Now, there's a</p>

<p style="text-align: right;">Page 118</p> <p>1 separate certifying body for nondestructive 2 testing. The NDT people could be doing the 3 helicopter rotor blades, you know, landing gear on 4 aircraft, and then turn around and do an amusement 5 ride. So they're trained and certified by those 6 testing bodies and make sure that they know how to 7 do NDT.</p> <p>8 MS. JEFFERSON: Okay. And my 9 question is whether or not, under current state 10 law -- I mean, I know we can use those. We can 11 rely on these documents, but since they're being 12 prepared by someone who's not certified by one of 13 those preapproved agencies, I'm just wondering how 14 that --</p> <p>15 MR. JOHNSON: I have to tell you. 16 I doubt it. I mean, I think every one of these 17 NDT people that are out there certifying amusement 18 rides have to have some certification 19 qualifications to do NDT inspections. And as Tom 20 pointed out earlier, there are different types of 21 NDT inspections. But those are things that ASTM 22 is looking into as well. You know, what are the 23 qualifications of these NDT inspectors and, you 24 know, including eyesight? You know, what 25 corrective vision do they have to do visual</p>	<p style="text-align: right;">Page 119</p> <p>1 inspections or look at visual cracks in rides. 2 And there's a fellow in the state of 3 Florida who is -- you know, we were talking about 4 this last night -- who is the guy that identifies 5 a lot of cracks in amusement rides. And he's 6 known for that. He just has this innate ability 7 to identify and see things that perhaps others 8 don't.</p> <p>9 So yes, the inspectors that are doing 10 NDT inspections must be qualified.</p> <p>11 MS. JEFFERSON: Right. And I 12 understand that. My only concern is -- and it may 13 not be a concern -- but I'm just trying to make 14 sure that we dot our I's and cross our T's.</p> <p>15 MR. JOHNSON: Right.</p> <p>16 MS. MS. JEFFERSON: And under 17 current state law, it says that you have to be 18 approved by one of three certifying agencies. And 19 it also says you have to follow ASTM standards. 20 That same person/inspector has to follow ASTM 21 standards.</p> <p>22 MR. JOHNSON: Right.</p> <p>23 MS. MS. JEFFERSON: So I'm 24 wondering, is this another person that's not 25 included in those agencies that we're talking</p>
<p style="text-align: right;">Page 120</p> <p>1 about?</p> <p>2 MR. JOHNSON: In those three 3 certifying agencies, what's the third one? I know 4 it.</p> <p>5 MS. JEFFERSON: You have AIMS, and 6 you have a representative here with NAARSO, and we 7 have, also, ACCT when it comes to ziplines, canopy 8 tours --</p> <p>9 MR. JOHNSON: Okay. That's a 10 different -- that's a different agency, then.</p> <p>11 CHAIRMAN FOX: Ms. Jefferson?</p> <p>12 MR. JOHNSON: There is an agency, a 13 certifying body for NDT inspectors, too.</p> <p>14 MR. SHEEHAN: There's a certain 15 standard for the NDT people that's completely 16 separate from the amusement industry. You know, 17 how do you perform magnetic particle testing, 18 x-ray testing. So they don't need to be amusement 19 ride specific; however, the inspector who is going 20 to approve their results is then responsible to 21 make sure that whatever data they get from the 22 NDT people complies with the bulletins.</p> <p>23 MS. JEFFERSON: Okay. Well, as 24 long as the inspector can certify --</p> <p>25 CHAIRMAN FOX: That's where I was</p>	<p style="text-align: right;">Page 121</p> <p>1 headed.</p> <p>2 MS. MS. JEFFERSON: -- through that 3 inspection report.</p> <p>4 CHAIRMAN FOX: Again, if I'm the -- 5 if I am the inspector, I'm going to take -- I'm 6 going to look -- if it calls out an NDT test for 7 "X" piece on that ride or that elevator, for that 8 matter, I'm going to look at that and say, "Okay, 9 that's" -- "yeah, that meets the requirements. 10 It's been done. I checked the box. I am the 11 person, as the ride inspector, the third party, 12 the onus falls on me, not necessarily him. I have 13 to verify he did it. And the onus falls on me as 14 the inspector.</p> <p>15 MR. HALE: It's like going and 16 getting your arm x-rayed at the doctor. The x-ray 17 technician is going to take the x-ray of that arm 18 there, certified, qualified to make that x-ray. 19 It's the doctor's responsibility to hold that 20 x-ray up and say, "Yes, it's broke," or "No, it's 21 not." And this is the same thing. That NDT test 22 would come to that inspector, and it's his 23 responsibility to look at the results of that test 24 and say this is okay or no, it's not.</p> <p>25 MR. SHEEHAN: Exactly.</p>

<p style="text-align: right;">Page 122</p> <p>1 MR. POPE: If I could add, too. A 2 lot of times, just like myself, when I go through 3 an NDT inspection, if you're going to go to the 4 trouble to have an NDT inspector to come, there's 5 the safety bulletin that tells you which pieces to 6 have inspected. But you, as an operator, may want 7 to have someone else inspect the ride just for 8 your own personal benefit to know it's there. And 9 it really doesn't cost any more to do that. And I 10 know we do that a lot of times.</p> <p>11 MR. JOHNSON: To be more specific, 12 I'm looking at the ASTM stuff and what they're 13 looking at. And under the manufacturing, 14 operation and maintenance, and also the inspection 15 and NDT, they're looking at ASTM, AWS, ASNT, 16 equivalent standards for NDT inspections.</p> <p>17 MR. SHEEHAN: AWS is American 18 Welding Society.</p> <p>19 MR. JOHNSON: Right. Right.</p> <p>20 MR. MOORER: Who sets the standards 21 for the manufacturing of the rides themselves, the 22 materials that's used and then the devices that 23 have to be there?</p> <p>24 MR. SHEEHAN: Part of that is in 25 ASTM. You know, there are --</p>	<p style="text-align: right;">Page 123</p> <p>1 MR. MOORER: I was just thinking 2 about the steel. You can you get a certain grade 3 of steel that wouldn't corrode. And I was 4 thinking why wasn't that specified or why aren't 5 those type of materials used.</p> <p>6 MR. SHEEHAN: There's always a 7 trade-off between, you know, the ductility and how 8 flexible a piece of steel is --</p> <p>9 MR. MOORER: Sure. Sure.</p> <p>10 MR. SHEEHAN: -- and whether it's 11 corrosion resistant. So you can use stainless on 12 some applications, but then it doesn't handle 13 flexing. It is more prone to cracking. So that's 14 what the engineers do, the people who make a lot 15 more money than me.</p> <p>16 CHAIRMAN FOX: Any other questions 17 for Mr. Reithoffer?</p> <p>18 MR. MOORE: I have one more. I'm 19 sure you saw this bulletin that he passed around. 20 But you, as an owner, would you feel comfortable 21 allowing a ride with a control panel that 22 resembled this to be in operation?</p> <p>23 MR. REITHOFFER: Well --</p> <p>24 MR. MOORE: And I can pass it to 25 make you more familiar with it, but --</p>
<p style="text-align: right;">Page 124</p> <p>1 MR. REITHOFFER: Even more than the 2 control panel, the overall condition of the ride 3 itself is what I would have been worried about.</p> <p>4 MR. MOORE: And I guess, from my 5 perspective, you know, this is being looked at 6 every time it's operated. And if the -- and I 7 know we talked about operators at different 8 levels, but the individual operator that's using 9 this control panel, to me, that would be a red 10 flag that goes up and says hey, I'm having this 11 kind of problems here or something that's being 12 looked at daily. How many more problems do I have 13 out there that aren't been being looked at on a 14 more frequent basis.</p> <p>15 MR. REITHOFFER: I agree with you. 16 You know, typically I walk down and look at my 17 equipment all year long. And as I look at a piece 18 that I think is not as eye-appealing as I think it 19 should be, it usually goes to the shop that year 20 and goes over for, like, a major overhaul. And 21 while we're doing a major overhaul, it's not -- 22 we're not talking about paint. We're talking 23 about mechanical first. And then after the 24 mechanical is done, the electrical, the hydraulic, 25 and then, finally, whatever makes it look pretty,</p>	<p style="text-align: right;">Page 125</p> <p>1 paint and lights. And then when all that is done, 2 I get it back on my show and everything is 3 finished at my shop. The only thing I don't get 4 is a payment book with it, because I've just 5 remanufactured it and made it like a brand-new one 6 again.</p> <p>7 CHAIRMAN FOX: Any other questions 8 for Mr. Reithoffer?</p> <p>9 (No verbal response.)</p> <p>10 CHAIRMAN FOX: Sir, thank you very 11 much.</p> <p>12 MR. REITHOFFER: Thank you.</p> <p>13 CHAIRMAN FOX: Ms. Pitcock, you are 14 next.</p> <p>15 MS. PITCOCK: Of course, I'm Emily 16 Pitcock. I'm the executive director of the 17 Tennessee Association of Fairs. I've been in this 18 position for almost 20 years. I just spent -- the 19 last fair I went to is my 50th fair, so I've been 20 around fairs all my life.</p> <p>21 In the state of Tennessee, 22 \$12 million was grossed last year from fairs. 23 That money goes back out into our community. We 24 pay over \$2 million in agriculture premiums to our 25 young people and the exhibitors at our fair. So</p>

<p style="text-align: right;">Page 126</p> <p>1 it would be a big impact with different rides 2 being banned and the income that the fairs 3 receive.</p> <p>4 We have 59 fairs in the state of 5 Tennessee. I'm very happy to say that David 6 represents us, as far as telling us what's going 7 on and what we need to do. James Roy is also on 8 our board, as well.</p> <p>9 About three or four years ago, 10 Ms. Jefferson contacted me and wanted to be able 11 to come to our convention. And we invited her and 12 her staff members to come, and she even did a 13 presentation at our meeting to our associates, 14 making them aware of what was going on.</p> <p>15 And this is when the ride inspection 16 was -- we want safety, too. That's our -- you 17 know, nobody likes to see what happened this year. 18 And I will say, very quickly after the accident in 19 Ohio, they called me to see how many fairs in 20 Tennessee were being represented -- were being -- 21 had the carnival that we had. And they were 22 really right on top of what they were doing at 23 that point in time.</p> <p>24 But it's just very crucial to know 25 that fairs in the state of Tennessee rely on</p>	<p style="text-align: right;">Page 127</p> <p>1 carnivals to have their income, to meet their 2 goals, and to pay out the things that they have to 3 pay.</p> <p>4 This past year, Mr. Hardy and -- I 5 believe that you were at convention, also, or 6 maybe it was Kevin, was there and talked to our 7 group. Hopefully, maybe in this next year, that 8 we maybe can have some more workshops for our 9 associate members and work through -- James Roy is 10 on the board, and to have that happen.</p> <p>11 But I just want to reiterate how 12 important that carnivals are to us. And when 13 you're made up of the fairs that we have in 14 Tennessee, and they're all volunteers, a lot of 15 them don't study and are not up to date on what 16 ride inspections are, and they just go. But when 17 an accident has happened, it keeps them away from 18 the fairs. Parents are afraid to -- there's a 19 little bit of apprehension about going.</p> <p>20 But I just want to let you know that 21 we support what you do. We're here to help you, 22 and through David's help and James Roy's help, you 23 know, hopefully we can accomplish that, and that's 24 what we want as our goal.</p> <p>25 Does anybody have any -- I don't know</p>
<p style="text-align: right;">Page 128</p> <p>1 that there's anything to ask me, but any comment 2 or anything, I'll be glad to --</p> <p>3 CHAIRMAN FOX: Yes, ma'am. I have 4 one. Obviously, the thing in Greenville, Greene 5 County, the fair there obviously had an impact on 6 what happened with the carnivals and the fairs. 7 From that, a lot of places started, and even the 8 smaller fairs and carnivals, started employing 9 third-party inspectors to be at the fair during 10 the week or the period of time that they were 11 showing. Has that still continued, to your 12 knowledge?</p> <p>13 MS. PITCOCK: To my knowledge, it 14 is, yes.</p> <p>15 CHAIRMAN FOX: Okay. So again, 16 another set of eyes out there looking at this?</p> <p>17 MS. PITCOCK: Right.</p> <p>18 CHAIRMAN FOX: Again, a 19 third-party; is that correct?</p> <p>20 MS. PITCOCK: Right.</p> <p>21 CHAIRMAN FOX: Okay.</p> <p>22 MS. PITCOCK: That's it. That's 23 all I have to say.</p> <p>24 CHAIRMAN FOX: Okay. And again, 25 any questions?</p>	<p style="text-align: right;">Page 129</p> <p>1 (No verbal response.)</p> <p>2 CHAIRMAN FOX: Thank you very much. 3 Is there anyone else here to speak to 4 this particular topic?</p> <p>5 MS. OERTLEY: Are you looking at 6 me?</p> <p>7 CHAIRMAN FOX: Yes, I'm looking at 8 you. If you talk, you have to come here 9 (indicating), ma'am. You've got to get on the hot 10 seat.</p> <p>11 MS. OERTLEY: I wasn't expecting to 12 speak. And I believe Tom has spoken on behalf of 13 both AIMS International --</p> <p>14 MR. BAILEY: Give your name.</p> <p>15 MS. OERTLEY: Oh, I'm sorry. I 16 just launched right in. I'm Karen Oertley. I'm 17 the executive director of AIMS International.</p> <p>18 So as I was saying, Tom did speak on 19 behalf of AIMS International, as well IAAPA, the 20 International Association of Amusement Parks and 21 Attractions. I can speak from personal 22 experience, my 40-year career in the industry, 23 that these gentlemen are basically -- they have 24 the most expertise in what they're talking about 25 in the industry. Mr. -- Reithoffer Shows is one</p>

<p style="text-align: right;">Page 130</p> <p>1 of the most respected carnivals in the industry. 2 And both Bob and Tom are highly respected 3 individuals, and you can trust what they're 4 telling you. 5 So I don't have any more to say, but 6 feel free to ask me any questions if you have any. 7 MR. JOHNSON: You might tell them a 8 little bit about AIMS versus NAARSO and what 9 you-all do. 10 MS. OERTLEY: Sure. AIMS is the -- 11 we do -- our mission is to educate -- to improve 12 safety in the amusement industry through education 13 and training. We offer a certification program as 14 well. Education is primary for us. We offer a 15 week-long safety seminar in January that has about 16 200 classes with about 100 volunteer instructors 17 who are all experts in their field. We get people 18 from Disney teaching classes. We get people from 19 Sea World, Six Flags, Cedar Fair, all the major 20 parks and carnivals. We've got Mighty Thomas 21 Shows and Greg Hammett Shows, and Reithoffer 22 Shows, all of these major carnivals both help 23 instruct and put on the seminar as well as send 24 their employees for training. 25 We have certification in operations,</p>	<p style="text-align: right;">Page 131</p> <p>1 maintenance, ride inspection, and aquatics. And 2 we offer three levels of certification in the main 3 three, maintenance, operations, and ride 4 inspection. 5 Am I missing anything? Anybody? 6 MS. JEFFERSON: I have a question. 7 The law requires us to direct our customers to all 8 three certifying agencies. And I know we talked 9 about this before. 10 MS. PITCOCK: Right. 11 MS. JEFFERSON: It requires us to 12 direct customers to NAARSO, to ACCT, as well as 13 AIMS. 14 MS. PITCOCK: Right. 15 MS. MS. JEFFERSON: And it doesn't 16 give us instruction as to what information, but 17 those other two agencies provide at least a name 18 and a telephone number. 19 MS. PITCOCK: Yes. 20 MS. MS. JEFFERSON: When can we 21 obtain that information from AIMS? When will the 22 information on your website be ready for us to let 23 our customers know that they can find that 24 information? Because we receive lots of 25 complaints now, that they haven't found a</p>
<p style="text-align: right;">Page 132</p> <p>1 certifying -- well, not that they can't find 2 one -- but in the event that certain people aren't 3 available -- 4 MS. PITCOCK: Right. 5 MS. MS. JEFFERSON: -- they want to 6 go to AIMS, and right now they can't contact the 7 inspector directly because it only has the name 8 and maybe the city, state. It doesn't list a 9 telephone number. 10 MS. PITCOCK: Right. 11 MS. MS. JEFFERSON: So can you help 12 us with that? 13 MS. PITCOCK: Yeah. We've 14 struggled with that because basically AIMS -- and 15 Tom can maybe speak to this a little better 16 because he's had a relationship with AIMS going 17 back since the '70s, at least, '60s maybe. I'm 18 not trying to age you. But we do certification 19 training, and we do provide a list of people who 20 you can check against to see if they, indeed, are 21 certified and if their certification is current. 22 But we do not endorse or provide a 23 list of people who can inspect rides. That's 24 really -- the onus is on the inspectors themselves 25 to make themselves known.</p>	<p style="text-align: right;">Page 133</p> <p>1 And the issue with Tennessee has been 2 more complicated by the fact that you refer people 3 to these two organizations, and say if someone is 4 certified by AIMS or certified by NAARSO, then 5 that is acceptable to our state, as far as your 6 credentials to be an inspector. 7 Now -- and you've been asking us to 8 provide this list. We really have to -- we're a 9 smaller organization, and when we would have to 10 contact each person and have their permission to 11 put that on our website. 12 In many cases, with AIMS, our 13 certification program is more done through public 14 or privately owned companies, and they want their 15 employees trained. They're not necessarily -- we 16 have third-party inspectors that are certified at 17 AIMS, but that's not the larger group. 18 MS. JEFFERSON: And like I said, 19 I'm concerned, because we just want to make sure 20 that we're abiding by the law. 21 MS. PITCOCK: Right. 22 MS. MS. JEFFERSON: And the law 23 approved AIMS, as well as those other two 24 certifying agencies. And I know the only other 25 two certifying agencies list that information for</p>

<p style="text-align: right;">Page 134</p> <p>1 our customers, so we just wanted to follow up on 2 that.</p> <p>3 I'm glad that you're here, because 4 you came out and assisted us with training when 5 Mike -- both Mike and Kevin started. So we're 6 really happy to see you, and that's just one thing 7 we wanted to follow up on.</p> <p>8 MS. PITCOCK: Yes. And I 9 understand that you -- they do want to follow up 10 on that, and it is an ongoing discussion with our 11 board of directors, so we'll keep working on it.</p> <p>12 MR. SHEEHAN: We'll figure out 13 what -- a way to get you what you need.</p> <p>14 MS. JEFFERSON: Thank you. And 15 you-all can take a look at our websites to see 16 what the other agencies provide. I'm not sure we 17 can provide all that information, but at least a 18 way for the customers to reach someone. Even if 19 you included, you know, a telephone number, or 20 maybe a telephone number for you to direct them if 21 you don't feel comfortable. But we have to do 22 something --</p> <p>23 MS. PITCOCK: Yes.</p> <p>24 MS. MS. JEFFERSON: -- in order for 25 us to comply --</p>	<p style="text-align: right;">Page 135</p> <p>1 MS. PITCOCK: Yeah. And it's 2 something that we want to be very careful about. 3 I get a lot of calls in the operational season 4 from a lot of Tennessee operators of inflatables. 5 And in many cases, they are just a single owner of 6 a single inflatable device, and they are trying to 7 find a reputable inspector through us. And, you 8 know, in many cases, it's not -- we've got to 9 figure out a better solution for these people, 10 because they really kind of need to collect their 11 money together and pool it and bring in an 12 inspector somehow, because I don't think they can 13 even afford what they're asking for.</p> <p>14 CHAIRMAN FOX: Anything else for 15 this young lady?</p> <p>16 (No verbal response.)</p> <p>17 CHAIRMAN FOX: Thank you very much.</p> <p>18 MS. PITCOCK: Thank you. Thank you 19 for having me.</p> <p>20 CHAIRMAN FOX: He has a question.</p> <p>21 MR. SHEEHAN: Just in follow-up, 22 after, you know, this very productive meeting. I 23 know you're waiting for the attorney general's 24 opinion, whether you can ban rides, but is there 25 going to be some review done, whether this ban is</p>
<p style="text-align: right;">Page 136</p> <p>1 presently necessarily and what can be done with 2 the season upon us? What's the next step for your 3 organization?</p> <p>4 MS. JEFFERSON: Well, at this 5 point, the only thing that I can do is to go back 6 and just talk with some of the folks who are here. 7 We can just talk about what we can do internally. 8 The information has already gone to the A.G.'s 9 office, so I'm not really sure how to stop that. 10 Once you put it out there, I'm not sure if you can 11 pull it back or not, if that's what you're asking.</p> <p>12 But we can take what we've learned 13 from this particular meeting, which we've 14 learned -- I've learned quite a bit. And one of 15 the things that I see is to add the bulletins. We 16 already include most of the alerts to our website. 17 We can probably add those bulletins on the website 18 where it talks about KMG, and just include that 19 information.</p> <p>20 In our inspection report, we can 21 probably add a bullet as to whether the 22 third-party inspector has followed -- has actually 23 reviewed those bulletins and whether or not he's 24 followed those bulletins.</p> <p>25 We already have a bullet that relates</p>	<p style="text-align: right;">Page 137</p> <p>1 to ASTM and ACCT -- actually, it's all 2 encompassing. But just as an extra layer of 3 protection, we can add the bullet that speaks to 4 the bulletins and the alerts. That's what we can 5 immediately work on once we leave here. We can 6 also have meetings amongst ourselves, like I said, 7 to see if there's anything else we can do. I 8 can't promise anything at this point, because, 9 like I said, once you put it out there, I'm not 10 sure if you can pull it back, how that works.</p> <p>11 MR. SHEEHAN: Sure. If I can 12 address that. I thought you went to the A.G. only 13 to determine whether you could issue a ban or not. 14 So whether he says yes or -- even if he says yes, 15 you still have to determine whether the ban is 16 appropriate for the rides in light of the 17 information you've learned. Isn't that correct?</p> <p>18 MS. MS. JEFFERSON: Right. And I 19 think that's what I tried to address, the second 20 piece --</p> <p>21 MR. SHEEHAN: Great.</p> <p>22 MS. MS. JEFFERSON: -- that you 23 mentioned. That's what putting information on the 24 website would do.</p> <p>25 MR. SHEEHAN: So what I'm asking</p>

<p style="text-align: right;">Page 138</p> <p>1 you is to please review the list of banned rides 2 and determine whether it's appropriate or not. 3 The A.G. can still make his decision, because that 4 will be beneficial for you in the future, whether 5 you can ban rides or not. And I don't know that 6 you need to wait for the A.G.</p> <p>7 MS. MS. JEFFERSON: Well, and 8 again, after this meeting, I'll be happy to talk 9 with some of the folks sitting here in the room so 10 that we can put our heads together to see if 11 there's anything else we can do.</p> <p>12 MR. SHEEHAN: Great.</p> <p>13 MS. MS. JEFFERSON: We need to go 14 back and take a look at that.</p> <p>15 MR. SHEEHAN: Great. That's what 16 we're asking. Please don't wait for the A.G. 17 Whatever he says, one way or another, you still 18 have to address whether these rides will be 19 allowed in the state. So thank you.</p> <p>20 MR. JOHNSON: And you have some 21 great experts on this board. Terrific people.</p> <p>22 MR. HALE: And I just want to add 23 to that -- and I said this to you at the break -- 24 but we're not months and months away from fair and 25 carnival season. We're weeks away from it. And</p>	<p style="text-align: right;">Page 139</p> <p>1 not to cast any bad light on the A.G.'s office, 2 but they've got piles of stuff up there, and if we 3 wait for that, we might be getting an answer at 4 Christmas. And that's too late for owners and 5 operators for this season, when you have people 6 whose livelihoods are on the line.</p> <p>7 And so as you and I talked about at 8 the break, I think we have to try to diligently 9 move forward to balance this whole situation out. 10 And I know that -- I understand what you're saying 11 to him, that that's what you intend to do.</p> <p>12 I certainly appreciate the fact that 13 there was an attempt, an honest attempt at safety, 14 but I think we painted with too large a brush in 15 that attempt. So now maybe we have to get a 16 smaller set of brushes out and fix that.</p> <p>17 MR. JOHNSON: But again, I think as 18 you look and learn from other states, and what 19 we've done in Florida and other states have done 20 on this issue, it may be helpful, too. I mean, 21 you know, nobody has the right answer all the 22 time, but we can learn from others. And that's 23 what I would ask.</p> <p>24 MS. JEFFERSON: Like I said, I 25 can't make any promises, but I'll be happy to --</p>
<p style="text-align: right;">Page 140</p> <p>1 and that's my job. That's what I do. I just go 2 back and I talk with other people, get everybody 3 involved at the same table, and we'll see what 4 happens, and we will immediately contact you-all. 5 As soon as we know more, we'll contact you-all. 6 Okay?</p> <p>7 CHAIRMAN FOX: Okay.</p> <p>8 MS. JEFFERSON: I'll contact 9 Chairman Fox. I'll put it like that. And then he 10 can distribute the information.</p> <p>11 CHAIRMAN FOX: Trust me. I will 12 notify them as soon as you tell me.</p> <p>13 MS. MS. JEFFERSON: Good deal.</p> <p>14 MS. PITCOCK: Chairman?</p> <p>15 CHAIRMAN FOX: Yes, ma'am.</p> <p>16 MS. PITCOCK: I just wanted to -- 17 the fairs start the first week of June.</p> <p>18 MR. HALE: Yeah. That's what I was 19 saying. We're weeks away from fairs starting.</p> <p>20 MR. POPE: So fairs -- there's 21 actually festivals starting sooner than that.</p> <p>22 MR. HALE: Absolutely.</p> <p>23 MR. JOHNSON: Yeah. We've got 24 festivals, too.</p> <p>25 MR. POPE: And the thing is -- and</p>	<p style="text-align: right;">Page 141</p> <p>1 may I say I know we're waiting on the A.G., but if 2 this is determined to not be legal, I mean, is 3 there room for someone to file a lawsuit for a 4 loss of revenue because of this? And I know for a 5 fact that festivals are going to start by Easter. 6 And, you know, it may be something that you want 7 to consider with the information you've gotten 8 here today. And, you know, I don't want to see 9 the State in any kind of litigation; I don't want 10 to see this unit in any kind of litigation; I 11 don't want to see it tarnished, or the ride 12 inspection program tarnished because of that.</p> <p>13 We're all here for safety. But, like 14 I said, I think with what you've gotten here 15 today, and if you'll read these other emails that 16 are here, it explains the different rides and 17 what's being done for the particular piece that 18 was in question. You know, I just think we need 19 to look at it as soon as possible.</p> <p>20 MR. MOORE: I have a question 21 possibly for Mike or possibly for Kim. But say a 22 permit, we -- let's say we issue a permit for a 23 ride such as the Fireball or whatever, in 24 March-April time frame. So that ride is going to 25 operate throughout the rest of the season, all the</p>

<p style="text-align: right;">Page 142</p> <p>1 way until September. If there is a safety 2 bulletin issued by the manufacturer in June of 3 that year, is there a check-step in place to 4 ensure that we know that that safety bulletin has 5 taken place while it's in the State? 6 MS. JEFFERSON: Now, we generally 7 don't receive -- do you receive a copy of the 8 bulletins? 9 MR. HARDY: I don't have a direct 10 path -- 11 MS. JEFFERSON: Those go directly 12 to the owners, the operators. They don't come to 13 us. But what we can do -- that's what I was 14 saying -- we could include a copy of the -- we can 15 add a field on the inspection report to verify 16 that the inspector has read those bulletins and 17 that he has abided by those bulletins, he's 18 followed those bulletins. 19 MR. MOORE: And will the inspector 20 know that there's been a bulletin? 21 MS. JEFFERSON: That's -- well, 22 actually, the inspectors are notified -- is the 23 inspector notified or the operators? The 24 inspectors are not notified. 25 CHAIRMAN FOX: The owners are the</p>	<p style="text-align: right;">Page 143</p> <p>1 ones who are notified, normally. I'll do that 2 with emphasis. Normally, those bulletins are sent 3 to NAARSO to be posted on their website. 4 MR. BAILEY: They're posted on 5 NAARSO's website. 6 MR. SHEEHAN: Absolutely. 7 CHAIRMAN FOX: Yeah, they're 8 posted. 9 MR. BAILEY: There's going to have 10 to be a thing where our people constantly monitor 11 the NAARSO website for any new update on a 12 manufacturer's update. Or you can monitor the 13 manufacturers' websites themselves, if you know 14 the names of all the manufacturers. 15 MR. JOHNSON: We do the same -- 16 MR. HALE: But also, your insurance 17 carriers are -- if you get an alert or safety 18 bulletin of that magnitude, the insurance 19 companies are going to know that, and they're 20 going to go out to their insureds and say there's 21 a bulletin about this and you've got to do 22 something about it if you want me to continue to 23 insure you. They don't want the liability of it 24 being a -- 25 CHAIRMAN FOX: Let me say this,</p>
<p style="text-align: right;">Page 144</p> <p>1 Ms. Jefferson. There's the possibility that the 2 ACME inspection company may or may not know about 3 a bulletin. And there's the possibility that the 4 company may not know. So I don't know that we 5 paint with a broad brush there either. 6 I think you have to, at some point, 7 when you receive that bulletin, go back to his 8 check-steps. Somebody needs to either call or 9 visit that company to say, "Hey, did you get 10 this?" 11 I mean, we have an itinerary of the 12 people who are traveling through the state. Is 13 that a fair statement? 14 MS. MS. JEFFERSON: Yes, we do. 15 CHAIRMAN FOX: Okay. 16 MR. HALE: And what rides they 17 have. 18 CHAIRMAN FOX: Yeah. So if they 19 have -- to use your term a minute ago, a Whiz 20 Bang, or whatever that was -- if the Whiz Bang is 21 sitting out there in Sevierville, Tennessee, 22 there's a contact number and, you know, 23 furthermore, with today's technology, you call 24 them, "Hey, can you send me a safety bulletin and 25 show me where you've checked off on it?"</p>	<p style="text-align: right;">Page 145</p> <p>1 MS. JEFFERSON: And that's 2 something that the manager -- 3 CHAIRMAN FOX: Yes. That's 4 something that he would have to do, but I'm saying 5 that's a way of resolving that issue. You don't 6 physically have to send them out, although, it's 7 possible. But there is that minute possibility 8 that neither the ride owner, operator, nor 9 inspector would be knowledgeable of that bulletin 10 at that particular time. Again, it's not fool 11 proof. 12 MS. JEFFERSON: Right. I 13 understand. I understand. 14 CHAIRMAN FOX: Yes, sir? 15 MR. REITHOFFER: Typically, in most 16 of the states that I travel in, the state 17 inspector or agency has gotten the bulletin before 18 or at the same time that I've gotten it. 19 CHAIRMAN FOX: Yes. 20 MR. REITHOFFER: And they have it 21 and we have it at pretty much the same time. 22 MR. SHEEHAN: I work with a lot of 23 manufacturers, and all of my manufacturers send 24 the bulletins to the state inspectors, because we 25 want more people looking to make sure that they're</p>

<p style="text-align: right;">Page 146</p> <p>1 being enforced. Everybody does.</p> <p>2 MS. MS. JEFFERSON: And since</p> <p>3 they're NAARSO certified now, they would probably</p> <p>4 have access to that information. Hopefully,</p> <p>5 you-all will receive copies of the bulletins from</p> <p>6 NAARSO, but if not, Mike, as the amusement device</p> <p>7 manager should contact those agencies and have</p> <p>8 them to send that information directly to you.</p> <p>9 MR. JOHNSON: And we also, on our</p> <p>10 website, we have a tab for NAARSO bulletins on the</p> <p>11 OABA website, right to NAARSO. So, again, there's</p> <p>12 a lot of different ways to obtain the bulletins,</p> <p>13 but, you know, electronically is probably the most</p> <p>14 poplar way today to receive it.</p> <p>15 CHAIRMAN FOX: I didn't mean to get</p> <p>16 down in the weeds there. I just wanted you to</p> <p>17 know where we're at.</p> <p>18 Let me ask one more question here.</p> <p>19 Is there anyone else to talk about this particular</p> <p>20 subject?</p> <p>21 (No verbal response.)</p> <p>22 CHAIRMAN FOX: Okay. I want to say</p> <p>23 this. I've been doing this only 16 years, but</p> <p>24 this particular ride accident has caused more, I</p> <p>25 guess, notoriety. I'll leave it at that. I'll</p>	<p style="text-align: right;">Page 147</p> <p>1 just try to be tactful. It has caused more</p> <p>2 notoriety about the ride industry than any ride</p> <p>3 that I can remember in those 16 years.</p> <p>4 I truly think that when this</p> <p>5 initially came out that the proper thing to do was</p> <p>6 to shut down whatever, shut down that particular</p> <p>7 ride until more information was gleaned and</p> <p>8 garnered. I truly believe that. And I think that</p> <p>9 was the right step. But, you know, we have more</p> <p>10 information now. So I think we have to take a</p> <p>11 very strong look at what's right for the safety of</p> <p>12 our people, the safety of our citizens, the safety</p> <p>13 of our visitors, and then go forward. So that's</p> <p>14 my public commentary on that.</p> <p>15 Now, anything else from the board on</p> <p>16 this?</p> <p>17 MR. BAILEY: If I might make a</p> <p>18 follow-up to that comment, is the fact that if the</p> <p>19 Fireball, in particular, was allowed to operate in</p> <p>20 the state of Tennessee, was not banned at any</p> <p>21 time, and an accident like that happened in</p> <p>22 Tennessee, I mean, who is the spotlight going to</p> <p>23 be put on? It's going to be put on this</p> <p>24 department and our commissioner.</p> <p>25 CHAIRMAN FOX: Yes.</p>
<p style="text-align: right;">Page 148</p> <p>1 MR. BAILEY: So I think that needs</p> <p>2 to be appreciated as well.</p> <p>3 CHAIRMAN FOX: Absolutely.</p> <p>4 MR. MOORE: And I will say, also,</p> <p>5 you know, you mentioned earlier that in the</p> <p>6 amusement ride or automobile or whatever,</p> <p>7 typically it is reactive. And he actually took a</p> <p>8 proactive approach to say, "Hey, let's look at all</p> <p>9 rides similar, and maybe give the manufacturer an</p> <p>10 opportunity to say maybe not a Fireball but</p> <p>11 another similar-type ride and say, "We probably</p> <p>12 need to look at ours and see if they need to be</p> <p>13 tested also."</p> <p>14 MR. BAILEY: I mean, I heard</p> <p>15 everyone say that safety is the top priority and</p> <p>16 that they ride their own rides. I would venture</p> <p>17 to say that prior to the action, the family that</p> <p>18 owned the Fireball in Ohio would have said the</p> <p>19 same thing.</p> <p>20 CHAIRMAN FOX: They would have.</p> <p>21 MR. BAILEY: So we're trying to</p> <p>22 prevent that next --</p> <p>23 CHAIRMAN FOX: Absolutely. And we</p> <p>24 may have one tomorrow.</p> <p>25 MR. BAILEY: Exactly.</p>	<p style="text-align: right;">Page 149</p> <p>1 CHAIRMAN FOX: But, you know, what</p> <p>2 we have to do is rely upon those -- hopefully,</p> <p>3 this has jogged the -- hopefully, this has made</p> <p>4 the third-party inspectors more careful, more</p> <p>5 diligent. Hopefully, they will do a better job of</p> <p>6 inspecting the rides that they're sent out and in</p> <p>7 charge with inspecting across this country.</p> <p>8 MR. BAILEY: One would hope.</p> <p>9 CHAIRMAN FOX: One would hope.</p> <p>10 Yes, sir?</p> <p>11 MR. REITHOFFER: I would like to</p> <p>12 speak to that. Every inspection since that</p> <p>13 accident in every state I've been in has been more</p> <p>14 thorough and much harder to pass inspection. And</p> <p>15 I welcome it. And it has done a good job for the</p> <p>16 public safety and for my company to make sure that</p> <p>17 we're in great shape. And it's continuing. Every</p> <p>18 inspection that we've had, just recently,</p> <p>19 everybody is being much more diligent.</p> <p>20 CHAIRMAN FOX: Okay. Anything else</p> <p>21 from the board?</p> <p>22 Yes, ma'am?</p> <p>23 MS. O'CONNOR: I would add that</p> <p>24 accidents like this, unfortunately, underline the</p> <p>25 need for funding of this department, and I hope</p>

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1 the legislature hears us and continues to fund.
 2 MS. JEFFERSON: Thank you. We
 3 agree.
 4 CHAIRMAN FOX: Thank you.
 5 Anything else? Any other comments,
 6 questions, suggestions?
 7 (No verbal response.)
 8 CHAIRMAN FOX: Okay. Again, we've
 9 spent a long time here, but this was important,
 10 and I thank you-all for bearing with us on this.
 11 Our next scheduled meeting is Tuesday, June the
 12 5th. And that will take place here at 9:00 a.m.
 13 Central Standard Time.
 14 Will we bring this topic back for
 15 discussion, or will we know something sooner than
 16 that?
 17 MS. JEFFERSON: Well, we should
 18 know something sooner. And as I said, I will
 19 contact you directly as soon as I hear something.
 20 CHAIRMAN FOX: Okay.
 21 MS. MS. JEFFERSON: But this should
 22 be placed on the agenda. That we can go back and
 23 just take a look. We'll put it under Old Business
 24 the next time and we'll just revisit it and see
 25 where we are.

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1 CHAIRMAN FOX: Okay. All right.
 2 Do I have a motion for adjournment?
 3 MR. POPE: Motion.
 4 CHAIRMAN FOX: We have a motion.
 5 Do we have a second?
 6 MR. HALE: Second.
 7 CHAIRMAN FOX: So moved. We are
 8 adjourned.
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1 C E R T I F I C A T E
 2 STATE OF TENNESSEE)
 3 COUNTY OF WILLIAMSON)
 4 I, Cassandra M. Beiling, a Notary Public
 5 in the State of Tennessee, do hereby certify:
 6 That the within is a true and accurate
 7 transcript of the proceedings taken before the
 8 Elevator and Amusement Device Safety Board and the
 9 Chief Inspector or the Chief Inspector's Designee,
 10 Tennessee Department of Labor and Workforce
 11 Development, Division of Workplace Regulations and
 12 Compliance, Elevator and Amusement Device Unit, on
 13 the 13th day of March, 2018.
 14 I further certify that I am not related to
 15 any of the parties to this action, by blood or
 16 marriage, and that I am in no way interested in
 17 the outcome of this matter.
 18
 19 IN WITNESS WHEREOF, I have hereunto set my
 20 hand this 18th day of March, 2018.
 21
 22
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Cassandra M. Beiling
 Cassandra M. Beiling, LCR# 371
 Notary Public State at Large
 My commission expires: 3/15/2020

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