# A G E N D A

I. Call Meeting To Order

II. Introductions

III. Pledge

IV. Adoption of Agenda

V. Announcements

VI. Approval of the December 5, 2017 Meeting Minutes

VII. Elevator Unit's Report

VIII. Amusement Device Unit's Report

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 Inspector fees

X. 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

XI. Announcement of Next Meeting

XII. Adjournment

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** Reporter's Note: All names are spelled phonetically unless otherwise provided to the Reporter by the parties.

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CHAIRMAN FOX: Good morning. And welcome to the March 13, 2018 meeting of the Elevator and Amusement Device Safety Board. If we can deviate just a little bit from the agenda, we'll do the pledge first, if we can, and ask Ms. O'Connor -- if everyone will please stand.

(Whereupon, the Pledge of Allegiance was recited.)

CHAIRMAN FOX: Again, we'll start the **introductions** and this table will introduce first, and we'll start with that young lady. And then I think Mr. Sheehan has the microphone. And as you go around, please speak up so that everybody can hear as we're introducing ourselves. And then, the other thing, if you are going to speak to a particular topic, then you would need to come to the two seats up front. Again, give your name and who you represent or what you're about, what the topic is, so that this young lady can get it, or get your voice on there. Okay. Ms. Kirby, please start us off.

MS. KIRBY: All right. Thank you.
Amusement Park Association, as well as some of the manufacturers on the band ride list.

MR. JOHNSON: Good morning. Bob Johnson, president of the Outdoor Amusement Business Association, representing the portable amusement industry.

MR. REITHOFFER: Richard Reithoffer, representing Reithoffer Shows, Incorporated.

MS. MURPHY: Jennifer Murphy, Amusement Device Unit AA1.

MR. KLUTTS: Kevin Klutts, safety compliance officer with the Amusement Device Unit.

MS. OERTLEY: Karen Oertley, executive director, AIMS International.

MS. PITCOCK: Emily Pitcock, executive secretary of the Tennessee Association of Fairs.

MR. SELLS: David Sells, Tennessee Event Management.

MR. STOCK: Don Stock, president of the Adventure Guild, certified inspector, and government relations chair for the Association for Challenge Course Technology.

MR. CLEVENDEN: Steve Clevenger, owner/operator, Canopy Challenge Course, Fall Creek Falls State Park.

MR. SEIBERT: Nick Seibert, representing Kissel Entertainment.

MS. SEIBERT: Savannah Seibert with Kissel Entertainment.

MR. WALLS: Scott Walls, communications department.

MS. KELSEY: Melinda Kelsey, Chief of Staff, Commissioner's Office.

MR. TATE: Brooks Tate, from Montgomery Bell Academy.

MS. ZIVKOV: Betty Zivkov with the Elevator Unit.

MS. RHODES: Anita Rhodes, elevator supervisor.

CHAIRMAN FOX: And there's a gentleman that just came in there. We don't want to put him on the spot or call him out or anything, but it's your turn to tell us who you are, sir.

MR. DEASON: Thanks. I'm Chance Deason. I'm general counsel for the agency here.

CHAIRMAN FOX: All right. Thank you.

Okay. Thank y'all very much. We will now -- Item Number 4, there's a motion to adopt the agenda for today. Before we do that, I need to ask one question. Is there anybody here to speak to the Whac-A-Mole item on the agenda?

MR. SELLS: I can speak to it. I don't own one yet, but I plan to purchase one.

CHAIRMAN FOX: Is it yours?

MR. SELLS: I don't own one yet, but I plan to purchase one.

CHAIRMAN FOX: Okay.

MS. JEFFERSON: Due to the fact that we haven't made a decision yet, as far as that's concerned, Dan, do you think it's appropriate for him to speak at this time?

MR. BAILEY: Well, depending on what he's going to speak about. If it's about whether or not it should be regulated, then no, I don't think that's proper.

CHAIRMAN FOX: Okay. So we would wait on that.

MR. BAILEY: Yes.

CHAIRMAN FOX: Okay. With that being said, I would entertain a motion to adopt the agenda; however, deleting Number 18-06 under New Business.

MR. HALE: Motion to adopt as amended.

MS. O'CONNOR: Second.

CHAIRMAN FOX: I have a motion and a second. Is there any discussion?

(No verbal response.)

CHAIRMAN FOX: There being none, all in favor of the motion, let it be known by saying "aye."

(Affirmative response.)

CHAIRMAN FOX: All opposed, like sign.

(No verbal response.)

CHAIRMAN FOX: Now, we have the emergency announcement here that says in the event of an emergency or natural disaster, security personnel will take attendees to a safe place in the building or direct them to exit the building on the Rosa Parks side.

So obviously, we're going to exit out that door. Someone is going to meet us and show us where we need to go. So just so everybody is aware of that.

Under Item Number 6, approval of the December 5th, 2017 minutes, I would entertain a
motion to approve.

MR. POPE: Motion.
CHAIRMAN FOX: We have a motion.
MR. MOORE: I second.
CHAIRMAN FOX: We have a second.

Any discussion or changes?

(No verbal response.)

CHAIRMAN FOX: Hearing none, all in favor of the motion, let it be known by saying "aye."

(Affirmative response.)

CHAIRMAN FOX: All opposed, like sign.

(No verbal response.)

CHAIRMAN FOX: Motion carries.

Mr. Farmer, it's your turn to tell us about the elevators.

MR. FARMER: All right. I'll keep it kind of short and sweet today. I'll give you some staff information. We currently have 25 inspectors; we have two office staff and one office supervisor and myself. We do have two vacant routes that the 25 inspectors are helping fill in the gaps on. We hope to get them filled pretty soon.

At one time this year, we did have five inspectors out on extended sick leave, but we've currently got them all back but one, so that's good news, so we're getting kind of back to normal.

To let you know a little bit about the upcoming training we have, the first week of May, we're going to introduce our new computer program, so we'll have two days of inspector training and office staff training on the new program.

This new program is going to have electronic billing and online payment options, which is awesome because we're actually getting into this century. Also during that training, we're going to have one day of internal training for my inspectors, just pretty much go over code updates, just internal training. And we'll also have our continuing education for our QEI certification requirements. So we'll get that behind us.

I did hand out a piece of paper to you guys today that's got our numbers for the last couple of years. I can go over them a little bit. We're down from 16 to 17 on the total amount of inspections, and that was -- it's basically based on being shorthanded, you know.

Construction permits are up eight for this year compared to the last year. We're down a little bit on inspections performed, just for the simple fact of short staffed, and we're down about 20 on the acceptance inspections. Construction is not slowing down, by no means, but we've had a little bit of a lull in it, so we're not doing quite as many.

And as of right now, we've got a little over 15,000 conveyances that were inspected that's under our care.

That's about all I have, and I will entertain any questions.

CHAIRMAN FOX: This growth here is still as it was.

MR. FARMER: Yes. Yes, it's still -- if you drove into Nashville this morning, you would see that we're growing, like, by leaps and bounds.

CHAIRMAN FOX: Okay. All right. Anything else?

MR. FARMER: I believe that's all I've got today.

MR. HALE: Mr. Chair?

CHAIRMAN FOX: Sir?

MR. HALE: On the computer program and online payment and so forth, Mike or maybe Ms. Jefferson, one, are we still making progress on getting it where amusement device can be --

MR. HARDY: We are. We're going to follow the same guidelines that elevator establishes and just mirror what they're doing. So we'll have that capability.

MR. HALE: Not holding you to a
specific date, but do we have a time frame for
that?
MS. JEFFERSON: Well, actually, we
hope to be finished -- we're taking one program at
time. We're actually developing a program for
Boilers, Elevators, and the Amusement Device Unit.
And first is the Elevator unit. They're going
first. We hope to finish theirs late March, early
April.
MR. FARMER: First of May is when
we're actually going live with the training.
MS. JEFFERSON: Okay. So all the
way through May. And then afterwards, we'll
probably go with the Boiler Unit. That will
probably be next. We started this program, what,
January, started developing?
MR. FARMER: Yes.
MS. JEFFERSON: So that's about
five months. So we hope to finish all three
programs by the end of the year; if not the end of
the year, beginning of next year.
MR. HALE: Okay. Thank you.
CHAIRMAN FOX: I tried to pay my
bill with a credit card this week, but couldn't
get --

some additional items on the agenda. But before I
get started with the statistics, I just wanted to
mention that -- and a lot of you have met -- David
Whyel is our safety compliance officer for the
central region. He sits in our office here at
French Landing. David is not here today. He's
currently having some health issues, and we hope
to have him back by the end of the month. So we
would appreciate your thoughts and prayers for
David and his family.
I think most everyone at the table
has a handout. You might want to refer to that as
I go over the statistics. You can see there that
we have permitted 250 companies thus far. The
unit remains on course to issue a record number of
permits in this fiscal year, ending June 30th.
Our unit goal is to issue 600 permits for the
fiscal year. I don't know if we'll reach that
goal, but we will definitely be able to -- should
be about to surpass the number of permits we
issued last year. And that number was 348.
Also, with a quarter-and-a-half month
left to go, we have permitted 2,292 devices so far
this year. Last year, total for the fiscal year,
we permitted 3,126 total devices. So we do expect
this last quarter is pretty heavy for us, you
know, entering fair season, and with the new
companies that we're continuing to find and assist
them to obtain their permit. But we do feel like
this number of devices is going to surpass last
fiscal year's number, as well as the overall
number of permits issued. The safety compliance
officers and administrative staff are primarily
responsible for issuing 106 new or first-time
party permits so far this fiscal year. That's 106
at this time, with a quarter and a half a month
left to go again.
Last year, the unit issued 83 new or
first-time permits. So we've already surpassed
that number and we've got significant time left,
so we are capturing new companies out there and
bringing them into compliance. And hopefully,
that will increase and, if not this year, then
maybe sometime next fiscal year, we will capture and
we'll pretty much know how many companies and
devices there are doing business within the state.
You can see the escalation so far
from the fiscal years. And then we hope '17 and
'18 will be in the 400-plus range. So we are
making attempts to plateau that number, capture
The NAARSO convention, our unit members, Kevin Klutts and I -- by the way, NAARSO is National Association of Amusement Ride Safety Officials. And they have an annual convention with training sessions for operations and for inspectors, inspection certifications. So Kevin and I attended the conference as unit members, and we sat for the Level 1 inspector exam at the end of the training, and Kevin and I, you know, as we say back home, you know, even blind hogs find an acre now and then. So Kevin and I actually passed the Level 1 exam. So we were happy about that.

That's one of our criteria for our performance. So we're happy about that.

Fair season, Ms. Pitcock, again, we're glad that you're here with us this morning. The Tennessee Association of Fairs annual convention was held on January 18 through the 20th of this year. We had the opportunity to attend again and represent the unit at the convention.

I mentioned this last year; I want to mention it again, that we're very mindful of the urgency of issuing permit renewals prior to the fairs that are starting, to avoid any backlog. The staff did a really good job last year staying on top of the renewals. And the safety compliance officers, they will again assist with permit renewals and, assisting those companies, letting them know when their renewal dates are coming up, any questions they have, receiving the documentation. But the compliance officers are taking parts of that chunk and helping us as we get into the heavier part of fair season.

The last thing I want to talk about is proof-of-inspection decals. We implemented that program last year. I think it's worked really well. We really haven't had a whole lot of negative feedback about the decals and where they're to be positioned on the devices. We will change color for the next fiscal year. There's a four-to-six-week lead time on those, so we'll order our first allotment for the next fiscal year by May the 1st, so we'll have those in this time and be able to distribute those accordingly. Last year, we actually started, I think, in September. So the next fiscal year, we'll capture everything and we'll issue proof-of-inspection decals. And we're excited about that.

Our decals are blue this year. We're thinking about maybe going with Tennessee Vol orange next year. CHAIRMAN FOX: It's a great color. MR. HARDY: Yeah. I don't think Mississippi State maroon would -- I'm going to hold off on that for a few years, but -- CHAIRMAN FOX: See, I think there would have been an objection had you decided on that color.

MR. HARDY: So anyway, we'll pass that around and see where it goes, but that basically is my report and the statistics I have for the Amusement Device Unit, but I'd be glad to entertain any questions about what I reported, at this time.

CHAIRMAN FOX: Comments, questions from the board?

MR. HALE: I just want to say I appreciate Mike and Kevin and David coming out to the fair convention. I think it all works a lot better when folks have an opportunity to see you eye to eye and talk outside of trying to resolve a ride problem. So I appreciate you all coming out and being there.

MR. HARDY: But we always appreciate the invitation and the opportunity, and maybe can enhance on something next year on what we're able to present. So thank you.

CHAIRMAN FOX: I want to congratulate you on getting your certification. That's certainly a great milestone in this business --

MR. HALE: Absolutely.

CHAIRMAN FOX: -- both of you.

That's a very intense -- if you're in it every day for the 40 hours, you're in it for 40 hours, and have you to pay attention to be able to pass it and, obviously, have some knowledge of the amusement industry, so again, I congratulate both of you and thank you for being there.

Are there any other comments or questions for Mr. Hardy?

(No verbal response.)

CHAIRMAN FOX: Under Old Business -- I forgot to do something a minute ago. Do you have a conflict of interest statement? If we haven't signed that, if we can, let's sign that and get that to Ms. Kirby before we walk out today. Okay?
I actually included a couple photos of these operations and staffing. And if you'll look down, list goes on. You can see that it's all about effective spotting on relevant activities, and the necessary. The organization staff can provide organization staff to assess when spotting is and facilitation. And so you'll see the injury is done through participation and staffing, protecting participants or guarding them from not a life safety system. Any mechanism for be a zipline or whatever the case may be. There's what sets these apart from a normal -- whether it be a zipline or whatever the case may be. There's not a life safety system. Any mechanism for protecting participants or guarding them from injury is done through participation and staffing and facilitation. And so you'll see the organization staff to assess when spotting is necessary. The organization staff can provide effective spotting on relevant activities, and the list goes on. You can see that it's all about operations and staffing. And if you'll look down, I actually included a couple photos of these.

And then the second one is the ANSI/ACCT 03-2016 Challenge Course and Canopy Zip Line Tours Standards. The ASTM standards makes no reference to whatsoever to low-challenge courses simply because it completely -- not exempts in the sense of legally exempting, but it does not deal with any kind of device or activity that is not commercial and amusement in nature. In fact, I put that this practice should not apply to adventure courses, exclusively; for educational, physical fitness, organization of competitive events, therapeutic team building, all those things. So ASTM doesn't even speak to low-challenge courses.

The ACCT standard does not call out specific installation or inspection standards for low-challenge courses, because they're really -- as we discussed last time, they're very, very benign. Most of them are, like, this far off the ground (indicating) or they're really pretty simple structures. None of the structures and low elements are critical in the sense that they don't involve a life safety system, so just general application of noncritical installation inspection criteria are used in terms of inspection. The standard does provide, however, a definition which is an element designed to be operated without a life safety system. And it also has the following operational components in terms of what's called spotted challenge course activities. Because -- that's what we discussed last time -- that's how those -- these activities are orchestrated, and they are done by staffing with a team, with a team working together. And if there's any kind of lofting or lifting or people -- any kind of height at all, it's a spotted activity. And I have included, actually, the excerpt out of the ACCT standard about operations, because that really is a -- that's a huge difference, in terms of how -- what sets these apart from a normal -- whether it be a zipline or whatever the case may be. There's not a life safety system. Any mechanism for protecting participants or guarding them from injury is done through participation and staffing and facilitation. And so you'll see the organization staff to assess when spotting is necessary. The organization staff can provide effective spotting on relevant activities, and the list goes on. You can see that it's all about operations and staffing. And if you'll look down, I actually included a couple photos of these activities in use. So you can see how the team works together to facilitate and spot and protect the participants, the top activity being a tension traverse, spider's web where they're passing a person through. And the one that seemed to cause questions is the team wall. You can see how that is done when the person moves over the wall. You have the whole team behind them spotting, very much like you would in cheerleading or whatever the case may be.

Observations related to this is -- and I kind of just wanted to summarize sort of where the perspective is, kind of, from our industry, as these activities do not really fit the normal definition of amusement, as they are designed specifically and intentionally for team building and therapeutic applications for groups. These activities don't use a life safety system, harnesses, helmets or other gear normally associated with challenge courses. Most of the low elements are mere inches off the ground and do not pose a threat of serious injury or death to participants, and these activities are facilitated by program staff.

And in terms of the activity itself, in
comparison to bouldering, which is rock climbing
without a rope where spotting is also used, is
kind of a more accurate comparison than, for
example, like playground equipment or things like
that.

I did -- as a government relations
chair, I put out a question to all the different
people who work with the regulatory people
throughout the U.S. There are a couple of states
who have had the same kind of experience we have
had here, because people are not really sure what
the criteria are. So rather than be out of
compliance, they included their low course when
they had their high course done. So Pennsylvania
and Michigan, both, have had that same experience
and have, sort of, kind of, just brought the low
elements in because they didn't know what else to
do with them. And some counties in the state of
New York have done the same thing.

Other than that, those are the only
places that I know that do anything with
specifically permitting low-challenge courses.
And I haven't found any place that permits if you
only have a low course. They have, kind of, sort
of, just being drug along with the ziplines and
the challenge courses and the adventure parks that
have these particular camps and things like that.
And it's kind of unfolded the same way. We've got
this inspection report here. It has these on it,
so we'll just include that into the pertinent
piece.

So I guess from a personal
perspective, it doesn't seem consistent to me to
do -- to permit these and not permit something
like climbing walls. That doesn't make any sense
to me at all. I don't really understand why that
don't is done. But that's neither here nor there.
So from a consistency standpoint, I
really like consistency. If we're going to do
this here, let's do it here and let's make it
universal so everybody is on the same playing
field. And that's much easier to communicate to
people, from my perspective, because I've kind of
become the unofficial liaison, I guess, between
here and our association and our inspectors in the
state. And I'm working incredibly hard to make
sure we are doing what you're wanting us to do.
And part of that is knowing what it is you want us
to do, and the particulars of that. Now, we have
a meeting with the Amusement Unit afterwards to
help get some of those little, nitpicky details
nailed down, because we want to do right. We just
need some answers to what that exactly looks like.
So that's all I have unless you have
questions for me.

CHAIRMAN FOX: So let me understand
what I heard you say.

MR. STOCK: Okay.

CHAIRMAN FOX: You're asking us to
give a recommendation as to whether we want the
low elements permitted and inspected.

MR. STOCK: Correct.

CHAIRMAN FOX: Okay. That's as
simple as I can make it.

MR. STOCK: That's really -- and
basically, it's really a clarification. Do you
want us to include them as inspectors, and do we
need to be coaching our clients that we do the
inspections for them, and that they need to
include that? Specifically, if that's the only
activity they have, if it's -- because there are
camps who have low-challenge courses that don't
have ziplines; they don't have climbing walls;
they don't have just high-challenge courses that
use belay systems. They only may have a wooden
box sitting on the ground that you use to step a
group of people up, and that's a low-course
element. You can pick it up and take it with you.
But it's a low-challenge element.

So the question that is out there
that I'm trying to answer for the people who are
looking at me going, "What is going on?" is when
and where are you going -- do you want to permit
and require permitting for just low-challenge
courses, and then wherever they exist, whether
they're with -- combined with a low course, high
course, whatever. We just need to know. Whatever
you want to do is fine. We just need to know so
we can do what we're supposed to do.

MR. BAILEY: Mr. Chairman, it would
not be proper for this board to make a
recommendation as to whether or not this should be
regulated. That falls on the Amusement Device
Unit to make that decision. And if that decision
is subsequently challenged, it's going to come
before this board to rule. So it wouldn't be
proper for the board to make a recommendation on
something that they may eventually have to be the
adjudicator of.

CHAIRMAN FOX: Okay.
MR. BAILEY: And as far as climbing walls, the inconsistency, I hear what you're saying, but that was -- the legislature specifically excluded that from the statute, so we have no control over that.

CHAIRMAN FOX: So the question, then, would be do we presently require that all elements, high, low, or whatever, that they are inspected and/or permitted? Correct?

MS. JEFFERSON: Yes, that's correct.

CHAIRMAN FOX: Okay. All right. So at this time, this becomes a moot issue; is that right?

MR. BAILEY: It's moot unless someone appeals that decision.

CHAIRMAN FOX: Okay.

MR. STOCK: I'm trying to do what you asked me to do. I came to -- because this issue came up -- I didn't bring this to the board. The amusement device department got in contact with me because there was confusion related to it, and I followed up with trying to help, so --

MS. JEFFERSON: It's -- okay.

Exactly. And I think I understand what's going on. If someone is here -- and Dan you can correct me if I'm incorrect -- but if they're here to discuss it and to appeal it, the decisions that we have made, those decisions can go before the board, if they're here to appeal them. And that was my understanding, that he wanted to appeal our decision. Because our decision within the unit is that these devices are currently regulated, because they don't fall under an exemption, is the way we see it. So if that's the case, then we need to know whether or not you can proceed.

MR. BAILEY: Well, I mean, I guess you can treat it that way. I mean, it wasn't presented as being an appeal.

MR. STOCK: And that was absolutely not my intention at all. I thought I was doing a service to the device unit and the board by helping get clarification on this. Because the issue arose -- because in our initial discussions, low-challenge courses were not things that were being considered because they didn't involve belay systems and all of that sort of stuff. They kind of came, even, into the topic, in discussion, later on because they got put on device lists. Because low-challenge courses -- I mean, I was in all of these meetings, so I know we had the discussion about low-challenge courses, and they were not -- that's not where the focus was. These kind of drifted in because of some nebulous thing. I'm just trying to tell -- so you're telling me that they are regulated and that's how it is. And if they're wanting to change that, then I have -- then someone needs to appeal it. Is that accurate?

MS. JEFFERSON: That's my understanding.

MR. HALE: So is that what we're saying -- what y'all are saying, whichever one wants to answer it -- that low-challenge courses are regulated, and if somebody wants to appeal that, they can.

MS. JEFFERSON: Correct.

MR. HALE: And I think that's the answer he's looking for.

MR. STOCK: Yeah. All -- I was just hoping to -- I thought we were coming to decide whether that was true or not. I didn't know that that didn't --

MS. JEFFERSON: And, you know, that's the way -- we're learning, as far as this unit is concerned, as far as the board is concerned. We now understand that in order -- you can't really bring issues before the board unless the unit has made a decision. Okay?

MR. STOCK: Okay.

MS. JEFFERSON: And so since the unit has made a decision on this particular issue, you can appeal. I think that's what Dan was stating earlier.

MR. STOCK: Okay.

MS. JEFFERSON: The way we went about it may not have been proper. We probably should have told you to actually make an appeal to the board. But that's where we are now because we didn't instruct you to make an appeal to the board.

MR. STOCK: Sure. Because that's not my -- that was not my whole entire precedence, not even close to my purpose. I was trying to get clarification on whether they were or not because I needed to be able to communicate to my folks and as an inspector.

MS. JEFFERSON: And we now understand that we can't just have folks that come before -- representatives or associations or
organizations -- come before the board and ask for that type of interpretation. And the reason why is because the board ultimately will make a decision on those matters, so they have to serve as an independent body. So we can't have them to make an interpretation of the meeting and then have somebody else to come back later. That's not the proper way.

MR. STOCK: Okay.

MS. JEFFERSON: The proper way is for us to actually, within the unit, to decide whether or not it's proper. And then if we're incorrect, if you think that we're -- we didn't make the proper decision, then you have an opportunity to come before the board. And they can explain whether or not we were proper, or not.

MR. STOCK: Understood. Great instruction and procedure. Not my agenda or understanding, so we're good. The answer I came for was yes or no. Anything else?

CHAIRMAN FOX: Thank you, Mr. Stock.

MR. STOCK: Okay. No problem.

CHAIRMAN FOX: As always, you did a great job. Thank you.

MR. HALE: Just one other comment and then we can move on. But I just want us to be mindful that we don't get in the business of inspecting every playground in the state of Tennessee.

CHAIRMAN FOX: Okay. Any other comments or questions on that particular topic?

(No verbal response.)

CHAIRMAN FOX: All right. Moving on to new business, 18-06 has been deleted at this point. 18-07, Sustainability, and we have talked about the fee structure process.

Ms. Jefferson, I have to defer to you as to where we're at and are we going to move forward and so forth and so on. Enlighten us, please.

CHAIRMAN FOX: Thank you, Ms. Jefferson. Well, at this particular time, the Governor's office, the Governor included this amount or a certain amount for the device unit in the budget. We have to appear before the legislature in order to have it approved. So that's where we are. We are pending approval.

As you all know, we didn't have separate funding for the amusement device unit in previous years, but we were able to obtain funding for the fiscal year 2016-17 and fiscal year '17 and '18. But that was temporary funding or nonrecurring funding. So what we've done is we requested recurring funding so that we could have it from year to year. So that's pretty much where we are now.

We didn't take the other route in changing the rulings because we felt like this would be a better option for the unit because it's more permanent versus having to determine whether or not we're going to assess enough penalties, so to speak, in order to sustain that particular unit. We didn't want that burden to fall on the Amusement Device Unit. So that's pretty much where we are at this point.

CHAIRMAN FOX: Okay. So the elephant in the room, what happens if we don't get the funding from the State?

MS. JEFFERSON: Then we'll take a different route. We'll have to take a different route. But we couldn't do both. We had to pursue one or the other. We pursued -- and understand, we pursued a number of options. First, we asked for funding, okay, the first year. The first year, it was actually too late to have that funding included in the budget. The second year, we asked for funding and we received funding for fiscal year '16-'17 and '17-'18.

So now we're at the point we're requesting recurring funding. And if we receive that, which, hopefully we will, then we won't have to worry about this issue going forward. If we don't receive it, then we'll have to take another route and we'll have to look at changing the fee-on-fee structure.

CHAIRMAN FOX: Okay. Ma'am, in all things in life, I have a Plan B, whatever that is. What is our Plan B?

MS. JEFFERSON: Well, our Plan B is to look at the rules, change the rules; look at changing the rules in the event that we're not given money through the budget.

CHAIRMAN FOX: Okay.

MS. JEFFERSON: That's our Plan B.

CHAIRMAN FOX: Okay. And what is the drop-dead date or the date certain, I should say --

MS. JEFFERSON: That we will know something?
CHAIRMAN FOX: -- to make that happen and -- to know something and then to make that happen for the upcoming budget.

MS. JEFFERSON: Okay. Well, actually, we'll know something by the end of the legislative session. The legislative session ends probably March-April. And at that time, we will know whether or not we will have funding for July 1st, 2018, forward.

We will have a board meeting in June, I believe it is --

CHAIRMAN FOX: Yes.

MS. JEFFERSON: -- so we will know something, you know, closer to time. We will be able to come back and make another report. If we see that we're not going to obtain funding, then we need to prepare to have our -- I guess, go back and take a look at the rules to determine what we need to do.

We already have information in place because we were prepared to go forward with the rules before. And we were instructed to hold off on that because we were going to try to do it through the budget. And so that's what we did, so we have everything already in place.

With the board's help, we considered all of the devices and a fee structure. We came to an agreement, as far as that's concerned. We came to an agreement, as far as inflatables, because we took the inflatable devices outside of that. So we have a Plan B. In the event that we have to propose that, I believe we have to --

There's no certain date to propose the rules, right?

MR. BAILEY: No. There's no, like, drop-dead date, but there's time frames involved in getting the rules passed and implemented. And if it involves a fee increase, if that is not done prior to July 1, then the fee increase would have to wait until the following July 1.

CHAIRMAN FOX: Okay. And that's the reason I don't want to get caught in the box. I want to be able -- again, I want us to look forward. And if we do not get funding, I would, first of all, ask that you notify the board, one way or the other, whether we're getting funding or not. And second of all, if, in fact, we're not, then we need to know the dates, or whatever it is, to make sure that we get in the next session's funding or whatever process we're going to do.

MR. BAILEY: Just to be clear, though, given the time frame of when we will find out whether we get this reoccurring funding, and given the time allotment for getting a rule passed, it would not -- I don't see it getting done before this July 1. So it would be July 1 of 2019, if we have to go that route.

MS. O'CONNOR: If we have to go that route, would a specially called meeting prior to the June meeting help? Because I know we have to have the wait period for a public hearing and all of that. So if we knew that we weren't getting funding through the budget and we called a specially called meeting in April, early April, for example, would that help our time frame to get it through this coming budget?

MR. BAILEY: What would be the purpose of the special-called meeting?

MS. O'CONNOR: To move up the timeline so that the timeline -- the wait period happens prior. Because if I'm understanding it, if we don't get it in during this time frame, then we don't -- we're kind of in limbo for a year, until it gets in for next year's budget; is that correct?
MR. BAILEY: Yeah. Unless -- well, unless there's some temporary funding that's given to carry us to the next July. But the rulemaking process -- if you're talking about fee increases, you're going to have to have rulemaking hearings where you -- which those are open to the public.

MS. O'CONNOR: Right.

MR. BAILEY: You've got to schedule those. You've got to decide you're going to have more than one. You've got to respond to all the comments, submit all that to the AG's office, wait for their approval -- this is first after you have gotten the governor's office approval, which we didn't the last time. And then once the AG's office approves it, then it's got to be submitted to the Secretary of State's office, and then there's a 45-day waiting period once you get to that point before the rule becomes effective. So I don't see how it can happen before this July 1.

MS. O'CONNOR: Okay. So it can't happen regardless of when we start the process.

MR. BAILEY: Yes.

MS. O'CONNOR: If we started the process today, it can't happen.

MR. BAILEY: I don't see it happening.

MS. O'CONNOR: Okay.

MR. BAILEY: Unless the AG immediately approves it. I mean, if everything was, like, done as soon as I submitted it, there's maybe a chance, but that doesn't happen.

MS. O'CONNOR: Okay.

MR. BAILEY: It just doesn't happen.

MS. O'CONNOR: That's all I needed to know. I understood the time period.

MR. BAILEY: Right.

MS. O'CONNOR: It was just how short is that. Thank you.

MR. HALE: So just so that I'm clear, if we don't get reoccurring funding, then come July 1, we don't have any staff and we're back at ground zero.

MS. JEFFERSON: Well, we want to take a look at that, because as Dan said, there may be some other way to handle it. We know that, based on a past fiscal audit, it determined that we weren't supposed to fund it from other programs, fund the Amusement Device Unit using other programs' monies. So that's something we want to stay away from.

We don't know what's going to happen; however, I am hopeful, because we have made it, you know, really, really far compared to, what, 2013-2014. I think we've made lots of improvements, and I'm very hopeful that we will receive funding. So I don't want to alarm. That's not the intent. But the intent is just to kind of put it out there in front of everybody so they'll know what we're dealing with. Because it's not as easy, as Dan said, for us to move things along. We can actually move it out of our office, but just because we move it and give it -- place it in the hands of someone else doesn't mean that it's going to necessarily be expeditiously more expeditious, or as expeditious as we would like for it to be. I'll put it like that.

MR. HALE: But it's time that we get past putting a Band-Aid on stuff. This whole program has been managed along -- not by y'all's fault. That's not a criticism on y'all's part. This whole funding situation has forced this program into, you know, let's put a Band-Aid on it to get by another year, and it's time that we step up and continue to move forward. I mean, we've made some great progress, you know, especially with folks getting through the first level of inspector certification. I don't want to see us back in limbo again. And it seems like we get up and we crawl, and we even get up to walking, and now we're up to sort of maybe even jogging, and I just don't want to see us back crawling again.

CHAIRMAN FOX: Anything else?

Ms. Kelsey, can you help us out here just a second?

MS. KELSEY: Absolutely. I was reoccurring funding, they might would grant, like, a temporary funding, you know, like, a one-year temporary funding and say, "Figure it out through the rules. You've got one year," kind of thing, so as not to shut the unit down. That was the point I was making.
part -- and I did want to reiterate what Ken said. We were part of the budget process. We went before the budget, which we had minimal -- we're about 88 percent totally funded. Our ask of the Tennessee General Assembly was very small. Okay? And it was clearly articulated to the governor's office, as well as to the budget and to the committees, that this is a nonfunded, a mandatory nonfunded division. And so it is definitely on their radar.

And to Kim's earlier statement, we're waiting on the budget to be approved. But we have done a really good sell to make sure that everyone understands the importance of this division.

There was some dialogue, I think, with some of the legislators, but it has not been approved. But, you know, our hope is that it would be approved. That is our hope, our goal, and our objective. But I think they clearly understand this is nonfunded.

And they ask a lot of questions in the process during those hearings on how we got to that point. And we clearly articulated the fact that we were taking, previously -- prior to Commissioner Phillips being in the role, we were taking funds, and it was an audit finding. So we can't continue to do that. So I think everyone understands the importance of this division being funded, and I think the ask, again, was very minimal, considering the budget request from our department.

So we're fingers-and-toes crossed on this one. We're really hoping that this will go through. We don't see any issues with that, but, again, we won't know until the governor's budget is passed by the legislators.

CHAIRMAN FOX: Would there be any notification from them early on if, in fact, they were going to approve it?

MS. KELSEY: I have just texted our liaison to see. We have not heard anything. I haven't. We have not received any -- it's pretty fast-paced up there right now, so I don't anticipate -- I think the anticipated time is the latter of March or the first or second week of April, that they should be -- so we should hear something within the next few weeks. That's our anticipation. We don't anticipate that the legislature will go on further, but, you know, we don't know that for sure.

MS. JEFFERSON: Sure.

MR. HALE: And I'd like to clarify that I, in no way, was being critical of what y'all are accomplishing. I think that all of you have worked diligently to move this to where we need to be. I really was seeking whether I -- we, as a board, could do something to be more supportive, additionally supportive, of what you-all are trying to accomplish.
ride these amusement devices all across the state would be protected. Our goal was to ensure that nothing like that happened in Tennessee. And out of an abundance of caution, the Commissioner decided to prepare -- he asked the unit to prepare a list of similarly situated devices. And to the best of our ability, we've prepared that list, and that's the list that is located on the website.

We have sought legal advice from the attorney general's office. The attorney general's office, when they contact us -- we haven't heard back yet -- but once they contact us, we hope that they inform us on whether the ban shall stay, shall remain as it is, whether or not it should be modified in any way, or whether or not it should be lifted altogether. So we're just waiting to hear back from the attorney general's office.

CHAIRMAN FOX: Okay. Any questions?

(No verbal response.)

CHAIRMAN FOX: There's some other folks here to speak to this. And with that, unless Mr. Bailey, is there an objection to these folks talking to us on this?

MR. BAILEY: No.

something -- I mean, what did you use to come up with these 18 rides?

MR. HARDY: We were told to -- that the previous ban came out just after the tragic accident in Ohio. And going into the end of the calendar year, we were told that we would continue that, and also, that the ban would be enhanced. We wanted to also include similar devices from other manufacturers. And that's -- as Kim said, to the best of our ability, that's what we put together and came up with.

MR. POPE: Similar in appearance, similar in engineering?

(No verbal response.)

MR. POPE: Just similar.

MS. JEFFERSON: Some of the criteria that we looked at -- we looked at other states, because the device at issue was the Fireball, from what I understand.

CHAIRMAN FOX: The KMG Fireball.

MS. JEFFERSON: Uh-huh. And so we took a look at other states to see if they had banned, because after the accident, other states banned certain items. So we took a look at the Internet. We googled; we found other states. We actually took a look at what they had banned. If they had banned a similar device, we added that to our list. That's how we obtained our list. We didn't go through, as far as engineering, manufacturing, all of that, because we're not -- that's not our expertise. So we took a look at devices that were similar to the Fireball.

MR. HARDY: And those similarities include a pendulum, sweeps, and with gondolas that go 180, 360.

MR. POPE: So just basically appearance, then, appearance rides, is what we're -- pendulum rides, in general.

MR. HARDY: Pretty much.

MR. POPE: Okay. Can I ask one last question?

CHAIRMAN FOX: Absolutely.

MR. POPE: Do we have legislation in place that lets us ban those rides if they have not had an accident in the state? Because the way I read the legislation is that we can shut down a ride if it has an accident until something is decided upon, until that ride is reinspected. So do we have legislation in place that lets us do this?
MS. JEFFERSON: Well, actually, out of an abundance of caution, there may be, and that's what we were -- that's why we reached out to the attorney general's office, so they could let us know whether or not the Department can do that in the event that something like this happens, whether -- we want to know how far does his authority extend. That's what the attorney general's office will tell us. And certainly, you know, you're a commissioner of a department, there's certain things that -- you know, if there's an emergency, I would think that you would have the ability to do certain things. However, that's just my interpretation. I may be totally wrong. And that's why we're going to reach out, and we're reaching out to the attorney general's office for them to make that determination.

They may come back and say, well, we overreached. And the Commissioner has said he has no problem with that. If they tell us that we've overreached, we need to lift the ban, that's what we'll do. If they tell us that we need to modify this and look at other criteria based on what the board can provide us, then that's what we'll do. But if they tell us that everything that you did is okay, then we'll leave that ban in effect the way that it is. So it just depends on what the attorney general says.

MR. POPE: Chairman, my question and my concern would be that the attorney general's office is not privy to the specs on these rides and things that we've done, other than what we may send to them now that we're asking. If we're going to leave it in their hands to decide, I feel like they're going to be making a decision without any knowledge or experience, if you would, as to what you're doing.

MR. HALE: That was kind of my question about --

MR. POPE: I kind of thought that would be what the meeting today was about.

MR. BAILEY: If I may, the attorney general's office is strictly going to rule on whether the statutory language gives the Department or the Commissioner the authority to preemptively issue a ban of rides that have not had an accident in Tennessee. So, I mean, looking at the specs and looking at things like this is not going to have any relevance on their decision at all. It's strictly reading the statutes and the interpretation of the statutory language to determine if the Department possessed -- if the Legislature has given the Department the authority to do what we did. So that's it.

MR. POPE: I'm going to refrain from any other questions for right now. But I have others.

CHAIRMAN FOX: Okay. Well, that's what we're here to do. We're here to talk about this and hopefully come up with a solution or a recommendation. Sir?

MR. SHEEHAN: Thank you. I appreciate the time here. I am an attorney, and I've represented the industry my entire legal career. And just so you know, I'm not just talking as an attorney. I'm a licensed aircraft mechanic. I worked five years as an amusement ride mechanic before I went to law school. I am the only attorney in the United States to have a Level 2 NAARSO inspection certificate. I give back a lot of my time to help keep this industry safe. I've been on AIMS board of directors, who I'm representing here. I'm involved with IAPA, the International Amusement Park Association. I've been on their board of directors. I'm currently on their global safety committee. I'm also on their global manufacturers and suppliers committee. I represent many manufacturers across the U.S. and internationally. So I do not take safety lightly, and I work very hard and give away a lot of my time to keep the industry safe.

That said, I think it's inappropriate for this state or any other state to take an action without understanding what really happened in Ohio. And from what I've observed, I see a knee-jerk reaction. We see rides banned because they're, quote, "similar." We see the Fireball banned because it had this incident in Ohio.

Can I ask what research was done with regard to the Ohio incident?

MS. MS. JEFFERSON: Well, actually, after that accident we were in touch with several of the third-party inspectors. We obtained the accident reports. We actually took a look at -- like I said, we Googled. We actually found other states that had banned that particular device. So we did do research, and I had the amusement device
manager to actually perform additional research prior to the ban.

MR. SHEEHAN: Do you realize that the Fireball is not banned in Ohio?

MS. JEFFERSON: Well, that -- I understand that, but Tennessee wanted to ensure that the people here were safe. Because we have had accidents. This stems from -- it's not a state -- Tennessee is not a state that is -- that hasn't had amusement device accidents, because we'd had an amusement device accident the year before last, and three little girls were severely injured. We take it very seriously. So what we did -- this is out of an abundance of caution, like I said. It's not that we wanted to be arbitrary, capricious, or anything like that. That wasn't the goal. The goal was public safety. However, in the event that we have overreached, we're willing to do what's proper. That's what I want to stress.

MR. SHEEHAN: Well, I appreciate the safety goal, but I do feel what happened here was arbitrary and capricious. And I've presented to you a booklet I'd like to walk through where I have a series of photos of the Ohio ride. When the incident first happened, there was misinformation in the news that this was hidden corrosion that could not be detected. And I know a lot of states have reacted because of that news article. Well, that was incorrect. In the words of our President, that was fake news.

And I'd like you to see actual photos of the ride, which I'm presenting to you right here. If you look at Tab Number 1, this is a control panel of the Ohio ride. And as you can see -- I'm sorry. I've passed out all the booklets I have. If you don't find sharing, I would appreciate it.

If you look at the second tab, this is a photo of an electrical box on one of the sweeps. As you can see, there's corrosion that's eaten holes into it. And that's clearly very visible.

The next tab, Number 3, is from the incident sweep. And as you can see, that also had corrosion holes, and the incident pulled the wires right through the bottom of the metal. That's how weakened it was. If we look at Tab Number 4, you can see what appears to be a crack. And when you're an inspector, if you see what appears to be a crack in the paint, you're supposed to assume that there's a crack in the current metal underneath. And so this is a different sweep, and as you can see, there's what appears to be a crack.

If we go to Tab Number 5, we're yet onto another sweep. And as you can see, at least, the paint is cracked here.

If we go to Tab Number 6, we have yet another sweep with what appears to be a crack in the paint, at least.

If we go to Tab Number 7, you can see that there is a hole that was used to mount a cover to the sweep, and you can see rust leaking down the outside.

CHAIRMAN FOX: Mr. Sheehan, may I ask a question?

MR. SHEEHAN: Yes, sir.

CHAIRMAN FOX: Is this a weep hole, or is this something that has been placed into the side of this? Or did someone drill this?

MR. SHEEHAN: That was something that was placed into the side of it.

CHAIRMAN FOX: So it's not a weep hole.
this ride that, in fact, were visible.

And if we go to Tab 12, again, addressing the fake news about this being an interior closed-beam, unable to be inspected, what we have here are the gondolas removed from the ride. And each and every time that ride is moved, the gondolas come off. And as you see in this photo, you can stand on the seat and look inside that box beam and observe what's going on there.

So with all the other indications on the outside of the ride, there was certainly cause to look inside. And it was not impossible to do. It was very easy to do, as you can see here.

The next tab is the data plate on the ride. This was a 19-year-old ride. How many pieces of capital equipment do you have out there in 19 years of hard service without being properly inspected, without being properly maintained, without problems?

This ride, during the off-season, would be sent by ocean freighter to play in the Caribbean. So it was exposed to a corrosive environment. And that's evident by the photos with the rust and the cracks. Immediately after the incident, what did KMG do? They issued a stop-operation order on every one of their rides. They sent it out to every owner. Why? Because they wanted to do a proper inspection, a proper analysis, to figure out what happened to make sure it doesn't happen again.

So all the rides were shut down by order of the manufacturer. That's what's supposed to happen with their system, and that's what ASTM is all about. And then what did KMG do? They followed up with the service bulletin, which is at Tab 14, instructing how to do proper inspections on this area of the ride, how to do a nondestructive test. And if the ride passed, it could be put back into service. If there was a marginal issue, the ride would remain in service with a lower, you know, arch to reduce the forces.

Just through the end of last year, after December 31st, those rides were not allowed to operate unless they passed the NDT test or if they received entirely new gondolas. And that service bulletin remains in force to this day.

So what we're saying right here, you know, in the state of Tennessee, is we're going to ground every single airplane that has a certain type of tail or a certain kind of action, whether or not there was, you know, an FAA bulletin to correct it. There is a service bulletin out to correct this. There is a service bulletin out for your team to do the proper thing to make sure that the inspections are done, that the NDT is done, that that ride is safe to operate.

What about the owners who have a one-year-old Fireball who have done everything right, a five-year-old Fireball and everything is perfect? We're not going to allow them to operate because of one incident in another state on an aged ride that had some inspection issues? That's arbitrary and capricious to deprive the manufacturer the ability to sell those rides, the ability of the owners to operate those rides, and that's just not proper.

If we go on to the next tab, I worked, you know, donated my time with a whole group of manufacturers following Ohio State. What did we learn? What can we carry out to the entire industry to prevent anything like this from happening? To tell you the truth, this happened to be a KMG ride, but if corrosion is present and people are overlooking it, it could have been any manufacturer's ride. It didn't have to be a pendulum ride. It could have been a roller coaster. It could have been a Ferris Wheel. It could have been anything. And I don't think you're about to ban all the rides.

So what we did is we worked together collaboratively to come up with a bulletin to instruct regarding corrosion inspection. The one that I attached here was the first to issue the Chance bulletin. And since then, other manufacturers -- ARM, Larson, Battech -- have issued similar bulletins, and other manufacturers are following suit.

So really, the issue is let's beef up our inspections; let's make sure that everything is correct; let's do our NDT and rides are safe to operate. This is not just a Fireball issue. Again, it happened to be that ride.

I also included, in what I handed out to you, an article, a news article. And there is an interesting quote from the plaintiff's attorney. And obviously, the plaintiff's attorney is charged with protecting his client's interest. And, you know, they're going to do so very aggressively. And I can read the quotes here:
that he believes that state inspectors, quote, "failed to adequately do their jobs," end quote, and that the ride was a, quote, "visible bucket of rust."

So once again, there was nothing hidden here, that this was, you know, discoverable and that the ban on this ride or any other similar rides is totally inappropriate. We have a service bulletin that addresses the issue of the corrosion on the KMG ride that instructs how to do the NDT test, and what's acceptable and what's not. You know, with that present, I see no reason for there to be a ban on the Fireball or any other similar rides.

And I'm happy to address any of your concerns or questions. I appreciate the goal, just not how we're going about it.

MR. SHEEHAN: Thank you.

CHAIRMAN FOX: Any questions from the board?

MR. HALE: Do you agree that Florida's response of requiring additional testing, additional NDT, for instance, is an appropriate response? Florida's regulations have changed and required some additional testing and so forth. Is that a more reasonable response?

MR. SHEEHAN: Definitely more reasonable. You know, this bulletin sets out great detail, what NDT needs to be done on the Fireball. But if the State wants some additional NDT, you know, to raise their comfort level, that's appropriate, as opposed to banning rides. The issue is the corrosion, it's detection in prevention of it continuing to operate in a deficient condition. Not banning rides. That's not what we're about.

CHAIRMAN FOX: Any other questions or comments from the board?

MR. SHEEHAN: Is there any procedure that the, you know, commission follows in trying to decide what rides could be or should be banned? I would sort of like to know how it came about.

MS. MS. JEFFERSON: Well, this is, like I said, based on what happened with those three little girls that were injured in Greenville. As I said, Tennessee is not a state that hasn't been without accident. So our goal was just to take preventative measures so that nothing like that, at least under our watch, would happen. Because after that happened -- of course, you know, it was a national disaster, as well as a disaster for those children and their families. So our goal was to ensure that nothing like that happened. We were just trying to take an extra measure of caution to ensure that nothing that like that happened in Tennessee. And that's our goal.

In the event that the attorney general's office decides that we overreached, I would certainly rather be on the side of caution and to say that we tried, in the event that something happened and -- you know, everything forbids that something like that happens in Tennessee again. But we just wanted to be on the side of caution, and that's why we took those extra measures.

It was not -- in my opinion, it was not arbitrary and capricious. We didn't set out to do anything to cause these companies harm. But at the same time, you have to weigh public safety against what these companies were saying. You know, they said the devices were safe, however, during the time of the Ohio accident, if I remember correctly, three different inspectors -- and that could include the state inspectors -- they actually inspected that device. And out of all those three inspectors, nobody found anything wrong.

So our goal, again, was just to protect. And what's we do within this entire division, workplace regulations and compliance. What we do is protect the public to the best of our ability from those type of situations.

MR. SHEEHAN: I understand and, again, appreciate that. But we have the whole spectrum of banning every single amusement ride in the world and keeping everybody safe, or having some standard to apply, whether a ride can operate or not. And that's what I'm looking for. Is there a standard that you're applying, and how do we know that we can meet a standard?

MS. MS. JEFFERSON: Right. And that's what this information will do. It will better enable us to take a look at as standards. Because, like I said previously, we're not -- as far as what these folks do, they just recently became certified as NAARSO inspector ones. So as
you can see, prior to that time, of course, we
didn't have anyone who was even certified or --
MR. SHEEHAN: And that's great.
Congratulations.

MS. JEFFERSON: Yes -- who was
in a position to even make those type of -- even
take a look at this information and even
understand it and interpret it. At least now we
do have folks who can interpret it. But like I
said, the attorney general's office, once they
give us more direction -- we look to them for
guidance so that we can see where to go from here.

MR. SHEEHAN: And I'm happy to be a
resource to you and your team or even the A.G.'s
office. Again, I see too many sad events, you
know, with what I have to deal with that I
certainly want to prevent.

MS. JEFFERSON: Thank you.

MR. BAILEY: Mr. Chairman?

CHAIRMAN FOX: Sir?

MR. BAILEY: How is it that, do you
think, these rides passed the inspection at Ohio
prior to this accident?

MR. SHEEHAN: That is a great
question. And I think it's going to come out in

MR. BAILEY: And, also, these
manufacturers' bulletins that you have here, and
these are both in effect currently, correct?

MR. SHEEHAN: Absolutely.

MR. BAILEY: You know, our
statute -- in the statute it says the rides must
meet ASTM or ACCT standards. As long as they meet
those standards and they're insured, then we're
supposed to permit them. But certainly, I would
imagine, and I'm pretty sure it does, the ASTM
standards require that you follow the
manufacturer's recommendations.

MR. SHEEHAN: Absolutely. Including
the bulletins.

MR. BAILEY: Right.

MR. SHEEHAN: Yes, sir.

MR. BAILEY: Now, have these
recommendations, these bulletins here been
distributed to all amusement device inspectors?

MR. SHEEHAN: The pilot, the way
it's required to be distributed is to the owners
of the rides, which was done. And in this
instance, because I have involvement with NAARSO,
we sent a copy of the bulletin to NAARSO for
NAARSO to distribute. NAARSO also has a website

MR. BAILEY: I mean, because these
pictures are -- and I'm sorry. I didn't mean to
interrupt you. But it seems like there's some
pretty obvious, you know, red flags that should
have been spotted, and they weren't.

MR. SHEEHAN: You know, I really
can't answer that. And it is under litigation.

You know, just a personal viewpoint, I don't know
if sometimes the inspectors get fixated on an
assembly inspection, you know, is everything
bolted together correctly, as opposed to, you
know, let me look at the whole thing, let me look
at everything. But it's an issue where three
different sets of inspectors allowed this to run.

MR. BAILEY: Do you know if they
inspected it with the gondola arms off where they
could look at --

MR. SHEEHAN: I don't have an
answer for that. But, you know, as you can see in
the photo, it's very easy to do.

MR. BAILEY: Right. But whether it
was done is the question.

MR. SHEEHAN: That's the question.

MR. BAILEY: So as I see it, if the
ban on the ride is lifted at some point in time,
with these manufacturers' bulletins being in
effect, Tennessee inspectors would have to take
those into account when performing inspections.
So they would have to take into account the
corrosion aspect. Like, in this KMG, it gives
three different procedures for inspecting.

MR. SHEEHAN: Correct.

MR. BAILEY: And as I understand
it, if it flunks any one of those, do not operate.

MR. SHEEHAN: Absolutely correct.

MR. BAILEY: So I guess that's
something that, you know, if these rides come off a ban list, I would certainly want our unit to communicate that to any third-party inspector that is part of your inspection process now, and any other bulletins that are out there.

And you say they're on the NAARSO website, right?

MR. SHEEHAN: That's correct. And you're going exactly the way the bulletins are meant to go. The state inspectors are really an important tool to make sure that the bulletins are followed. So if the state inspectors, you know, have this, you know, they can make sure that the third-party inspectors have followed it and checked it off.

Are you aware of the bulletin?

MR. HARDY: Yes. Yes, I am.

MR. SHEEHAN: Great. Great. So, you know, again, as long as we have the proper thickness that meets the manufacturer's specifications, it's no different than any other ride, brand new or otherwise. And, you know, basically, KMG has been requiring gondolas to be replaced. And so if you have a ride operator with new gondolas or gondolas that passed the inspection, it's good to go.

MR. SHEEHAN: Absolutely.

MR. POPE: Mr. Sheehan?

MR. SHEEHAN: Absolutely.

MR. POPE: Would you explain to the unit that this is not something new, that this has been done for years and years and years, as far as bulletins, from all ride companies and manufacturers?

MR. SHEEHAN: Absolutely.

MR. POPE: And I'm going to put it in areas that weren't as sensitive as this may be and as sensitive as this may be. The manufacturers have always been required to issue bulletins where there's a safety issue. And I worked with ASTM. I've been on that committee over 30 years and helped draft the bulletin process. And what I did is I adopted what the FAA does, in terms of what they call airworthiness directives. And there's different levels, you know. The ones that need to be done in so many days, those that are just a notification, you should look out for this. In those that are mandatory, you've got to do it right now. Because if you take a look at the KMG bulletin, it's safety alert with the red. And the colors are part of the ASTM bulletin hierarchy. If it's red, you shut it down, and you can't run until you comply. Same thing with an aircraft. And so, you know, this bulletin procedure has been out there for years. It's mandatory on the manufacturers. And, you know, in terms of the investigation in Ohio, the CPSC, the Consumer Product Safety Commission, actually has inspection, it's good to go.

MR. BAILEY: And as I read this memo, it depends on the age of the gondola, as to what procedures you follow.

MR. SHEEHAN: Yes, sir. The bulletin speaks for itself, as we say.

MR. BAILEY: Right.

CHAIRMAN FOX: Mr. Bailey, I might just break that down into laymen's terms. If you don't adhere to the bulletin as an inspector, you do so at your own peril. And not to mention people getting hurt, but the onus falls back on you as an inspector if you do not adhere to that or make that company who owns that adhere to that bulletin.

MR. BAILEY: Yes, sir.

CHAIRMAN FOX: That's Fox terms, as we say.

MR. BAILEY: Well, and -- I mean, as I see it, that is part of the inspection process.

CHAIRMAN FOX: Yes, sir.

MR. BAILEY: As long as that manufacturer says this is how you inspect our rides, that's as good as a rule or anything else.
jurisdiction over portable rides, but not over fixed park rides. For whatever historic reason, that's the way it is. So the CPSC was involved with inspecting the Ohio state incident. I worked with their investigators. The CPSC, as you know, has great power to recall anything -- lawnmowers, toasters, you know, whatever else -- and they could have issued a recall on the Fireball. They did not. Between their investigation and the service bulletin, the CPSC was satisfied. And this is an over-arching organization that has jurisdiction in every one of our states. So that's something else that I suggest you consider, too, while you're deciding how to move forward.

CHAIRMAN FOX: Any questions?

MS. O'CONNOR: I have one. And I don't know if this is for Mr. Sheehan or Mr. Hardy.

In general inspections, when there isn't a bulletin, just your average inspection, how much is corrosion the target?

MR. HARDY: Well, from what Kevin and I learned in the seminar, yes, it is. Visual inspection is the most common method of nondestructive testing inspections. MR. SHEEHAN: Absolutely. And the goal of the visual inspection is to determine whether any further level of NDT is required. Because there's a visual inspection. That's, you know, the most crucial one. And then you have

what's called dye penetrant, where you can find out if there are cracks; and then there's ultrasonic; there's magnetic particle. There's a whole series. And normally, the visual inspection tells you whether you need to go to a higher level, unless, like in this bulletin, the manufacturer identifies a higher stress area, and then gives an interval for the higher-level inspection -- again, magnetic particle or ultrasonic. So hopefully that answered it.

MR. POPE: If I can break it down a little bit more in laymen's terms. I own a few rides, and the visual inspection, absolutely, is one of the most commonly used. And in my lifetime and the way I have done things in other states and through different inspections is -- like I said, they know the stress areas of these rides. When accidents like these happen, these are documented to record it, and that goes on to further amusement ride owners and things like that. So it's a -- you know, there's rides out there that are 50 years old. There's rides out there that are 60, 70 years old.
MR. SHEEHAN: Some that are 100 years old.

MR. POPE: That's exactly right. And, you know, that doesn't make them any less safe, depending on what stress areas there are and things to look at. And I'm going to refer -- and correct me if I'm wrong, but just like looking at the control box on the ride, it looked very bad. As long as the electrical inside of that control box was okay, then the control box doesn't matter as much as, say, the sweep would, which was a stress -- or a load-carrying beam. So that's where the difference comes, that each one of your inspectors should have that common knowledge and that common sense to know where to look and what to look for. And that's the way I see it. Correct me if I'm not saying it correctly.

MR. SHEEHAN: You're correct.

CHAIRMAN FOX: Anything else for time.

MR. SHEEHAN: Thank you for your question, slash, comment. In looking at this, and also reading the article, it mentioned that, you know, there was an opportunity for these mobile to -- for moisture to enter during transport. I would have felt a lot better if KMG had said we need to plug that up during transport. But in addition to that, it does mention that -- well, from what I've read in their service bulletin, the procedure D must be performed every 20 operating days. And that's the only repeated test that I see in this. Is there another that I've missed?

MR. SHEEHAN: That was for the rides that had some reduced-wall thickness, but enough to maintain operation through December. So that part of the bulletin has phased out.

MR. MOORE: Okay.

MR. SHEEHAN: So either it meets the entire criteria or it doesn't, at this point going forward.

MR. MOORE: And is there a paper trail? Because from what I understood, it said that once these inspections were maintained or performed, it had to be sent back to the manufacturer. So we should be able to request that information from the manufacturer from where these --

MR. SHEEHAN: Where you should get it from is from the operator. The operator is to maintain a copy of their own.

MR. MOORE: Okay.

MR. SHEEHAN: So when your third-party inspectors are there at the carnival, the carnival should have those documents for your third-party inspectors to verify. If they don't have the documents, the ride doesn't operate. It's that simple. So, you know, out of an abundance of caution, KMG wanted copies so they could learn what's been happening out in the field.

MR. MOORE: And I guess all that, to my point, is this was a 19-year-old ride. And there's nothing wrong with a 19-year-old ride. We've still got elevators in operation from the '30s at my company, so it's excellent equipment. However, if there's nothing done to prevent this, a five-year-old ride can corrode bad enough to where this could happen again.

MR. SHEEHAN: Especially in corrosive atmospheres.

MR. MOORE: Absolutely. And maybe -- I guess what I'm saying is if it could happen at that point, it could happen at any point, depending upon the corrosive environment.

And I question metal fatigue as much as I do the corrosion itself. Especially what appears to be a significant stress point in the ride where it did, in fact, crack.

But I just feel like there needs to be -- and I'm not laying this on you -- I'm just saying that if you ever have a failure, that's the primary spot to look. It looks like, to me, that yes, this is supposed to happen. Now, how frequently does it happen after that? How often do they go back and do this testing to make sure that there's no internal stress cracks, no corrosion that's -- I know it happened once. I mean, we've got that evidence. But how often do they do that? Is there requirements?

MR. SHEEHAN: Again, typically, it's done yearly.

MR. MOORE: Yearly.

MR. SHEEHAN: Yeah, in the high-stress areas once you know there's an issue. You know, amusement rides are unique devices. There's nothing else like it, you know, out there. And so the feedback from the field, from the inspectors, becomes important. And when an, you...
MR. SHEEHAN: Yes, sir.

CHAIRMAN FOX: The initial stopping of this ride operating in the state of Tennessee, I think, was the proper move, until we found out more evidence.

MR. SHEEHAN: Agreed.

CHAIRMAN FOX: So I just wanted to clarify that. I think the unit made the proper move in stopping that particular ride from operating.

MR. SHEEHAN: No problem.

CHAIRMAN FOX: We just needed more information.

MR. SHEEHAN: I'm happy to give you whatever information I can. So again, thank you for your time.

CHAIRMAN FOX: Thank you, sir.

Mr. Johnson, you just happen to be sitting next to the wall right now.

MR. JOHNSON: I was going to wait for him.

Good morning again. Bob Johnson.

I'm president of the Outdoor Amusement Business Association. We are a national trade group for over 53 years representing the mobile amusement industry. And that includes carnivals, circuses, food-and-game concessioners and others associated with the portable industry.

We, as an industry, rely on our county and state fairs for major revenue during the seasonal months. Typically, depending upon the season, my state of Florida as an example, we are running full board right now with many county fairs and having just finished up the state fair, going into other big fairs coming up in the near future. So we have -- and I might add, also, that I chair the advisory board for the State of Florida, as appointed by the commissioner of agriculture. And we have all the big parks represented on the board, and we inspect and permit -- I should say permit over 10,000 amusement rides, okay, to give you an idea of the size of the amusement industry in the state of Florida.

But I'm glad to hear that the state of Tennessee is open for business, and you-all are rising to the occasion with your inspections and your permitting, and that's a good thing.

And again, I can't criticize what you did. I think it's appropriate under, you know, the reaction of many states. I dealt with the state of Illinois; I've dealt with North Carolina; I've dealt with Georgia. We're dealing now with your state. And many other states have had similar reactions.

I think, you know, I'm not going to be critical of how you did it or what you did or whether the board was involved or not, but -- you know, that's your business -- but, you know, we as an industry, you know, rely on the revenue stream from these rides. And you'll hear from Mr. Reithoffer here shortly, a major carnival operator with a great deal of experience and a very large company that deals in -- works in many states throughout the northeast, and the west, too, for that matter; as far west as New Mexico. So our members, when this happened, were very, very concerned. And I guess you could say it was a wake-up call. The catastrophic effect of this ricocheted throughout not only theme parks, the carnivals, and the entire manufacturing industry, that Mr. Sheehan alluded to.

Now -- and I have to tell you, in my 40 years of experience in the amusement industry with Six Flags theme parks and 23 years with this trade association, accidents are going to happen. We can't minimize those accidents. And -- we can minimize the effect, but we can't say that we can a hundred percent assure you that you'll never have an accident on a ride. There will be. And they're caused by -- as we know, in the state of Florida, 60 percent of the incidents in our state are caused by patrons misbehaving, doing things they shouldn't be doing, not following the safety rules or posted signs or whatever, or the operator instructions. So things do happen, and -- but we're trying to mitigate the accidents and the incidents.

Yes, we come under the CPSC jurisdiction. They have attended the ASTM meetings recently in New Orleans. They wrote a rather lengthy report to the ASTM body. As a
result, the ASTM Standards, F-24 Committee standards-setting organization with some 38 states that recognize the ASTM standards, you know, quickly reacted to this. And I say quickly because ASTM doesn't react very quickly in many cases. It took six, seven years to develop a manufacturing and design standard. But that's okay. They want to get it right. And there's over a thousand experts around the world that are members of ASTM.

So this is not -- this is a serious situation. The ASTM folks are reacting to it. I'm on their board, their executive board, and they very quickly energized an individual to be responsible for three subtask groups. They call them evolution groups in manufacturing and design. They also were concerned about operations and inspection and so forth.

But there's three groups that were working diligently, since October of last year to a recent meeting in New Orleans, to address some of these issues with metal fatigue and corrosion that weren't necessarily in the standards before. You know, such things as the NDT inspector's certification, their eyesight, their -- all kinds of things they're looking at.

So with those meetings that recently took place in New Orleans, we are going to see, as an industry, and those who are members of ASTM, which most carnivals and most theme park people are, that we're going to see some changes in these standards. And being an ASTM state, you-all hopefully will recognize those changes and will take a look at the inspection protocols in that regard.

So again, Mike, I appreciate your NAARSO certification. That's a good step, and I hope you continue to go further with NAARSO. And there's also AIMS, too. And somebody else can talk to AIMS, but I think it's a great -- it's a great program. And it's run by many state regulators and many people who understand ride safety and people that teach it and are third-party inspectors. So it's a great -- it's a great program.

We provide scholarships to both AIMS and NAARSO as a trade association, and we encourage our people to attend these. There's many other -- Pennsylvania has a good program. Northwest Showmens have a good safety program. There's a number of them. But AIMS and NAARSO are the two big ones that we recognize as certifying bodies for safety.

A couple of things: In my letter to Ms. Jefferson, you know, I pointed out the reaction of the industry when, you know, there's an outright ban to -- of certain amusement rides. I had a chance to talk with -- our safety board in Florida reviewed the situation well before the manufacturers came out with their bulletins and everything else. And, you know, I like to think that your state as well as Florida and others are proactive. We want to correct this. We don't want it to happen on our watch. None of us do.

I addressed the Commissioner of Labor in the state of North Carolina, and she said the same thing. Look, we can't have this. But, on the other hand, we can't have fairs without carnivals and carnival rides. Because the revenue stream for our county fairs that are promoting agriculture and where your food product comes from, and community -- you know, agriculture is important to the state. It's important to our state. It's important to every state.

So we need the fairs. They need us. And the revenue that's derived from the carnival rides go to improving capital for the fairs, capital in buildings and scholarships and a 4-H program and all of those things that are critical to this industry and to your agriculture.

So I think that -- you know, I'm not going to -- I'm going to open it up for questions because I could continue to talk on all morning. But I think that -- I would urge you, recommend that you, you know, reconsider. And I understand your attorney general is looking at the wherewithal and why the decision was made, but go beyond that and say, look, can we, as a board, look at what the manufacturers are doing? Can we look at what other states are doing, okay, that have already reacted to this, and are asking for additional NDT testing, et cetera? Can we reverse that and maybe, you know, make sure that our fairs and our state have -- and festivals have amusement rides that are good rides that should be operating, and operating safely to your patrons?

You know, again, we're not in the business of hurting people. That's not what we do. We provide good, clean, wholesome family
entertainment. And, you know, as I travel this
country and I address different safety commissions
and safety boards and hearings, you know, there's
not anyone in this industry that doesn't put
safety first and foremost. Okay?

Now, the company that had this accident,
they're a good family. They're a
fourth-generation family business. And
unfortunately, this ride was inspected in many
other states, inspected in Ohio before the
incident. So there's an issue that we have to
tackle, that everyone has to address. You know,
our inspection protocols, our third-party
inspectors, our manufacturers' bulletins, all of
these things. There's a lot going on.

Now, unlike theme parks, Mr. Chair, we
don't have lines of, you know, supervision to, you
know, look at this stuff. We don't have engineers
on our staffs, for the most part. I don't think
there's a carnival out there that has an engineer
on their staff. But we rely on the manufacturers
to tell us what to do. We have to. That's the
law, that's the rule, and that's the way we do
business.

So with that, I'm going to open it up

for questions.
CHAIRMAN FOX: Any questions?
MR. HALE: I'm going to make a
statement, and you tell me whether you agree or
not. A loss of a ride, a spectacular ride like we
have banned, has a major financial impact on
particularly a smaller carnival, but on all
carnivals.

MR. JOHNSON: Yeah. The
broad-brush ban, yes, certainly, it is. But, on
the other hand, you know, we can appreciate the
cautions and the reaction. But on the other hand,
and Mr. Reithoffer can address, you know, in his
comments, what a ride like that will bring in
terms of revenue, or spectacular rides like are on
this list can generate in revenue. But, you know,
it's not about revenue. It's about safety. And I
think --

MR. HALE: I agree.

MR. JOHNSON: Right.

MR. HALE: And I agree that it is
about safety.

MR. JOHNSON: Right.

MR. HALE: However, I think that if
those safety standards are met, if that ride owner
has been responsible and met all of the
requirements of the safety bulletins and all, to
lose that ride without cause is a major financial
impact for him.

MR. JOHNSON: Absolutely.

Absolutely.

MR. HALE: And that, in turn, is a
major financial impact to his fairs or festivals
that he's working.

MR. JOHNSON: Right. And there are
other carnivals in the room, too, David. The fact
is that many carnivals and, you know, a smaller,
family-owned carnival with maybe 10 or 15 rides,
can't afford these rides that are on your list,
okay, first of all. The ones that can, have
gerger events, larger county fairs or state fairs.

So, you know, when you look at the cost of a
Fireball ride today, you're talking a million
dollars. Think about it. These rides are more
than most homes, the cost of most homes, and the
fact is that not everyone can afford these type of
rides. But your larger county fairs, your state
fairs, your larger carnival operators or
independent ride owners will have these type of
rides, because they generate income, big revenue

for the fairs. Okay? Does that answer your
question?

MR. HALE: Yes, sir.

CHAIRMAN FOX: Yes, ma'am?

MS. O'CONNOR: I'm curious. And
this is not a counter-point. I'm just curious
with what Mr. Hale just said. Have there been any
studies done as to the effect of a serious
accident on the -- the financial impact of fairs?

MR. JOHNSON: Well, maybe

Ms. Pitcock can address that from the State of
Tennessee. I don't necessarily know. I can tell
you from my experience in the industry, the
biggest tragedy we had at Six Flags amusement
parks over the years that I was there, it was not
a ride fatality. It was a fire in a haunted
house. Okay?

So I can tell you the impact of that.

We were a 3-million-attendance park at that time.

It's the Great Adventure in New Jersey. The
attendance the following year dropped down to
about a million, a million and one. Okay? It
took us four or five years to rebuild, to get to
that level again. I mean, it -- you know, and it
was a horrible tragedy. Horrible. You know, you
can't minimize the effect on families and the community when something like that happens, and the media, too.

MR. REITHOFFER: I can speak to a little bit of that, the accident in Ohio. I don't think there was a fair, state fair or county fair, that we ran after that accident happened. It probably was worldwide, the effects of it, the impact that it impacted on us. And every place that we went to, every news media person wanted to know what we were doing to make sure that we were running a safe operation.

MR. BAILEY: Sir, if you would, state your name for the record.

MR. REITHOFFER: Richard Reithoffer, Reithoffer Shows.

MR. POPE: Chairman?

CHAIRMAN FOX: Yes?

MR. POPE: I would like to reiterate the same thing Mr. Reithoffer said. I was going to say the exact same thing. The fairs that we were setting at, post-accident, were absolutely -- people were traumatized. They were wondering -- they would come by, and much like this unit has done, "Is that the ride?" Well, no, that's not the ride. That is a similar-type ride. It's been inspected. It's gone through its process. Those rides -- Mr. Reithoffer, Mr. Seibert back there, the carnival that I was on, immediately -- the parks immediately shut down these rides, and, like I said, went through an inspection process, looked to the manufacturers for guidance, looked for the evidence coming out of Ohio. We were all -- you have never seen -- in our business -- and Mr. Reithoffer and Mr. Johnson both will tell you it's like wildfire. An accident can happen and within 15, 20 minutes, it's across the country. We're that tight knit. And I want to reiterate what Mr. Johnson said. There's not a carnival or amusement ride owner out there that wants anything but safe, operable rides. We do it to make a living. We do it to support families, just like my family, 94 years. Mr. Reithoffer said 150?

MR. REITHOFFER: 123.

MR. POPE: 123 years his family's done it. That's how he's supported his family. That's how his dad supported -- his grandfather. That's how my family did. We don't want accidents. We want safety, but we want to be able to operate also, you know, to the guidelines and specifications that are there.

MR. HALE: Let me clarify. I wasn't saying that revenue ought to take the place of safety by any means. If I believed that, I wouldn't have been sitting here for 12 years, or however long we've been here. We've been here a long time.

CHAIRMAN FOX: Whatever it is, yes. We've been here a long time.

MR. HALE: But instead, to say that if a ride owner has taken the proper steps and they have had the proper inspections, to shut them down because what it looked like, because it looked like something else, is a major financial blow to those owners. And as Mr. Johnson said, there are folks out there that maybe just own a ride. And so if he only rides this particular ride, you have destroyed his business, as far as working in Tennessee, anyway, because that's all he had to do.

If there's a reason to shut him down, then absolutely, he shouldn't move. But with that reason, you know -- that's what we have to consider, that there has to be reason to do this, other than it looked like something.

MR. POPE: If I could say, too, Mr. Johnson hit on the fact that the family that owned that particular ride is a very good family. They're a long-time carnival industry family. I personally don't -- I personally know that they would not have wanted this to happen in any way.

Obviously, there's some kind of fault there, maybe on their part. But just understand that like he said, they were inspected in a lot of states. Now, whether they had a false confidence in that ride or whatever, but this industry had never seen this type of accident either, until now. So that's why things are changing, and I do think that we need to look at that. I just don't think that the action that we're taking at this point is exactly the correct action.

Like he said, I think we're looking more at inspections, and now that we know that it's out there -- but it's no different than an accident on a Ferris wheel or something. That's what -- you learn from the accident. It's the same way in the automobile industry, same way in
the airline industry and the shipping industry;
you learn from accidents.

MR. JOHNSON: So again, you go back
to -- I'm sorry, just one more quick point on
that. To go back to the line of questions, we
were talking about, you know, following
manufacturer's, you know, bulletins, instructions,
manual, et cetera. That's what we do as an
industry. And without that guidance, we're at the
mercy of whatever.

However, you know, I think a lot of
companies go beyond that. A lot of companies go
beyond the NDT testing. So here we have a
situation where, you know, North Carolina and
Illinois and Florida and other states are reacting
to this, requiring additional NDT testing.
Manufacturers are reacting to this to make sure
that, you know, they have no more, you know,
liability in these issues as well.

So, you know, we as an industry are
all -- we're trying to work together to resolve
this thing. You know, it's not we against you
guys. It's the industry doesn't want this to
happen again. We're going to try to do our best
to prevent it.

So, you know, we need guidance from
the manufacturers. We need, you know, the states
not to overreact, necessarily. But we need a
rational, you know, sequence of things to happen,
starting with ASTM -- starting with the ride
manufacturers first; and then the ASTM; and then
other regulatory, third-party inspections; NAARSO;
AIMS; whatever, to help us. We are all in this
together.

And so, you know, don't -- let's not
hurt our county and state fairs in this state.
Let's not hurt the owner for, you know, making a
huge investment and having a good ride that is
well-inspected and design-wise it's safe. You
know, let's not hurt the industry.

MR. HALE: Do you serve on the
state board in Florida?

MR. JOHNSON: I chair the state
board, appointed by Commissioner Putnam.

MR. HALE: And you were part of
that group that made the recommendation for some
inspection changes in Florida.

MR. JOHNSON: It's now a statute,
yeah. It was a temporary thing. It's now a
statute.

MS. MS. JEFFERSON: This is sort of
off the subject, but since you're one of the
representatives there in Florida, how many stated
inspectors do you-all have?

MR. JOHNSON: Well, it's an
expensive program. Florida spends about a million
and a half dollars a year on state inspections,
and we'll have 15 state inspectors inspecting
mostly portable amusement rides as the season goes
on.

Now, the large parks in the state of
Florida have an exemption. And years ago their
lobbyist prevailed and they had a thousand
full-time employees. They were not inspected by
the State of Florida. I have no idea why that
happened, but it did. That's okay. But I can
tell you that every large park in Florida with a
thousand or more employees has an audit annually
by the State Department of Community and State
Fairs.

And they work together. We have
members of the theme parks on the board as well,
and they participate and work with us to develop
good safety protocols.

So, you know, we need guidance from
the manufacturers. We need, you know, the states
not to overreact, necessarily. But we need a
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yeah. It was a temporary thing. It's now a
statute.
up there that thinks, because of the Gedney
(phonetic) incident, that they should have
something -- they should have something more than
they do now.

But the fear is the state, one, can't
afford it; and secondly, that if the fees are so
extravagant, carnivals are not going to go and
support their county and state fairs. So that's
what you've got to weigh, you know, what can you
afford. And so if the onus is all put back on the
carnival owner or the ride owner, they're going to
say, "Whoa, maybe this is a state I don't want to
operate in."

So again, it's a fine line. You
really have to talk through this as a board and
understand the dynamics of your decisions.

CHAIRMAN FOX: Any other questions
for Mr. Johnson?

MR. JOHNSON: Thank you.

CHAIRMAN FOX: Thank you.

Let me recognize Mr. Johnson for
one -- I just think I need to tell the board this.
Back in 2002, '3 or '4, somewhere along in there,
Mr. Johnson came here. We met with some
legislators. We met with, actually, a different

and my sons are fifth generation. And this will
be the start of our 123rd season.

I came here because I think that it's
important for us to be following the rules and
regulations that Mr. Sheehan and Bob Johnson are
talking about. And I wanted you to know that I
own a Fireball ride. I own a Freak Out ride, and
I own a Technical Park Stinger ride. All of these
rides are pendulum-type rides; they're all super
spectaculars; and they all cost in excess of over
a million dollars. But my rides are safe. I ride
to myself. My kids ride them themselves. And I
wouldn't allow any of any patrons to ride them if
I didn't know that they weren't safe.

My ride is only -- the KMG Fireball
is only a year younger than the one that was
depicted at the Ohio State Fair. And five minutes
after that accident became known to us, which was
that very evening, probably 15 minutes after the
accident, we shut our ride down voluntarily.
The State of New Jersey came out the
next day and told us, "We're here to shut your
ride down." I said, "Relax, fellows. My ride is
already shut down."

We took it to the state fair the
following week and parked it in the back. I
contacted the folks from KMG, who I know
personally. They kind of gave me a heads-up as to
what we were going to be doing. We sandblasted
our arms, and we awaited the bulletin to come out
to tell us where we were going to have to get it
NDT tested.

We got the testing done while we were
at the state fair and sent the reports off to KMG
ingineers to tell us what we are going to have to
do to operate our ride.

The ultimate decision was that our
ride was in good enough shape that it could
continue to operate for the rest of the season, at
which time we were going to have to order new
gondolas. I made the decision for Reithoffer
Shows to take my ride and park it for the rest of
the season. I didn't want the bad media coming
out and saying, "Oh, is this the ride that had the
incident at Ohio?"

"No, it wasn't. It wasn't this ride.
It was a ride like it." But I didn't want that
bad media. And so we kind of got ahead of it to
try to stop the bleeding, if you will, for the
Reithoffer shows. But I do also own a KMG Freak
Out and the Stinger ride. I also own a KMG Speed ride and a KMG Tango ride. And these rides had to be NDT tested before they could operate the rest of the season, per the requirements that the state of Florida came up with and some of the other states that took immediate action to make sure that all these rides are safe.

Since then, this winter, bulletins have come out from every manufacturer all over the world and the United States talking about corrosion, interior, exterior, and so on and so forth. And we have spent the winter inspecting every piece of equipment we own to make sure that we don't have any issues.

I just opened up, since the end of the season, in Sebring, Florida. That's a smaller county fair. And then from there to Fort Myers. Fort Myers is a much larger fair. We have over 50 rides there set up. Every one of my pieces of equipment opened up on time without fail and without a problem.

My KMG Freak Out and my Tango all got inspected before I went into the state in October and were allowed to operate in Pensacola, Florida; and then from there, we jumped to the largest fair in Alabama, the National Peanut Festival.

So the rides are being inspected properly. We're making sure that they don't have an internal rust problem, and we're following all the rules and regulations to make sure that we're running a safe operation.

And for me, it's important for all operators to do this and do it right and to make sure that all the states kind of go along with this process so that none of these rides are shut down arbitrarily.

County fairs and state fairs need these big rides to get the revenue stream that they produce. I need them because it's a huge investment for my company. I have three of these rides. They're all over a million dollars. I've also ordered a brand-new set of gondolas for my KMG Fireball. That's going to cost us over $200,000 to bring those gondolas in and reinstall them onto the ride. I want the ride back. It's a great ride.

On my top 10, the KMG Fireball probably runs from Number 7 to Number 5, in the top 10 of best rides out there. So it's important to have these rides on our midway to offer them to our fairgoers, and we're going to make sure they're safe before they ride them. I'll ride them first before my patrons ride them. I still ride all my rides. I like my roller coasters the best, though.

But I just wanted to let you know what we do and how we do it, and to let you know that even though the ride might be 17 or 18 years old or even older, we can keep them safe. All we have to do is make sure that we maintain them properly, follow all our bulletins, and everybody works to make sure that we have, you know, a perfect set of equipment out there to run. And all of our state inspectors come out and check them out and make sure we're doing the job right.

And we travel through a lot of states that have great inspection programs that do that. And we also have some states that require third-party inspections to do that. All these different sets of eyes come look at me on a weekly or biweekly situation to make sure that the equipment is in good shape. And when they get done, I know we're in good shape. And I know that we can ride our customers and run a safe operation.

And it's important for all the states to try to follow everybody's guidelines and make sure that we do this. We've already done all the testing to start the new year off in the state of Florida. Brand new NDT testings on all these different rides. So we've done the work. We've paid for the work to be done. And we would like all the other states to take a look at these reports that we have to do annually, and show them what we've done, and they go ahead, and then they do their inspections, and boom, we're allowed to open. That's the process. It's how it works.

And it works very well.

CHAIRMAN FOX: May I ask you a question, sir? You're playing in Tennessee somewhere this year.

MR. REITHOFFER: I am.

CHAIRMAN FOX: Where at, may I ask?

MR. REITHOFFER: The Wilson County Fair for the first time. Very excited about being there, too.

CHAIRMAN FOX: Okay. How many pieces of equipment will you have there?

MR. REITHOFFER: I'm hoping to put in about 50.
CHAIRMAN FOX: Okay. Good deal.

MS. JEFFERSON: Do you retain your annual permit for Tennessee?

MR. REITHOFFER: I don't know if we've got them yet but we're planning on it.

MR. HARDY: Yeah. We talked to some of Reithoffer's folks down when we were at the convention, and we are already in communication with them. There shouldn't be any issues there. They understand the process and we're working with them.

MS. JEFFERSON: I have the same question that you had. I wanted to verify where you are playing; so it's just at Wilson County?

MR. REITHOFFER: Yes, ma'am.

MS. JEFFERSON: Okay. And the NDT testing that you refer to, how often do you-all normally have that performed?

MR. REITHOFFER: Typically, you would do it annually for each -- each state that you go into, you get it done, you know, once a year, and then you can bring those reports. Typically, we get them done in Florida, because they require them, and that's the first place I start off in the year. And then I bring them up. I have to give them to New Jersey, Maryland, Massachusetts. All the, you know, northeastern states that I play in, later on in the fall, we have to bring those same reports to North Carolina, South Carolina, and Georgia, and show them all those, and also out as far west as the New Mexico State Fair.

MS. JEFFERSON: Okay. So there wouldn't be a problem submitting those reports to Tennessee -- we have an inspection report that allows inspectors to actually upload those reports into our computer system. So I think that would be a great idea to go ahead and provide those, and Mike will be your liaison to help you to -- to help a representative from your company to do that.

MR. REITHOFFER: And it's something that we have to have anyway. It's a pretty standard industry thing.

MR. REITHOFFER: Typically, you would do it annually for each -- each state that you go into, you get it done, you know, once a year, and then you can bring those reports.

MS. JEFFERSON: And so the inspector can certify those documents, because the inspector is the one who actually completes that inspection report online. That inspector certifies that he's actually been certified by one of three agencies that are approved in Tennessee, and they also certify that they use the proper standard. So that particular inspector would be able to certify NDT testing as well?

MR. REITHOFFER: I'm assuming so, yes.

MS. JEFFERSON: When you say "assuming," does that --

MR. REITHOFFER: Well, I don't know to your state's qualifications. It has to look at the reports and know that they've been done correctly. But they pass all the other states that we travel in.

MS. JEFFERSON: Now, is that NDT testing performed by the inspector, or is that performed by someone else?

MR. REITHOFFER: It's usually performed by a third-party inspector that you have to bring in who's qualified to operate that type of equipment, the nondestructive-type testing that is required by the manufacturer.

MS. JEFFERSON: And that's usually one of the certifying agencies, NAARSO, ACCT, or AIMS?

MR. REITHOFFER: They are usually part of those organizations. And they also are certified by certain states to be able to do that type of testing.

Isn't that correct?

MR. JOHNSON: Yes. Well, in addition, his insurance carrier also requires a third-party inspection annually, in addition to the other inspections that the state, where he operates, performs inspections.

MR. REITHOFFER: But what I meant was the inspector that comes out and does those tests usually has to be qualified and have some kind of a state license to be able to perform those tests.

MR. SHEEHAN: Now, there's a
1 separate certifying body for nondestructive
testing. The NDT people could be doing the
helicopter rotor blades, you know, landing gear on
aircraft, and then turn around and do an amusement
ride. So they're trained and certified by those
testing bodies and make sure that they know how to
do NDT.

MS. JEFFERSON: Okay. And my
question is whether or not, under current state
law -- I mean, I know we can use those. We can
rely on these documents, but since they're being
prepared by someone who's not certified by one of
those preapproved agencies, I'm just wondering how
that --

MR. JOHNSON: I have to tell you.

I doubt it. I mean, I think every one of these
NDT people that are out there certifying amusement
rides have to have some certification
qualifications to do NDT inspections. And as Tom
pointed out earlier, there are different types of
NDT inspections. But those are things that ASTM
is looking into as well. You know, what are the
qualifications of these NDT inspectors and, you
know, including eyesight? You know, what
corrective vision do they have to do visual

about?

MR. JOHNSON: In those three
certifying agencies, what's the third one? I know
it.

MS. JEFFERSON: You have AIMS, and
you have a representative here with NAARSO, and we
have, also, ACCT when it comes to ziplines, canopy
tours --

MR. JOHNSON: Okay. That's a
different -- that's a different agency, then.

CHAIRMAN FOX: Ms. Jefferson?

MR. JOHNSON: There is an agency, a
certifying body for NDT inspectors, too.

MR. SHEEHAN: There's a certain
standard for the NDT people that's completely
separate from the amusement industry. You know,
how do you perform magnetic particle testing,
x-ray testing. So they don't need to be amusement
ride specific; however, the inspector who is going
to approve their results is then responsible to
make sure that whatever data they get from the
NDT people complies with the bulletins.

MS. JEFFERSON: Okay. Well, as
long as the inspector can certify --

CHAIRMAN FOX: That's where I was
inspections or look at visual cracks in rides.
And there's a fellow in the state of
Florida who is -- you know, we were talking about
this last night -- who is the guy that identifies
a lot of cracks in amusement rides. And he's
known for that. He just has this innate ability
to identify and see things that perhaps others
don't.

So yes, the inspectors that are doing
NDT inspections must be qualified.

MS. JEFFERSON: Right. And I
understand that. My only concern is -- and it may
not be a concern -- but I'm just trying to make
sure that we dot our I's and cross our T's.

MR. JOHNSON: Right.

MS. MS. JEFFERSON: And under
current state law, it says that you have to be
approved by one of three certifying agencies. And
it also says you have to follow ASTM standards.

That same person/inspector has to follow ASTM
standards.

MR. JOHNSON: Right.

MS. MS. JEFFERSON: So I'm
wondering, is this another person that's not
included in those agencies that we're talking
headed.

MS. MS. JEFFERSON: -- through that
inspection report.

CHAIRMAN FOX: Again, if I'm the--

if I am the inspector, I'm going to take -- I'm
going to look -- if it calls out an NDT test for
X piece on that ride or that elevator, for that
matter, I'm going to look at that and say, "Okay,
that's" -- "yeah, that meets the requirements.
It's been done. I checked the box. I am the
person, as the ride inspector, the third party,
the onus falls on me, not necessarily him. I have
to verify he did it. And the onus falls on me as
the inspector.

MR. HALE: It's like going and
getting your arm x-rayed at the doctor. The x-ray
technician is going to take the x-ray of that arm
there, certified, qualified to make that x-ray.
It's the doctor's responsibility to hold that
x-ray up and say, "Yes, it's broke," or "No, it's
not." And this is the same thing. That NDT test
would come to that inspector, and it's his
responsibility to look at the results of that test
and say this is okay or no, it's not.

MR. SHEEHAN: Exactly.
MR. POPE: If I could add, too. A lot of times, just like myself, when I go through an NDT inspection, if you're going to go to the trouble to have an NDT inspector to come, there's the safety bulletin that tells you which pieces to have inspected. But you, as an operator, may want to have someone else inspect the ride just for your own personal benefit to know it's there. And it really doesn't cost any more to do that. And I know we do that a lot of times.

MR. JOHNSON: To be more specific, I'm looking at the ASTM stuff and what they're looking at. Under the manufacturing, operation and maintenance, and also the inspection and NDT, they're looking at ASTM, AWS, ASNT, equivalent standards for NDT inspections.

MR. SHEEHAN: AWS is American Welding Society.

MR. JOHNSON: Right. Right.

MR. MOORE: Who sets the standards for the manufacturing of the rides themselves, the materials that's used and then the devices that have to be there?

MR. SHEEHAN: Part of that is in ASTM. You know, there are --

MR. REITHOFFER: Even more than the control panel, the overall condition of the ride itself is what I would have been worried about.

MR. MOORE: And I guess, from my perspective, you know, this is being looked at every time it's operated. And if the -- and I know we talked about operators at different levels, but the individual operator that's using this control panel, to me, that would be a red flag that goes up and says hey, I'm having this kind of problems here or something that's being looked at daily. How many more problems do I have out there that aren't been being looked at on a more frequent basis.

MR. REITHOFFER: I agree with you. You know, typically I walk down and look at my equipment all year long. And as I look at a piece that I think is not as eye-appealing as I think it should be, it usually goes to the shop that year and goes over for, like, a major overhaul. And while we're doing a major overhaul, it's not -- we're not talking about paint. We're talking about mechanical first. And then after the mechanical is done, the electrical, the hydraulic, and then, finally, whatever makes it look pretty,
it would be a big impact with different rides being banned and the income that the fairs receive.

We have 59 fairs in the state of Tennessee. I'm very happy to say that David represents us, as far as telling us what's going on and what we need to do. James Roy is also on our board, as well.

About three or four years ago, Ms. Jefferson contacted me and wanted to be able to come to our convention. And we invited her and her staff members to come, and she even did a presentation at our meeting to our associates, making them aware of what was going on.

And this is when the ride inspection was -- we want safety, too. That's our -- you know, nobody likes to see what happened this year. And I will say, very quickly after the accident in Ohio, they called me to see how many fairs in Tennessee were being represented -- were being -- had the carnival that we had. And they were really right on top of what they were doing at that point in time.

But it's just very crucial to know that fairs in the state of Tennessee rely on carnivals to have their income, to meet their goals, and to pay out the things that they have to pay.

This past year, Mr. Hardy and -- I believe that you were at convention, also, or maybe it was Kevin, was there and talked to our group. Hopefully, maybe in this next year, that we maybe can have some more workshops for our associate members and work through -- James Roy is on the board, and to have that happen.

But I just want to reiterate how important that carnivals are to us. And when you're made up of the fairs that we have in Tennessee, and they're all volunteers, a lot of them don't study and are not up to date on what ride inspections are, and they just go. But when an accident has happened, it keeps them away from the fairs. Parents are afraid to -- there's a little bit of apprehension about going.

But I just want to let you know that we support what you do. We're here to help you, and through David's help and James Roy's help, you know, hopefully we can accomplish that, and that's what we want as our goal.

Does anybody have any -- I don't know that there's anything to ask me, but any comment or anything, I'll be glad to --

CHAIRMAN FOX: Yes, ma'am. I have one. Obviously, the thing in Greenville, Greene County, the fair there obviously had an impact on what happened with the carnivals and the fairs.

From that, a lot of places started, and even the smaller fairs and carnivals, started employing third-party inspectors to be at the fair during the week or the period of time that they were showing. Has that still continued, to your knowledge?

MS. PITCOCK: To my knowledge, it is, yes.

CHAIRMAN FOX: Okay. So again, another set of eyes out there looking at this?

MS. PITCOCK: Right.

CHAIRMAN FOX: Again, a third-party; is that correct?

MS. PITCOCK: Right.

CHAIRMAN FOX: Okay.

MS. PITCOCK: That's it. That's all I have to say.

CHAIRMAN FOX: Okay. And again, any questions?
of the most respected carnivals in the industry.

And both Bob and Tom are highly respected
individuals, and you can trust what they're
telling you.

So I don't have any more to say, but
feel free to ask me any questions if you have any.

MR. JOHNSON: You might tell them a
little bit about AIMS versus NAARSO and what
you-all do.

MS. OERTLEY: Sure. AIMS is the --
we do -- our mission is to educate -- to improve
safety in the amusement industry through education
and training. We offer a certification program as
well. Education is primary for us. We offer a
week-long safety seminar in January that has about
200 classes with about 100 volunteer instructors
who are all experts in their field. We get people
from Disney teaching classes. We get people from
Sea World, Six Flags, Cedar Fair, all the major
parks and carnivals. We've got Mighty Thomas
Shows and Greg Hammett Shows, and Reithoffer
Shows, all of these major carnivals both help
instruct and put on the seminar as well as send
their employees for training.

We have certification in operations,
maintenance, ride inspection, and aquatics. And
we offer three levels of certification in the main
three, maintenance, operations, and ride
inspection.

Am I missing anything? Anybody?

MS. JEFFERSON: I have a question.

The law requires us to direct our customers to all
three certifying agencies. And I know we talked
about this before.

MS. PITCOCK: Right.

MS. JEFFERSON: It requires us to
direct customers to NAARSO, to ACCT, as well as
AIMS.

MS. PITCOCK: Right.

MS. JEFFERSON: And it doesn't
give us instruction as to what information, but
those other two agencies provide at least a name
and a telephone number.

MS. PITCOCK: Yes.

MS. MS. JEFFERSON: When can we
obtain that information from AIMS? When will the
information on your website be ready for us to let
our customers know that they can find that
information? Because we receive lots of
complaints now, that they haven't found a

And the issue with Tennessee has been
more complicated by the fact that you refer people
to these two organizations, and say if someone is
certified by AIMS or certified by NAARSO, then
that is acceptable to our state, as far as your
credentials to be an inspector.

Now -- and you've been asking us to
provide this list. We really have to -- we're a
smaller organization, and when we would have to
contact each person and have their permission to
put that on our website.

In many cases, with AIMS, our
certification program is more done through public
or privately owned companies, and they want their
employees trained. They're not necessarily -- we
have third-party inspectors that are certified at
AIMS, but that's not the larger group.

MS. JEFFERSON: And like I said,
I'm concerned, because we just want to make sure
that we're abiding by the law.

MS. PITCOCK: Right.

MS. MS. JEFFERSON: And the law
approved AIMS, as well as those other two
certifying agencies. And I know the only other
two certifying agencies list that information for
our customers, so we just wanted to follow up on that.

I'm glad that you're here, because you came out and assisted us with training when Mike -- both Mike and Kevin started. So we're really happy to see you, and that's just one thing we wanted to follow up on.

MS. PITCOCK: Yes. And I understand that you -- they do want to follow up on that, and it is an ongoing discussion with our board of directors, so we'll keep working on it.

MR. SHEEHAN: We'll figure out what -- a way to get you what you need.

MS. JEFFERSON: Thank you. And you-all can take a look at our websites to see what the other agencies provide. I'm not sure we can provide all that information, but at least a way for the customers to reach someone. Even if you included, you know, a telephone number, or maybe a telephone number for you to direct them if you don't feel comfortable. But we have to do something --

MS. PITCOCK: Yes.

MS. MS. JEFFERSON: -- in order for us to comply --

 presently necessarily and what can be done with the season upon us? What's the next step for your organization?

MS. JEFFERSON: Well, at this point, the only thing that I can do is to go back and just talk with some of the folks who are here. We can just talk about what we can do internally. The information has already gone to the A.G.'s office, so I'm not really sure how to stop that. Once you put it out there, I'm not sure if you can pull it back or not, if that's what you're asking.

But we can take what we've learned from this particular meeting, which we've learned -- I've learned quite a bit. And one of the things that I see is to add the bulletins. We already include most of the alerts to our website. We can probably add those bulletins on the website where it talks about KMG, and just include that information.

In our inspection report, we can probably add a bullet as to whether the third-party inspector has followed -- has actually reviewed those bulletins and whether or not he's followed those bulletins.

We already have a bullet that relates to ASTM and ACCT -- actually, it's all encompassing. But just as an extra layer of protection, we can add the bullet that speaks to the bulletins and the alerts. That's what we can immediately work on once we leave here. We can also have meetings amongst ourselves, like I said, to see if there's anything else we can do. I can't promise anything at this point, because, like I said, once you put it out there, I'm not sure if you can pull it back, how that works.

MR. SHEEHAN: Sure. If I can address that. I thought you went to the A.G. only to determine whether you could issue a ban or not. So whether he says yes or -- even if he says yes, you still have to determine whether the ban is appropriate for the rides in light of the information you've learned. Isn't that correct?

MS. MS. JEFFERSON: Right. And I think that's what I tried to address, the second piece --

MR. SHEEHAN: Great.

MS. MS. JEFFERSON: -- that you mentioned. That's what putting information on the website would do.

MR. SHEEHAN: So what I'm asking
you is to please review the list of banned rides and determine whether it's appropriate or not. The A.G. can still make his decision, because that will be beneficial for you in the future, whether you can ban rides or not. And I don't know that you need to wait for the A.G.

MS. JEFFERSON: Well, and again, after this meeting, I'll be happy to talk with some of the folks sitting here in the room so that we can put our heads together to see if there's anything else we can do.

MR. SHEEHAN: Great.

MS. JEFFERSON: We need to go back and take a look at that.

MR. SHEEHAN: Great. That's what we're asking. Please don't wait for the A.G.

Whatever he says, one way or another, you still have to address whether these rides will be allowed in the state. So thank you.

MR. JOHNSON: And you have some great experts on this board. Terrific people.

MR. HALE: And I just want to add to that -- and I said this to you at the break -- but we're not months and months away from fair and carnival season. We're weeks away from it. And

and that's my job. That's what I do. I just go back and I talk with other people, get everybody involved at the same table, and we'll see what happens, and we will immediately contact you-all. As soon as we know more, we'll contact you-all. Okay?

CHAIRMAN FOX: Okay.

MS. JEFFERSON: I'll contact Chairman Fox. I'll put it like that. And then he can distribute the information.

CHAIRMAN FOX: Trust me. I will notify them as soon as you tell me.

MS. JEFFERSON: Good deal.

MS. FITCOCK: Chairman?

CHAIRMAN FOX: Yes, ma'am.

MS. FITCOCK: I just wanted to -- the fairs start the first week of June.

MR. HALE: Yeah. That's what I was saying. We're weeks away from fairs starting.

MR. POPE: So fairs -- there's actually festivals starting sooner than that.

MR. HALE: Absolutely.

MR. JOHNSON: Yeah. We've got festivals, too.

MR. POPE: And the thing is -- and not to cast any bad light on the A.G.'s office, but they've got piles of stuff up there, and if we wait for that, we might be getting an answer at Christmas. And that's too late for owners and operators for this season, when you have people whose livelihoods are on the line.

And so as you and I talked about at the break, I think we have to try to diligently move forward to balance this whole situation out. And I know that -- I understand what you're saying to him, that that's what you intend to do. I certainly appreciate the fact that there was an attempt, an honest attempt at safety, but I think we painted with too large a brush in that attempt. So now maybe we have to get a smaller set of brushes out and fix that.

MR. JOHNSON: But again, I think as you look and learn from other states, and what we've done in Florida and other states have done on this issue, it may be helpful, too. I mean, you know, nobody has the right answer all the time, but we can learn from others. And that's what I would ask.

MS. JEFFERSON: Like I said, I can't make any promises, but I'll be happy to --

and that's my job. That's what I do. I just go back and I talk with other people, get everybody involved at the same table, and we'll see what happens, and we will immediately contact you-all. As soon as we know more, we'll contact you-all. Okay?

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MR. HALE: Absolutely.

MR. JOHNSON: Yeah. We've got festivals, too.

MR. POPE: And the thing is -- and may I say I know we're waiting on the A.G., but if this is determined to not be legal, I mean, is there room for someone to file a lawsuit for a loss of revenue because of this? And I know for a fact that festivals are going to start by Easter. And, you know, it may be something that you want to consider with the information you've gotten here today. And, you know, I don't want to see the State in any kind of litigation; I don't want to see this unit in any kind of litigation; I don't want to see it tarnished, or the ride inspection program tarnished because of that.

We're all here for safety. But, like I said, I think with what you've gotten here today, and if you'll read these other emails that are here, it explains the different rides and what's being done for the particular piece that was in question. You know, I just think we need to look at it as soon as possible.

MR. MOORE: I have a question possibly for Mike or possibly for Kim. But say a permit, we -- let's say we issue a permit for a ride such as the Fireball or whatever, in March-April time frame. So that ride is going to operate throughout the rest of the season, all the
way until September. If there is a safety bulletin issued by the manufacturer in June of that year, is there a check-step in place to ensure that we know that that safety bulletin has taken place while it's in the State?

MS. JEFFERSON: Now, we generally don't receive -- do you receive a copy of the bulletins?

MR. HARDY: I don't have a direct path --

MS. JEFFERSON: Those go directly to the owners, the operators. They don't come to us. But what we can do -- that's what I was saying -- we could include a copy of the -- we can add a field on the inspection report to verify that the inspector has read those bulletins and that he has abided by those bulletins, he's followed those bulletins.

MR. MOORE: And will the inspector know that there's been a bulletin?

MS. JEFFERSON: That's -- well, actually, the inspectors are notified -- is the inspector notified or the operators? The inspectors are not notified.

CHAIRMAN FOX: The owners are the ones who are notified, normally. I'll do that with emphasis. Normally, those bulletins are sent to NAARSO to be posted on their website.

MR. BAILEY: They're posted on NAARSO's website.

MR. SHEEHAN: Absolutely.

CHAIRMAN FOX: Yeah, they're posted.

MR. BAILEY: There's going to have to be a thing where our people constantly monitor the NAARSO website for any new update on a manufacturer's update. Or you can monitor the manufacturers' websites themselves, if you know the names of all the manufacturers.

MR. JOHNSON: We do the same --

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CHAIRMAN FOX: Let me say this, Ms. Jefferson. There's the possibility that the ACME inspection company may or may not know about a bulletin. And there's the possibility that the company may not know. So I don't know that we paint with a broad brush there either.

I think you have to, at some point, when you receive that bulletin, go back to his check-steps. Somebody needs to either call or visit that company to say, "Hey, did you get this?"

I mean, we have an itinerary of the people who are traveling through the state. Is that a fair statement?

MS. MS. JEFFERSON: Yes, we do.

CHAIRMAN FOX: Okay.

MR. HALE: And what rides they have.

CHAIRMAN FOX: Yeah. So if they have -- to use your term a minute ago, a Whiz Bang, or whatever that was -- if the Whiz Bang is sitting out there in Sevierville, Tennessee, there's a contact number and, you know, furthermore, with today's technology, you call them. "Hey, can you send me a safety bulletin and show me where you've checked off on it?"

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1 way until September. If there is a safety bulletin issued by the manufacturer in June of that year, is there a check-step in place to ensure that we know that that safety bulletin has taken place while it's in the State?

2 MS. JEFFERSON: Now, we generally don't receive -- do you receive a copy of the bulletins?

3 MR. HARDY: I don't have a direct path --

4 MS. JEFFERSON: Those go directly to the owners, the operators. They don't come to us. But what we can do -- that's what I was saying -- we could include a copy of the -- we can add a field on the inspection report to verify that the inspector has read those bulletins and that he has abided by those bulletins, he's followed those bulletins.

5 MR. MOORE: And will the inspector know that there's been a bulletin?

6 MS. JEFFERSON: That's -- well, actually, the inspectors are notified -- is the inspector notified or the operators? The inspectors are not notified.

7 CHAIRMAN FOX: The owners are the ones who are notified, normally. I'll do that with emphasis. Normally, those bulletins are sent to NAARSO to be posted on their website.

8 MR. BAILEY: They're posted on NAARSO's website.

9 MR. SHEEHAN: Absolutely.

10 CHAIRMAN FOX: Yeah, they're posted.

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1 MS. JEFFERSON: And that's something that the manager --

2 CHAIRMAN FOX: Yes. That's something that he would have to do, but I'm saying that's a way of resolving that issue. You don't physically have to send them out, although, it's possible. But there is that minute possibility that neither the ride owner, operator, nor inspector would be knowledgeable of that bulletin at that particular time. Again, it's not fool proof.

3 MS. JEFFERSON: Right. I understand. I understand.

4 CHAIRMAN FOX: Yes, sir?

5 MR. REITHOFFER: Typically, in most of the states that I travel in, the state inspector or agency has gotten the bulletin before or at the same time that I've gotten it.

6 MR. SHEEHAN: I work with a lot of manufacturers, and all of my manufacturers send the bulletins to the state inspectors, because we want more people looking to make sure that they're
being enforced. Everybody does.

MS. MS. JEFFERSON: And since they're NAARSO certified now, they would probably have access to that information. Hopefully, you-all will receive copies of the bulletins from NAARSO, but if not, Mike, as the amusement device manager should contact those agencies and have them to send that information directly to you.

MR. JOHNSON: And we also, on our website, we have a tab for NAARSO bulletins on the OABA website, right to NAARSO. So, again, there's a lot of different ways to obtain the bulletins, but, you know, electronically is probably the most popular way today to receive it.

CHAIRMAN FOX: I didn't mean to get down in the weeds there. I just wanted you to know where we're at.

CHAIRMAN FOX: Let me ask one more question here. Is there anyone else to talk about this particular subject?

(No verbal response.)

CHAIRMAN FOX: Okay. I want to say this. I've been doing this only 16 years, but this particular ride accident has caused more, I guess, notoriety. I'll leave it at that. I'll just try to be tactful. It has caused more notoriety about the ride industry than any ride that I can remember in those 16 years.

I truly think that when this initially came out that the proper thing to do was to shut down whatever, shut down that particular ride until more information was gleaned and garnered. I truly believe that. And I think that was the right step. But, you know, we have more information now. So I think we have to take a very strong look at what's right for the safety of our people, the safety of our citizens, the safety of our visitors, and then go forward. So that's my public commentary on that.

Now, anything else from the board on this?

MR. BAILEY: If I might make a follow-up to that comment, is the fact that if the Fireball, in particular, was allowed to operate in the state of Tennessee, was not banned at any time, and an accident like that happened in Tennessee, I mean, who is the spotlight going to be put on? It's going to be put on this department and our commissioner.

CHAIRMAN FOX: Yes.

MR. BAILEY: So I think that needs to be appreciated as well.

CHAIRMAN FOX: Absolutely.

MR. MOORE: And I will say, also, you know, you mentioned earlier that in the amusement ride or automobile or whatever, typically it is reactive. And he actually took a proactive approach to say, "Hey, let's look at all rides similar, and maybe give the manufacturer an opportunity to say maybe not a Fireball but another similar-type ride and say, "We probably need to look at ours and see if they need to be tested also."

MR. BAILEY: I mean, I heard everyone say that safety is the top priority and that they ride their own rides. I would venture to say that prior to the action, the family that owned the Fireball in Ohio would have said the same thing.

CHAIRMAN FOX: They would have.

MR. BAILEY: So we're trying to prevent that next --

CHAIRMAN FOX: Absolutely. And we may have one tomorrow.

MR. BAILEY: Exactly.

CHAIRMAN FOX: But, you know, what we have to do is rely upon those -- hopefully, this has jogged the -- hopefully, this has made the third-party inspectors more careful, more diligent. Hopefully, they will do a better job of inspecting the rides that they're sent out and in charge with inspecting across this country.

MR. BAILEY: One would hope.

CHAIRMAN FOX: One would hope.

Yes, sir?

MR. REITHOFFER: I would like to speak to that. Every inspection since that accident in every state I've been in has been more thorough and much harder to pass inspection. And I welcome it. And it has done a good job for the public safety and for my company to make sure that we're in great shape. And it's continuing. Every inspection that we've had, just recently, everybody is being much more diligent.

CHAIRMAN FOX: Okay. Anything else from the board?

Yes, ma'am?

MS. O'CONNOR: I would add that accidents like this, unfortunately, underline the need for funding of this department, and I hope
the legislature hears us and continues to fund.

MS. JEFFERSON: Thank you. We agree.

CHAIRMAN FOX: Thank you.

Anything else? Any other comments, questions, suggestions?

(No verbal response.)

CHAIRMAN FOX: Okay. Again, we've spent a long time here, but this was important, and I thank you-all for bearing with us on this.

Our next scheduled meeting is Tuesday, June the 5th. And that will take place here at 9:00 a.m. Central Standard Time.

Will we bring this topic back for discussion, or will we know something sooner than that?

MS. JEFFERSON: Well, we should know something sooner. And as I said, I will contact you directly as soon as I hear something.

CHAIRMAN FOX: Okay.

MS. MS. JEFFERSON: But this should be placed on the agenda. That we can go back and just take a look. We'll put it under Old Business the next time and we'll just revisit it and see where we are.

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CERTIFICATE

STATE OF TENNESSEE |
COUNTY OF WILLIAMSON |

I, Cassandra M. Beiling, a Notary Public in the State of Tennessee, do hereby certify:

That the within is a true and accurate transcript of the proceedings taken before the Elevator and Amusement Device Safety Board and the Chief Inspector or the Chief Inspector's Designee, Tennessee Department of Labor and Workforce Development, Division of Workplace Regulations and Compliance, Elevator and Amusement Device Unit, on the 13th day of March, 2018.

I further certify that I am not related to any of the parties to this action, by blood or marriage, and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 18th day of March, 2018.

Cassandra M. Beiling, LCR# 371
Notary Public State at Large

My commission expires: 3/15/2020
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