

FOR THE CASE OF
Dol Board of Elevators & Amusement

TRANSCRIPT OF
3rd Quarter Board Meeting

September 13, 2016

Stone & George

COURT REPORTING

2020 Fieldstone Pkwy

Suite 900 - PMB 234

Franklin, TN 37069

(615) 268-1244

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or send an email to nangeorge@stoneandgeorge.com

1. STATE OF TENNESSEE
ELEVATOR AND AMUSEMENT DEVICE SAFETY BOARD
- 2.
- 3.
- 4.
- 5.
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- 7.
8. QUARTERLY MEETING OF THE
STATE OF TENNESSEE
ELEVATOR AND AMUSEMENT DEVICE SAFETY BOARD
September 13, 2016
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22. -----
23. CASSANDRA M. BEILING, CCR, LCR# 371
STONE & GEORGE COURT REPORTING
2020 Fieldstone Parkway
Suite 900 - PMB 234
Franklin, Tennessee 37069
615.221.1089
- 24.
- 25.

1. APPEARANCES:
2. Robbie Fox, Chairman
Fixed Amusement Device Representative
- 3.
4. Chris Farmer
Elevator Inspector Supervisor
- 5.
6. David Hale, Board Member
Tennessee Fair Association Representative
- 7.
8. Lewis Moorer, Jr., Board Member
Public at Large Representative
- 9.
10. Larry R. Moore, II, Board Member
Owner and Lessees Representative
- 11.
12. Paul D. Fisher, Board Member
Manufacturer Representative
- 13.
14. Mitch H. Rader, Board Member
Insurance Company Representative
- 15.
16. Kim Y. Jefferson, Esq.
Administrator, State of Tennessee
- 17.
18. Dan Bailey, Esq.
Legal Counsel, State of Tennessee
- 19.
20. Chance Deason, Esq.
General Counsel, State of Tennessee
- 21.
22. Melinda Kelsey
Chief of Staff, State of Tennessee
- 23.
24. Carlene Bennett
Board Secretary, State of Tennessee
- 25.

1. A G E N D A
2. I. Call Meeting to Order
3. II. Introductions
4. III. Pledge
5. IV. Announcements
6. V. Elevator Unit's Report
7. VI. Amusement Device Unit's Report
8. VII. Old Business
9. * 16-01 Recommendation to adopt ANSI/ACCT
Standards
- 10.
11. * 16-02 Recommendation to adopt ANSI/PRCA
Standards
12. VIII. New Business
13. * 16-03 - The Internal Association of
Trampoline Parks (IATP) would like to
present information on their Service
Tech Certification program
- 14.
15. * 16-04 - Recommendation Proposed Fee
Structure
16. IX. Discussion Items:
17. * Overview of the Greene County Fair
incident
- 18.
19. * Discussion on hiring Compliance Officers
- 20.
21. * Discussion regarding rules for
investigating device accidents and what
is required of the owner/operator
- 22.
- 23.
- 24.
- 25.

1. X. Announcement of Next Meeting
The next regularly scheduled meeting of the
Elevator & Amusement Device Safety Board
meeting will be held in the first floor
Tennessee Room at 9:00 a.m. (CT) on
Tuesday, December 6, 2016, at the State of
Tennessee, Department of Labor and Workforce
Development building, located at 220 French
Landing Drive, Nashville, Tennessee.
- 2.
- 3.
- 4.
- 5.
6. XI. Adjournment
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- 23.
24. ** Reporter's Note: All names are spelled
phonetically unless otherwise provided to the
Reporter by the parties.
- 25.

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1. *****

2. CHAIRMAN FOX: Good morning. We

3. will call the Elevator and Amusement Device Safety

4. Board Meeting for September 13, 2016 to order. If

5. we could, let's deviate from the agenda and do the

6. pledge first and then we'll do the introductions.

7. Mr. Hale, if you would, please lead

8. the Pledge of Allegiance.

9. (Whereupon, the Pledge of Allegiance

10. was recited.)

11. CHAIRMAN FOX: Mr. Fisher, this is

12. the point where we have introductions. I would

13. offer you the opportunity to introduce yourself

14. and then we'll start back around the table here in

15. just a second. You're our newest board member and

16. we're certainly glad to have you.

17. MR. FISHER: Thank you.

18. CHAIRMAN FOX: We look forward to

19. learning from you.

20. MR. FISHER: I hope I can

21. contribute. My name is Paul Fisher. This is my

22. first meeting, but I've been in the elevator

23. industry for going on 13 years now. I've worked

24. in the field and in management. I've worked

25. basically all ends of the state, but I do

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1. appreciate the opportunity to serve on the board

2. and look forward to it. That's about it.

3. CHAIRMAN FOX: All right. We're

4. glad to have you, sir.

5. Ms. Carlene, if you'll start around

6. and we'll introduce everybody.

7. MS. BENNETT: I'm Carlene Bennett,

8. board secretary.

9. MR. FARMER: Chris Farmer, Elevator

10. Unit Supervisor.

11. MR. HALE: David Hale, board

12. member.

13. CHAIRMAN FOX: Robbie Fox, board

14. member.

15. MR. MOORER: Lewis Moorer, board

16. member.

17. MR. MOORE: Larry Moore, board

18. member.

19. MR. RADER: Mitch Rader, board

20. member.

21. MR. DEASON: Chance Deason, general

22. counsel with the Department of Labor.

23. MS. KELSEY: Melinda Kelsey, Chief

24. of Staff, Department of Labor, Commissioner's

25. office.

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1. MS. JEFFRSON: Kim Jefferson,

2. Administrator for the Department.

3. MR. BAILEY: Dan Bailey, legal

4. counsel for the Board.

5. MR. BURCH: Perry Burch, ex-board

6. member.

7. CHAIRMAN FOX: Glad to have you,

8. sir.

9. MR. STOCK: Don Stock from The

10. Adventure Guild, ZipStream Ruby Falls and

11. ZipStream Fall Creek Falls.

12. MR. OGLE: Ross Ogle, Smoky

13. Mountain Ziplines, Pigeon Forge.

14. MR. TIERNEY: Shawn Tierney,

15. Executive Director, Association for Challenge

16. Course Technology.

17. MS. HARAS: Kathy Haras,

18. Association for Challenge Course Technology,

19. Design, Performance, and Inspection Standards

20. Committee.

21. MS. WILSON: Allison Wilson,

22. Challenge Design Innovations.

23. MR. HANSON: Josh Hanson, Foxfire

24. Mountain Adventures.

25. MS. POWERS: Mary Audrey Powers,

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1. Navitat Canopy Adventures.

2. MR. CLEVINGER: Steve Clevenger,

3. ZipStream, Fall Creek Falls State Park.

4. MR. JONES: Kyle Jones, Department

5. of Labor communications.

6. MS. RHODES: Anita Rhodes,

7. Department of Amusement Devices and Elevators.

8. MS. CAUDILL: Jan Caudill,

9. Department of Labor, Workplace Regulations.

10. MS. TUGMAN: Christine Tugman,

11. Labor Standards.

12. MR. REED: Ed Reed, board member

13. for International Association of Trampoline Parks.

14. I also represent Jumpstreet who has three parks

15. here in Nashville.

16. MR. WHITE: I'm Wayne White,

17. third-party inspector.

18. MR. JACOBS: Keith Jacobs,

19. Experiential Systems, third-party inspector.

20. MS. DOWER: Jan Dower,

21. Commissioner's office.

22. MR. CANNON: Chris Cannon, director

23. of communications for the Department.

24. MR. TODD: Rodney Todd, Southern

25. Region Boy Scouts.

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1. MR. BARKER: Mike Barker,
2. Professional Ropes Course Association, starting to
3. feel like a board member.
4. CHAIRMAN FOX: Glad to have you-all
5. here. We're going to have a good meeting and a
6. lot of interaction, so ...
7. Those of you who are going to be
8. presenting, if you will, when you come up to the
9. table here, please speak loudly. I'm hard of
10. hearing and Cassandra said she was, too. She's
11. really not but it sounded better that way. She's
12. going to be taking the minutes of the meeting and
13. so please speak loudly for everyone to hear.
14. Announcements. In the event of an
15. emergency or natural disaster, security personnel
16. will take attendees to a safe place in the
17. building or direct them to exit the building on
18. the Rosa Parks side.
19. And where would that be?
20. MR. FARMER: (Indicating.)
21. CHAIRMAN FOX: Out this side.
22. Okay. All right.
23. Ms. Kelsey and Ms. Jefferson, we do
24. have Mr. Burch here today and we certainly want to
25. recognize him and recognize him for his service.

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1. And I'll leave that to you two ladies.
2. MS. KELSEY: Chairman Fox, we will
3. definitely want you in on this.
4. Okay. Can everybody hear? I'm going
5. to read this. "The State of Tennessee State
6. Capitol by Bill Haslam, Governor, by virtue of the
7. authority vested in me, I hereby confer upon
8. Mr. Roy Perry Burch this certificate of
9. appreciation in recognition of outstanding service
10. in the best interest and the highest tradition of
11. the State of Tennessee, given under my hand on the
12. Great Seal of the State of Tennessee in Nashville,
13. the 26th day of July, 2016, Bill Haslam,
14. Governor."
15. MR. BURCH: Thank you and thank
16. Governor Haslam. I've never had anything like
17. that before.
18. (Applause.)
19. CHAIRMAN FOX: This says,
20. "Presented to Mr. Roy Perry Burch in appreciation
21. for service as a member of the Tennessee Elevator
22. and Amusement Device Safety Board on this day,
23. September 13th, 2016."
24. (Applause.)
25. CHAIRMAN FOX: Thank you, sir.

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1. MR. BURCH: Thank you.
2. MS. JEFFERSON: Thank you so much.
3. MR. BURCH: I guess I need to say a
4. word or two, don't I?
5. I hope you can hear me. I just
6. wanted to let you know a few things that have
7. happened since the last board meeting, the last
8. one I attended, that I was working for another
9. elevator company and they lost -- they had a
10. contract with the State doing maintenance, and I
11. was one of the guys that helped them do that.
12. And so at that point, I didn't really
13. have a job, you know, and so -- but I wanted to
14. keep working and I told them I would do certain
15. things. And they said, "Well, we just really
16. don't have anything."
17. And I said, "Well, okay. Then give
18. me a layoff slip." So they gave me a layoff slip,
19. but the labor board wouldn't let me draw
20. unemployment. So you know what I had to do? I
21. had to get another job.
22. So I've gotten another job with
23. another elevator company. When they found out I
24. didn't have a job, they thought I did have some
25. service that I could render. And so that's what

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1. I'm doing.
2. And I'm 79-and-a-half years old, and
3. so I'm going to work as long as I feel like going
4. to work. That's what I'm doing and I just wanted
5. to thank you for the opportunity I've had to serve
6. on this board and to be a part of it. And you see
7. what they'll give you if you do a good job. So
8. I've never been a part of anything like this. I
9. didn't know anybody got awards. But it's a good
10. board and you're doing a great service for the
11. people of this state. And I just want to thank
12. you for having served with you.
13. CHAIRMAN FOX: Thank you.
14. (Applause.)
15. CHAIRMAN FOX: Mr. Burch has been a
16. very valuable asset to this board. When I first
17. came on here, the only thing I knew about
18. elevators was you push a button and they'd go up
19. and down. He's taught all of us a great lesson
20. and through his many years of experience he's
21. helped us all and helped the state of Tennessee be
22. safer in regard to elevators and amusement rides.
23. But I just want to thank him for his service.
24. Mr. Farmer, I believe you're up, sir,
25. the elevator unit.

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1. MR. FARMER: Just to give you a
2. little background on what's going on. We
3. currently have 26 building inspectors with open
4. positions in Middle Tennessee that we hope to get
5. filled in the next couple of months.
6. We have one office manager that
7. assists with amusements and elevators day to day,
8. and that's Anita Rhodes.
9. We have two administrative ladies in
10. the office, Betty Zivkov and Christina -- I hope I
11. don't butcher her last name -- Henggeler.
12. Of course we have one supervisor,
13. which is me.
14. We have approximately 13,578 active
15. elevators in use; we've done 445 new permits this
16. year for new installations; we've performed 16,125
17. reinspections; we have issued 9,866 operating
18. permits; and we currently have 522 pending
19. installation permits. So we're really busy.
20. CHAIRMAN FOX: I would say so.
21. Anything else, sir?
22. MR. FARMER: Like I said,
23. everything is going pretty smooth. So we've got
24. the three new inspectors out doing inspections and
25. performing acceptance inspections, so we're

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1. rocking on.
2. CHAIRMAN FOX: Okay. Thank you
3. very much.
4. Item Number VI, the Amusement Device
5. Unit's Report. Ms. Kelsey, could we recognize you
6. first? And I think you have some information for
7. us.
8. MS. KELSEY: I do, sir. I'm very
9. happy to announce that the Tennessee Department of
10. Human Resources has approved the positions that we
11. requested, that was requested by the board. And
12. one of those positions is an executive service,
13. and I want to make sure that the board understands
14. the difference between "executive" and
15. "preferred."
16. "Executive" means that we do not have
17. to pull a register through the Department of Human
18. Resources. The others would have to go through
19. the vetting process, through NEOGOV, and would
20. have to meet all the guidelines in the job
21. description that was provided to the Department of
22. Human Resources.
23. The positions will be classified as
24. Amusement Device Safety Compliance Officers. They
25. will be stationed in the three grand divisions

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1. across Tennessee. Their role and responsibility
2. would be to be a second set of eyes in the event
3. when carnivals or fairs are coming forth. We will
4. still rely on third-party inspectors as we have
5. always done, but this gives an extra set of eyes
6. upon that.
7. This will be released. It will go on
8. NEOGOV, I think, this week; if not, the first of
9. next week. And then the vetting process and the
10. actual interviewing process will occur from that
11. point forward.
12. We must meet all regulations to
13. ensure that these individuals meet the
14. qualifications set forth. If we do not have
15. candidates that meet that, we will certainly keep
16. the board informed as to the status, that we are
17. running into some obstacles trying to find
18. inspectors. We will keep the board informed from
19. the Commissioner's office and from the elevator --
20. from Ms. Jefferson's division.
21. So we're very excited about this.
22. With that being said, when they're preferred, the
23. rate of pay is pretty much set. It is probably
24. lower than it would be. They're actually getting
25. paid in the private sector, so I want to make sure

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1. that everyone in this room is very well aware of
2. that. There are state benefits that come with
3. this job, as any other state employment, which is
4. insurance, 401(k), all these -- the perks of being
5. a state employee, but, again, the rate of pay is
6. much less than probably what individuals could be
7. potentially making in the private sector.
8. So we will keep the board informed.
9. We will keep everyone updated as we move through
10. this process.
11. CHAIRMAN FOX: Okay. Just for
12. clarification, those folks will provide an
13. inspection. They will be inspectors. And
14. furthermore, they will conduct investigations in
15. the event of an accident; is that correct?
16. MS. KELSEY: They can be, yes, sir.
17. CHAIRMAN FOX: Yes. Okay.
18. MR. HALE: Could you give us some
19. idea of the pay range? Do you have that figure?
20. MS. KELSEY: I don't have that
21. readily available. I can get that and make sure
22. that that is provided to each of you. Kim may
23. know what the pay range is.
24. MS. JEFFERSON: I don't.
25. MS. KELSEY: I'm sorry. I don't

1. have that information. We can get that.
 2. Ivy, if you can contact somebody in
 3. HR upstairs and ask them what the average rate is.
 4. We can get that to you.
 5. MR. HALE: Thank you.
 6. CHAIRMAN FOX: Thank you very much.
 7. We appreciate your cooperation and that of the
 8. Commissioner and Ms. Jefferson in making this
 9. happen. We've looked forward to this for a long
 10. time and I think it's finally come to fruition.
 11. And again, thank you-all very, very much.
 12. MS. KELSEY: You're welcome.
 13. CHAIRMAN FOX: Anything else,
 14. Ms. Kelsey?
 15. MS. KELSEY: No, sir.
 16. CHAIRMAN FOX: Okay.
 17. Ms. Jefferson?
 18. MS. JEFFERSON: Yes. The first
 19. thing I wanted to talk about are the statistics.
 20. I just want to give you-all an idea of what we've
 21. done since the beginning of the fiscal year which
 22. began on July the 1st, 2016 of this year.
 23. The number of permanent applications
 24. that the Amusement Device Unit has received is
 25. approximately 41. This is through August the

1. 26th, just to give you an idea. The number of
 2. companies issued permits is in the amount of 36.
 3. The number of payments received are 40. The
 4. amount of revenue processed today or to that date
 5. is \$19,925. The number of amusement devices at
 6. companies where permits were issued is 271. So
 7. that gives you an idea of what we've done since
 8. July the 1st, 2016 through August the 26th, 2016.
 9. The number of reported accidents is
 10. seven at this point. This includes ziplines,
 11. coasters, as well as accidents, as far as the
 12. fairs and carnivals are concerned.
 13. In addition to our statistics, since
 14. the fair and carnival season, there have been two
 15. major reported accidents. We'll talk about Greene
 16. County in just a second, but you may be aware --
 17. most of you are aware that there was an accident
 18. in Shelby County last weekend, and that was in
 19. regard to one of the customers, Belle City
 20. Amusements. They're also referred to as BCA. And
 21. so that was another and I'll touch on that later
 22. on in the discussion.
 23. But I just wanted you-all to know
 24. that we have prepared a standardized inspection
 25. form. It's been created on behalf of the

1. Department and Chance Deason has been involved in
 2. that process. We wanted to provide that document
 3. for consistency purposes.
 4. We currently receive a lot of
 5. inspection reports from inspectors, and all of the
 6. inspection reports are different. Some say "Safe
 7. and Operable." Some say the device is pass or
 8. fail. Some indicate that the device is
 9. satisfactory. But some don't even include
 10. anything, so it makes it really difficult and we
 11. have to follow up with the inspectors.
 12. And so what we wanted to do is to
 13. create something that's standardized that will
 14. provide consistency because this will help us with
 15. our efficiency and our effectiveness within the
 16. unit.
 17. And in addition to that, our standard
 18. operating procedures have been updated. This is
 19. the process that we use in order to determine what
 20. to do. In order for the employees within the unit
 21. to know what to do, we had to put together
 22. standard operating procedures so that they would
 23. know what steps to take, not just in the way of
 24. accidents but just everyday, day-to-day
 25. activities. So those procedures have been

1. updated.
 2. After the fair and carnival season, a
 3. mass mailing will occur. Last year we did a mass
 4. mailing for the dark houses because we know that
 5. in October that we have something new to look at.
 6. We have the dark houses or haunted houses. And so
 7. we will be doing a mass mailing at the end of the
 8. week to notify all of those companies to help them
 9. to meet statutory compliance requirements.
 10. And over the next few months our goal
 11. is to process permits at least a month in advance.
 12. That's our goal. That's been very, very difficult
 13. to do. And what we're running into -- we have to
 14. educate our customers to get the information to us
 15. in a timely manner because if they wait, say, the
 16. week of expiration or the week of a fair, it makes
 17. it really, really difficult for us to get the job
 18. done. So our goal is to educate, to continue to
 19. educate the customers, let them know what they
 20. need to do to meet the statutory compliance
 21. requirements and get that information to us in
 22. advance so we can timely process their permits.
 23. And as I tried to indicate, always
 24. safety is our number one concern. We want to make
 25. sure that the customers are safe within Tennessee.

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1. We work in the best interest of the customers that
2. we're charged with serving. That's our number one
3. concern. And we want to ensure that what we do is
4. correct and we're using the proper procedures and
5. we follow the laws that govern the entire process.
6. And if you want additional
7. information, please let us know, because I want to
8. direct everyone to our website. The website has
9. been updated. The communications division
10. assisted us to do that earlier on in the year.
11. And it has a lot of helpful information.
12. And just for the audience, if you
13. have questions about compliance requirements, all
14. that information is on the website. If you have
15. questions about the accident reporting
16. requirements, that information is on the website.
17. If it's not on the website, just let us know and
18. we'll be happy to assist.
19. But again, the most important item
20. for us is to ensure that we receive your
21. information in a timely manner so that we can
22. timely process your permits.
23. And that's all I have.
24. CHAIRMAN FOX: Just a quick
25. question on the 30 days and when we were having a

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1. discussion earlier about this. When the fairs
2. come in, they're notifying you of their itinerary;
3. is that correct?
4. MS. JEFFERSON: Well, what happens
5. is that they have to complete an application, and
6. they complete an itinerary at that point. The
7. problem is that sometimes they don't give it to us
8. until the week -- like, the weekend before or the
9. week before the fair starts. We don't get it.
10. What we're trying to do, our goal is
11. to take a look at all the companies that are
12. renewals based on the Fair Association list. That
13. would be the proper way to do it, take a look at
14. that list from the beginning of the season, and to
15. identify the companies and try to bring them into
16. compliance as quickly as we can. But the problem
17. is, even though we reach out to them and we send
18. renewal notices, sometimes they still don't
19. respond until the week of. And that puts us in a
20. pickle. It really puts us in a pickle. So we
21. want to somehow develop a system to avoid that
22. from happening.
23. CHAIRMAN FOX: Okay.
24. MR. HALE: Could I add a
25. clarification, Mr. Chairman?

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1. CHAIRMAN FOX: Sure.
2. MR. HALE: Fairs and carnivals are
3. two separate entities. And fairs, in the state of
4. Tennessee, do not own carnival rights. They
5. contract with a carnival company to come in and
6. provide those rides. So I just want to make sure
7. that, in the minutes, that we're clear that the
8. fair -- in actuality, the fairs have a
9. responsibility, I suppose, to their guests to make
10. sure that the rides are properly inspected and
11. permitted; however, the requirement for inspection
12. and permitting lies with the carnival company.
13. It's not the fair's responsibility to go out and
14. obtain inspections.
15. It is a moral obligation, I suppose,
16. if you will, of the fair to ensure that their
17. contractor is properly permitted and inspected.
18. So I just want to clarify that fairs and carnivals
19. are two different entities.
20. MS. JEFFERSON: And that's true.
21. And we have had some really good responses from
22. the fair and carnival representatives. When we've
23. told them that we're having difficulties with an
24. owner/operator obtaining the permit, they do talk
25. with them and help us to issue the permits.

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1. MR. HALE: Absolutely.
2. MR. MOORE: Ms. Jefferson, do you
3. know the website address off the top of your head?
4. MS. JEFFERSON: Yes, I do. It's
5. pretty long. It's <http://www.tn.gov/workforce/topic/amusement-device-unit>. And if you have
6. difficulty, you can just say www.tn.gov and just
7. search for "amusement devices." That would be a
8. simpler way to do that.
9. CHAIRMAN FOX: Anything else,
10. Ms. Jefferson?
11. MS. JEFFERSON: No. That's it.
12. Thank you.
13. CHAIRMAN FOX: Okay. Thank you.
14. Under Old Business, 16-01, Recommendation to adopt
15. ANSI/ACCT standards. And I believe we have a
16. gentleman who wants to speak to that.
17. And if you will, please come to the
18. table, state your name. Speak loudly, please.
19. Speak loud.
20. MR. STOCK: My name is Don Stock
21. from The Adventure Guild. We also operate Ruby
22. Falls ZipStream Aerial Adventure Park, Fall Creek
23. Falls ZipStream, and I'm also an independent,
24. third-party inspector for adventure parks,
25.

1. challenge courses and ziplines in the state of
 2. Tennessee.
 3. We have a -- our presentation is
 4. comprised of three parts. I'm sure by now this
 5. board is getting a tiny bit weary of this
 6. conversation. And this is very important to us,
 7. who are sitting in this room. There's a lot of
 8. things that we really do need to present but we
 9. need to talk about because we are on the side of
 10. regulation in our state. And I'll address that in
 11. a minute.
 12. Our presentation will be in three
 13. parts. I and Mr. Ogle from Smoky Mountain
 14. Ziplines will talk about the stakeholders, from
 15. the stakeholder's perspective in the state of
 16. Tennessee. Because there are a lot of us who make
 17. our living in this industry and who serve hundreds
 18. of thousands of participants every year in our
 19. industry and in our state. So we want to really
 20. kind of give our perspective, a historic
 21. perspective, in terms of ACCT in the state of
 22. Tennessee, and also explain why we are so
 23. adamantly committed to encouraging you to
 24. seriously consider its adoption for the state
 25. because its -- it really does have the track

1. record.
 2. Kathy Haras, Chair of the ACCT's
 3. Design, Performance, and Installation Committee
 4. will follow us and respond to some of the PRCA's
 5. prior accusations regarding the ACCT's standards
 6. and its supposed culpability and accidents within
 7. the industry.
 8. From a personal standpoint -- I can't
 9. speak for anybody else in the room but I've been
 10. doing this a long time -- I've been quite
 11. disturbed by some of the things that have been
 12. presented, and I think it's somewhat
 13. unprofessional and embarrassing to have someone
 14. present a -- to come into this room and look at
 15. this group of people and say, "If you had been
 16. doing things differently, these accidents would
 17. not have happened." I think you would have to be
 18. God himself to know if that happened.
 19. So there's no question that your
 20. decision regarding the adoption of a specific
 21. standard and regulation of challenge courses, zip
 22. lines, and adventure courses in our state is a
 23. huge one, and is a decision that has a potential
 24. for extremely positive outcomes or extremely
 25. negative outcomes, depending upon the

1. determination that you make.
 2. I would like to briefly outline the
 3. reasons for my strong recommendation for the
 4. official inclusion and adoption of ANSI/ACCT
 5. 03-2016 for regulating challenge courses, zip
 6. lines, and adventure parks in the State.
 7. However, to give a context for why
 8. that is the case, I would like to give you kind of
 9. a brief overview of my background and experience.
 10. I am a native Tennessean. I was born and raised
 11. in Goodlettsville, just up the street. Our
 12. company, The Adventure Guild, is a Chattanooga-
 13. based challenge course company that's been
 14. providing challenge course team-building services
 15. and adventure parks and zip line services in the
 16. state for over 20 years.
 17. I'm also a licensed contractor for
 18. challenge courses and zip lines in the state of
 19. Tennessee. We've designed, installed, and
 20. operated the aerial adventure park at Ruby Falls,
 21. which is one of the oldest and most iconic
 22. attractions in the state of Tennessee.
 23. THE REPORTER: Excuse me. Which
 24. falls? If you're reading, if you would slow down.
 25. MR. STOCK: Okay. Sorry. So it's

1. Ruby Falls.
 2. THE REPORTER: Thank you.
 3. MR. STOCK: And then Fall Creek
 4. Falls.
 5. THE REPORTER: Thank you.
 6. MR. STOCK: Those two falls. Okay.
 7. We are also partners who secured the
 8. bid to build and operate the ZipStream Aerial
 9. Adventure Park at Fall Creek Falls State Park.
 10. And we currently have a long-term contract with
 11. the State of Tennessee for that location.
 12. Our company also holds the
 13. distinction of being the only challenge course
 14. vender in existence to have successfully navigated
 15. both the PRCA and the ACCT accreditation
 16. processes. We're the only company that's done
 17. both.
 18. I served as a PRCA board member and
 19. treasurer for several years, having joined the
 20. PRCA early in 2005, soon after its inception.
 21. I have been a part of the PRCA's ANSI
 22. Consensus Group since its inception and
 23. participated in the development of that standard
 24. from the beginning.
 25. MR. RADER: Slow down.

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1. MR. STOCK: Okay. I'm trying not
2. to waste your time. I'm sorry.
3. However, after several years of
4. endless frustration in trying to be a force for
5. truth, transparency, honesty, and reconciliation
6. within our industry, I broke from the PRCA as an
7. accredited vender and as a member out of protest
8. for the, I guess, the actions of the organization
9. and its leadership.
10. Later I served as the Vice Chair of
11. the ACCT's Inspector Certification Committee and
12. actively helped develop the association's very
13. successful inspector certification process that
14. the State of Tennessee has adopted and this board
15. has recognized.
16. In August 2014 I participated in the
17. ANSI appeal between the PRCA and ACCT on the side
18. of the ACCT, having been frustrated by the utter
19. lack of transparency and industry participation in
20. the PRCA's ANSI process.
21. I later served on the board of
22. directors of the ACCT as the liaison for the board
23. and for the ethics committee.
24. So I only -- all that is to say that
25. I have a really unique, multi-faceted experience

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1. with both of these organizations, not only just --
2. not of the organizations but leadership and
3. standards and how those standards were developed.
4. My experience with the PRCA and its
5. standards predates even Mr. Barker. I was a part
6. of that organization, part of that standards group
7. before he was even on board. And so I know how it
8. started and why it started and how the whole
9. process developed. However, I am not primarily
10. here today to advocate for ACCT or to be an
11. adversary to PRCA. I am primarily here today as a
12. Tennessean on behalf of the stakeholders in
13. Tennessee, the people who live in our state, who
14. have legitimate, licensed businesses in our state,
15. who are licensed zip line or adventure park or
16. challenge course contractors in our state, who
17. employ hundreds if not thousands of people in our
18. state, and who pay millions of dollars in taxes
19. every year which are generated by the challenge
20. course/zip line/adventure park industry in our
21. state.
22. We are deeply, deeply committed, the
23. people who are sitting behind me and the people
24. sitting at this table, too, to public safety. We
25. serve thousands and thousands of people every

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1. single year, both through the construction,
2. inspection, building, and operations. And safety
3. is the highest priority for us, and we are always
4. vigilantly pursuing new ways to make it -- to
5. mitigate the risk, to make an activity that is
6. inherently risky more viable, more safe, and to
7. make it as safe as it possibly can be.
8. There are critically important issues
9. that need to be addressed regarding regulation of
10. these unique experiences within the state.
11. Because as you -- I suppose that you know -- I
12. presume that you know these are very, very
13. different experiences. They are different
14. structures. There are different operational
15. procedures and things than compared to a
16. Tilt-a-whirl or a Ferris Wheel or whatever. These
17. are completely different animals that I want to
18. admonish us to recognize. And if we're going to
19. regulate it -- and I want us to -- that we do it
20. in a way that addresses the uniqueness of those
21. structures and those operations, because the
22. differences make a difference in making sure that
23. we're protecting the public safety.
24. We currently have a permit
25. application that doesn't really match the

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1. structure or the unique operational aspects of
2. what we do. I think that's something that's been
3. in a conversation, that that's been trying to be
4. addressed. And that's wonderful.
5. There's a very unclear designation
6. currently of what constitutes a commercial versus
7. a traditional challenge course or a zip line in
8. the state for regulatory purposes and how we apply
9. to those different types of courses, and, also,
10. who is most qualified and knowledgeable about
11. these unique structures and operations when it
12. comes to professional inspections, et cetera.
13. The PRCA has spent a great deal of
14. your time and used a lot of words attempting to
15. capitalize on tragedy and engender fear and hope
16. that you would validate their organization and
17. standard by adopting it for its use in Tennessee.
18. I can only speak for myself as a
19. stakeholder in Tennessee, someone with many years
20. of experience in all this. With all due respect
21. to the PCRA leadership, as a Tennessean, I'm
22. pretty disinterested in what someone from Michigan
23. or Pennsylvania or Connecticut or Illinois has to
24. say about what we should be doing in the state of
25. Tennessee, when we've been operating here for

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1. 20 years.

2. I care about what's undertaken in the

3. state of Tennessee and what should be done. And

4. our home state should be -- consider what the

5. people who are in the state who are Tennesseans

6. are contributing and have contributed.

7. It's my strong personal opinion that

8. the best thing that the PRCA representatives could

9. do, it would be to go back to their home states,

10. get their home states to adopt their standard,

11. build some credibility in their own hometowns.

12. And then if they want to come and present to other

13. states, then do that then.

14. The regulatory process is a

15. critically important one that impacts and

16. influences not only the primary issue of public

17. safety but also economics, the creation of jobs,

18. the viability of an entire industry which has a

19. long history in the state of Tennessee.

20. And let me say unequivocally that we

21. are for state regulation of our industry. We want

22. to be a team member. We want to be a partner in

23. that. Because there -- I have seen, as an

24. inspector, more than a few house-built

25. nonprofessionally developed zip lines and

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1. challenge courses in Tennessee, that as an

2. operator and someone in this industry, frankly

3. scare me to death. And it's the things that I

4. have seen and the risk for the public who have no

5. idea what they're dealing with when they walk up

6. to one particular zip line. There's 15 of them

7. just in Sevier County, and they have no idea what

8. level of professionalism or input from

9. knowledgeable people in the industry who have been

10. involved in any of those locations -- and they are

11. not all created equal, I assure you.

12. I am so, like, positive about the -- and

13. behind the regulatory process, that when it first

14. was written into law, when this board started to

15. regulate zip lines, I didn't wait to be contacted.

16. I followed up with the Department and ran down Lee

17. Bentley -- that's how long ago it was, when he was

18. an inspector -- and got his phone number through

19. whatever circles I could find and asked him to

20. come to our site because I wanted us to be a part

21. of this process because it needed to happen.

22. Along those same lines and in concert

23. with that, Mr. Ogle from Smoky Mountain Zip Lines

24. is here today as another Tennessee business owner

25. who has seen the positive influence of both the

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1. ACCT standard and the great benefit of the ACCT

2. community through raising awareness and

3. professionalism in the zip line industry in

4. Tennessee. So Mr. Ogle has a few comments

5. regarding his experience with the standard and the

6. organization.

7. MR. OGLE: Hello, everyone, this

8. morning. Thank you for this opportunity to come

9. and talk to you. As Mr. Stock here mentioned,

10. with the regulatory environment, the first zip

11. line in Sevier County opened in 2008. We actually

12. opened in 2009. Now there are about 15 companies

13. in our area. And while I can't speak for all of

14. them, my own personal company, we would be guilty

15. of that home-built kind of -- not necessarily a

16. backyard operation but unknowledged and unknowing

17. construction.

18. It was -- it seemed to be the thing

19. to do and it was something we got into, and had we

20. not found some sort of higher purpose or higher

21. calling, better source of knowledge, it's

22. undoubtedly that we would have eventually injured

23. somebody. As somebody who has seen from, I guess,

24. a roguish operation and we're self-built, like I

25. said, and we kind of learned some lessons through

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1. some very close calls and near misses and

2. pursuing, you know, this attention to safety and

3. this need to -- we can't continue at the current

4. pace that we were operating at, so we kept asking

5. questions. You know, how can we make this safer?

6. How can we minimize this risk? What can we do

7. better? And that overall search led me to the

8. ACCT at about 2010, and 2011 started reaching out

9. to different board members and association members

10. and just really was welcomed, you know, in open

11. arms, as far as their approachability.

12. One of the lessons I've learned in

13. the industry is it's not just an injury at

14. such-and-such location or this was bad for -- it

15. doesn't stigmatize to the location. It

16. stigmatizes to the industry.

17. There was an unfortunate accident in

18. Georgia January where a girl had caught a

19. flesh-eating bacteria as a result of not

20. necessarily from the zip line but from her

21. exposure to a fresh water source. And we actually

22. got calls if our zip line had been tested for

23. necrotizing fasciitis. You know, that was

24. something that happened in Georgia, you know, not

25. Tennessee. So it affects all of us.

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1. So safety at -- I think it's in the
2. best -- not only the best interest for my company
3. but for all companies involved that there is kind
4. of an oversight or regulatory instruction. And I
5. do feel that the ACCT has their fingers on the
6. pulse of what really can go wrong in the industry.
7. They're very knowledgeable and it's just -- and
8. very approachable. The problems with regulation,
9. I think, and a lot of companies in my area think,
10. well, you know, if we just kind of hide from it or
11. put our heads in the sand, it may take it a while
12. before -- you know, it will be a while before we
13. have to comply or it will be a while before it
14. directly affects us. Whereas, I think we should
15. take the bull by the horns and, you know, come and
16. say, "How can we help you guys understand more of
17. what we do?" And I think the ACCT has been very
18. pivotable in my own understanding and my own safer
19. operation of my business. And that's something
20. that I just can't -- I feel that it is very
21. important to express their involvement in actually
22. increasing the safety of our operation.
23. As Mr. Stock said, it's an inherently
24. risky activity, what we're doing. It's a sport
25. activity, partaking the heights exposed to the

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1. environments and elements therein. But there are
2. things we can do to minimize those risks and
3. through my involvement with the ACCT, I've learned
4. a lot. We run a lot safer operation now than we
5. did in 2009. And I think -- I contribute a lot of
6. that to not only our company's attention to detail
7. but also the involvement of the ACCT and the
8. knowledge base that we've gained access to through
9. that. So that would be my biggest takeaway, is
10. that it's -- and with the regulations, it's only
11. effective if it's adopted, if you can get
12. participation from those that are involved in it.
13. Otherwise, you kind of get dragging feet and
14. there's kind of a shuffle towards compliance as
15. opposed to an embrace of it. And that's something
16. that I feel, just through my own experiences with
17. the association, that it's very embracing.
18. Thank you, Don.
19. MR. STOCK: Appreciate that.
20. So we are absolutely for regulation.
21. But experiencing these types of regulatory efforts
22. across the country has demonstrated that the best
23. regulation, the best outcomes, the best success
24. which goes the furthest and is the most successful
25. in ensuring public safety and supporting the

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1. industry who's being regulated, is regulation that
2. actively engages and involves the stakeholders as
3. partners in that regulatory process. And that's
4. the message that we spread to our colleagues, is
5. don't fight this. Let's be a part of it. Let's
6. support it. Let's do everything we can.
7. The current system isn't ideal but
8. we're still doing it. We're trying to show the
9. Department that we're behind them. We're with
10. them. We're all on the same team. I think the
11. communication that we've had with Ms. Jefferson's
12. offices and with Carlene in particular has
13. demonstrated that, that we have been a part of
14. trying to do the right thing and be involved in
15. the process as it exists.
16. No one knows an industry like the
17. people who do it every day, which is why you have
18. elevator people on this board, and so no one knows
19. it like the people who are there. And without the
20. input and insight from the people who make up the
21. industry, it's very easy to make decisions at an
22. administrative level that can have unanticipated
23. and extremely negative effects. And because of
24. this, I applaud your willingness as a board to
25. hear our concerns. I do truly thank you for that.

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1. The adoption of an industry standard
2. is certainly one of those critically important
3. decisions that have far-reaching and potentially
4. detrimental impacts. Because of this, I believe
5. it's extremely important and valuable to
6. understand the history of challenge courses and
7. zip lines in the State as we evaluate the best
8. course of action regarding standards, because
9. there is a very long history, one that far -- goes
10. much further back than I think a lot of people
11. understand or recognize.
12. The issue of regulation in Tennessee
13. has come to light because of the proliferation of
14. commercial zip line operations, the first one
15. being installed, I was told, in 2007. However,
16. the history of our industry in Tennessee predates
17. that by nearly 20 years. Since the mid '80s,
18. there have been challenge courses and zip lines
19. operating in our state at many camps, parks, or
20. retreat centers. And our company, just our
21. company, The Adventure Guild, has been operating
22. courses and providing challenge course service in
23. Chattanooga and that surrounding area since the
24. early '90s, which is around the same time that
25. some of the builders who had been doing these

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1. courses and had been doing training recognized the
2. need for an association, recognized the need for
3. standards that would begin to really put together
4. a solid list of things that needed to happen,
5. needed to be done, and a standard to which people
6. needed to be held to, to if we're going to do
7. these activities, this is how we need to go about
8. it.
9. This is the Ninth Edition. It
10. started as the first edition in 1994 and it's gone
11. through revision after revision after revision
12. by -- through the hands of thousands of people in
13. our industry through the course of this last
14. 20 years.
15. Since those early years, the ACCT
16. standard continued to be refined and expanded.
17. It's gone through many editions, all the way up to
18. the ninth edition, which is the ANSI/ACCT 03-2016
19. you have before you.
20. Over the span of 20 years, this
21. standard began to be adopted and was used more and
22. more by builders and operators in our state until
23. it became, as it remains today, the de facto
24. standard for challenge courses and zip lines in
25. our state.

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1. Does everyone follow it? No. But
2. the huge percentage, just the people who are
3. represented in this room, not only the builders
4. but the operators, they all are already compliant
5. and are well-versed and use the ACCT standard.
6. The standard is written to address
7. the unique aspects of our industry, to be
8. applicable to all challenge course, zip line, and
9. adventure park application, whether they be
10. commercial, educational, therapeutic or
11. recreational.
12. At this time right here, I believe
13. that at this moment it is the very best single
14. option for adoption by the State of Tennessee for
15. the regulation of our industry for the following
16. reasons. And keep in mind that I said "at this
17. moment the very best single option." Okay?
18. Because it's the one that is vetted. It's got the
19. history. It has the support, and it covers both
20. commercial and traditional use. It addresses
21. everything we need to address within the state in
22. terms of regulatory work.
23. Contrary to the misrepresentations
24. presented by the PRCA, the ACCT standard and its
25. adherence, far from creating dangerous conditions,

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1. have been quietly and effectively protecting the
2. public safety in Tennessee for over 20 years.
3. It's only been in the last probably five or so
4. that this board and this department even knew of
5. the existence of our association and our history.
6. And so for all those years we've been quietly
7. running zip lines and adventure parks and
8. challenge courses in the state safely, protecting
9. participants for two decades.
10. And if we were not doing a good job,
11. if the standard was full of all the holes that it
12. has been purported to be, we certainly would have
13. had lots and lots of accidents through this course
14. of time and you would have known about us way
15. earlier than you did. And so my admonition is
16. that that's a misrepresentation, and it's a huge
17. misrepresentation that I take offense at.
18. The reality is there are 68 ACCT
19. members in the state of Tennessee. There are
20. three accredited professional venders that reside
21. in Tennessee. Eight certified inspectors reside
22. in the state of Tennessee that support ACCT
23. standard and its adoption for use in our state.
24. And this doesn't even take into account the myriad
25. of camp owners, challenge course directors,

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1. facilitators, commercial operations that already
2. use the ACCT standard and support its adoption in
3. Tennessee, some of which are sitting behind me.
4. Just in a very quick, cursory email
5. to our colleagues, who are builders, and very
6. incomplete data collection over the past month,
7. demonstrates that among just eight challenge
8. course venders that responded to my request that
9. are either based in Tennessee, who are legally
10. operating in the state of Tennessee, serving,
11. like, 20 commercial operations in the state and
12. over 100 camps, schools, retreat centers, and
13. treatment facilities. That many people already
14. are using the standard, already familiar with it,
15. already vetted it, and are firmly behind the
16. adoption, official adoption, of the standard for
17. the state of Tennessee for regulatory purposes.
18. Secondly, the ACCT standard has been
19. vetted over the span of 20 years, is supported by
20. the industry and is almost universally accepted as
21. the de facto standard. It has passed through a
22. rigorous, thorough, and completely transparent
23. ANSI standards process which involves significant
24. participation by the greater industry.
25. Additionally, over the course of the

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1. last ten years, the PRCA has, on many occasions,
2. appealed the ACCTs process again and again and
3. again and again, and there was just a final appeal
4. decision from the BSR that went completely
5. 100 percent in the ACCT's favor. It included some
6. of the -- the presentation by the PRCA included
7. some of the very same issues that -- the safety
8. concerns and things that they brought to you.
9. ANSI responded with a universal
10. ruling on the side of the ACCT and upheld the
11. standard and its validity. And so it has passed
12. through a rigorous process that's had a lot of
13. eyes on it over the course of many years.
14. The ANSI ACCT 03-2016 already enjoys
15. the most universal industry to support and is
16. specifically called out and referred to by many
17. regulatory bodies. Authorities having
18. jurisdiction in West Virginia, Colorado,
19. Massachusetts, New York, Illinois, Texas,
20. Kentucky, Pennsylvania, and California have either
21. adopted, referenced or used language from the ACCT
22. standard in their regulatory process.
23. The ACCT has a secretary for the
24. ANSI. The ACCT standard is a large and
25. well-funded organization with a robust

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1. infrastructure and administrative support which is
2. capable of maintaining the standard, which is a
3. big undertaking. The standard is never done.
4. It's constantly under review. All of these issues
5. about the accidents and things that have occurred,
6. no standard is ever perfect. And I think everyone
7. who deals with that and understands the standards
8. process, it is always a work in progress. And the
9. only way that you really vet a standard is it gets
10. in motion and you actually use it. And it's
11. through the course of operations, through the
12. course of use, that some issues arise that are
13. sometimes unanticipated, and then you adjust to
14. them and you deal with them and you change the
15. standard to address things that were not
16. preliminarily seen as a problem. That is the
17. standards development process.
18. The community, the industry as a
19. whole, looks at this, everyone is operating, and
20. Ray goes, "Oh, we had this issue. Hey, we had
21. that same issue. We should address that."
22. The standards current process is
23. addressing some of the challenges. Some of the
24. things that we have seen with the proliferation of
25. commercial operations have highlighted things that

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1. need to be talked about and need to be addressed
2. in standards. The only way to vet that is to
3. actually use the standard, which is why the idea
4. of adopting an unvetted standard, adopting one
5. that has not had universal support, has not been
6. out there being followed, is a scary prospect to
7. me.
8. The ACCT has developed an inspector
9. certification program, also, that this board has
10. already adopted and endorsed, which is closely
11. tied to its standard, so officially adopting that
12. related standard seems perfectly logical and is
13. another hand-in-the-glove connection between the
14. two.
15. Additionally, in 2017, the ACCT
16. program accreditation process that is under
17. development is going to be piloted and launched to
18. address a very significant issue and this is a big
19. one. It hearkens back to what I said earlier
20. about these not being Tilt-a-Whirls or "push a
21. button and it automatically takes care of people"
22. types of activities.
23. This accreditation process for
24. programming and operations is being developed to
25. address the very significant issue of proper

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1. training and training documentation for these --
2. to address the issue of operator error that is the
3. source of the vast majority of fatalities in our
4. industry and injuries in our industry. And this
5. is the big difference between our industry and
6. that of the regular, traditional amusement
7. devices. We don't have the sensors and relays and
8. the safety systems that come from mechanism in
9. order to take care of the public safety. That's
10. in the hands of human beings. And that is a --
11. there is some engineering in terms of delay
12. systems and things like that that are actively
13. being used to help protect the public safety, but
14. the reality is we have a lot of human involvement
15. in these activities by their very nature. And so,
16. therefore, any regulatory stuff that we do really
17. needs to address that issue of training, proper
18. training, proper qualifications for those guys in
19. leadership. The ACCT standard does that as well
20. as the accreditation -- program accreditation that
21. we're working on.
22. Point Number 4, ASTM F2959, which I
23. am on the subcommittee for and on the work group
24. for, is the applicable standard for our industry.
25. But as a member of that subcommittee, developing

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1. this standard, I can attest that currently it is
 2. an incomplete document. It's a great work but
 3. it's about five or seven pages long and it
 4. basically just refers to all of the other, in 2291
 5. and all the ones that are a part of the ASTM F24.
 6. It's a process that is under way.
 7. There are legitimate holes and significant holes
 8. particularly in terms of some of the training
 9. aspects. 770-15 of ASTM has included some of
 10. those training aspects, but there's work that
 11. still needs to be done. And so it could take
 12. years before we have that standard to the place
 13. where it's complete, which leaves significant
 14. holes that I don't believe we ought to leave open
 15. until we get all of those things plugged. It's a
 16. process that's under way. A lot could change in
 17. the course of the next few months. But as it
 18. stands, it continues to need work.
 19. Also, ASTM F2959, also, specifically
 20. states that it is not applicable to courses used
 21. for educational curriculum, physical fitness
 22. purposes, organizations for competitive events,
 23. therapeutic programs, training purposes, or team
 24. and confidence building. Though it may be
 25. possibly due to some confusion or misunderstanding

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1. between the permitting office and our operators,
 2. currently, as we understand it, the State is
 3. requiring permitting for any and all challenge
 4. courses, zip lines, and adventure parks in
 5. Tennessee, regardless of the purpose or use.
 6. That's the information that we have gotten.
 7. However, courses used for these types of
 8. purposes -- and there are many, as I mentioned --
 9. are not covered by ASTM 2959. They're
 10. specifically exempted, which also leaves a hole.
 11. So at the very least, if this board
 12. determines that it is in the best interest of
 13. public safety to retain reference to ASTM F2959
 14. for strictly commercial operations, I also
 15. strongly urge the board to document ACCT standard
 16. alongside the ASTM F2959 with the stipulation that
 17. the appropriate standard be applied to the
 18. appropriate situation.
 19. To the contrary. And I'm not sure how
 20. much of this information is -- you are aware of or
 21. not. As a Tennessee business owner, I actually do
 22. not support the PRCA or its ANSI standard because
 23. I've been a part of it. I know how it was
 24. developed and I know what it has in terms of
 25. industry support and what it doesn't.

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1. The ANSI/PRCA 1.0.3-2014 standard was
 2. written and edited by a single individual, and the
 3. public comments during the PRCA's ANSI process
 4. were reviewed and responded to by a three-person
 5. subcommittee that was chaired by the same
 6. individual. The consensus group didn't even get
 7. to see the public comments until after the
 8. subcommittee had already processed the comments
 9. and sent their responses to the commentators. I
 10. violently reacted to this and wrote letters and
 11. required explanation about why that was a
 12. legitimate way to do things.
 13. I was on the ANSI/PRCA standards
 14. committee through the entire process and
 15. continually and loudly protested against this lack
 16. of transparency, the lack of industry buy-in, the
 17. lack of actual discussion regarding standards
 18. content.
 19. I asked the question what standard has
 20. ever been developed where there was no discussion
 21. within the consensus group regarding the content
 22. of the standard. I only know of one, and that's
 23. the PRCA standard. Because I asked how can we
 24. understand that we have industry consensus and
 25. that the content of the standard is what it needs

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1. to be when the consensus group itself never
 2. discussed the content standard. There was just a
 3. vote put out and no conversation. Oh, vote's up,
 4. vote for it, and everybody vote, everybody rubber
 5. stamp it and let's go. That's the experience that
 6. I had with that process.
 7. The ANSI/PRCA 3-2014 has been published
 8. since 2014, and even with aggressive,
 9. fear-mongering promotion, like you have witnessed,
 10. no regulatory body that I have been able to
 11. uncover -- and I've called many -- specifically
 12. adopted it as their standard for their industry
 13. and their jurisdiction. I have not been able to
 14. find one. At most it's included as an equivalent.
 15. The PRCA, as secretariat for their
 16. standard, is a tiny organization, and unless
 17. something has changed since I was involved, it has
 18. no existing infrastructure with which to maintain
 19. a standard. No office, no office staff, no
 20. process by which the -- maintaining a standard of
 21. the work that's involved can be accomplished.
 22. That standard is also extremely prescriptive and
 23. has many content issues that are going to be
 24. extremely disruptive and prohibitively expensive
 25. for both vendors and the operators in this state

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1. to adhere to, all with no increase in public
2. safety. There are things that include a proof
3. testing of the little nuts that hold the holds on
4. a climbing wall. 20 percent of them, you've got
5. to proof test them. They're not life safety.
6. There's all kinds of things that -- the
7. application of the standard is going to be wildly
8. disruptive and extremely expensive especially for
9. operations who are not a huge commercial -- with
10. lots of money to spend.
11. This standard also has no significant
12. history of use in Tennessee. I was the only
13. builder and operator who ever referenced it or did
14. it when I was a part of the association for use in
15. Tennessee, and there's no significant support for
16. its adoption among Tennesseans.
17. The PRC is asking this board to abandon
18. an incredibly successful 20-year history of use of
19. the ACCT standard in our state in order to gamble
20. on their unwanted, unproven, and unsupported
21. standard. As a stakeholder in Tennessee, I cannot
22. conceive of a scenario where that could ever be
23. considered in the best interest of public safety.
24. And despite what's being presented,
25. there is no evidence whatsoever that PRCA has

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1. successfully developed a functional, vetted
2. inspector certification program to support its
3. standard. If it exists, like many things within
4. the organization -- and, again, I speak from
5. experience -- it exists only on paper.
6. The PRCA has no accreditation process to
7. address the significant issue of operator error,
8. which is the source of the majority of injuries
9. and fatalities within the state. Despite this,
10. however, over the course of several meetings, the
11. board and the PRCA has counted on this board's
12. unfamiliarity with our specific industry and its
13. history and used fear and misrepresentations in an
14. attempt to convince all of you to support their
15. standard.
16. I fully expect the presentation that
17. follows mine to be more of the same, including the
18. accident that just recently happened in the state
19. of Delaware, which was that a person disconnected
20. himself from a belay system and fell from a
21. height. Again, I expect kind of the same line of
22. reasoning, but the reality is that in the midst of
23. those presentations, they've made accusations
24. regarding the ACCT standard and its connections
25. with accidents in our industry that are at best

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1. unprovable. Okay? Some of the things represented
2. just -- there's no way to know that. You would
3. have had to have had a video and watched this
4. accident happen to prove that the carabiner rolled
5. out rather than the participant wasn't clipped
6. into the belay system itself.
7. And I can tell you they're far more
8. likely to -- the operator had gotten distracted,
9. forgot to make the connection and sent the
10. participant off than is likely that that carabiner
11. had gate roll-out on a harness loop.
12. THE REPORTER: The cara --
13. MR. STOCK: Carabiner.
14. So at this time, I would like to turn
15. our presentation over to Kathy Haras, who is the
16. chair of the ACCT's Design, Performance, and
17. Installation Committee, to respond to some of
18. those presentations that have been made and
19. accusations that have been made regarding the ACCT
20. standard.
21. Kathy?
22. MS. HARAS: I'm actually going to
23. sit over there because I've got a PowerPoint,
24. so ...
25. CHAIRMAN FOX: While you're getting

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1. ready to go, can we take about a ten-minute break
2. and give everyone time enough to take a break?
3. (Recess observed.)
4. MS. KELSEY: Information has --
5. regarding the positions and the amount of pay --
6. and I will provide a copy of that as a matter of
7. record -- the amusement device manager is an
8. executive service position. The average salary,
9. starting monthly salary, is \$4,120. The maximum
10. is \$7,416. The amusement device safety compliance
11. officer, the minimum salary is \$2,769. The
12. maximum is \$4,431. Those are preferred service.
13. And I will submit those to you as a matter of
14. record.
15. CHAIRMAN FOX: Can I ask one
16. question, please?
17. MS. KELSEY: Yes, sir.
18. CHAIRMAN FOX: I'm assuming there's
19. overtime involved with this as well? Wouldn't
20. there be?
21. MS. JEFFRSON: Well, yes, if
22. there's an accident. I can definitely see
23. overtime if there's an accident because if the
24. inspection is after hours, then they would be
25. required to work.

1. CHAIRMAN FOX: I'm sure somebody is
 2. going to ask the question. I just want to be able
 3. to answer it. Thank you.
 4. MR. HALE: Is the executive
 5. position exempt from overtime?
 6. MS. JEFFERSON: Depending on the --
 7. we'll have to talk with HR just to -- because the
 8. rules have changed --
 9. MR. HALE: Probably why it's
 10. classified that way, to make it exempt. Thank
 11. you.
 12. CHAIRMAN FOX: Okay. Young lady,
 13. are you ready?
 14. MS. HARAS: I'm ready.
 15. CHAIRMAN FOX: Please continue.
 16. MS. HARAS: My goal this morning is
 17. to make it easier to understand. There are a lot
 18. of acronyms flying around. It's a bit of an
 19. alphabet soup. But provide some information in
 20. terms of comparing challenge course standards.
 21. And I'm going to focus on five
 22. different areas: Scope, context, definitions,
 23. approach, and differences. And my hope is that
 24. this will make it easier for you to tease apart
 25. the differences that do and don't exist among the

1. different standard-setting bodies.
 2. I'm going to start with the scope,
 3. which deals with how broad, wide -- what is the
 4. topic that is being covered. As you've already
 5. heard from Mr. Stock, there is a difference
 6. between the ACCT and the ASTM standard, and it
 7. particularly deals with the fact that ASTM is
 8. meant to apply when it's operated for concession
 9. or commercial recreation. And the reason for this
 10. difference is not at the structural level but very
 11. much at the operational level. And you're going
 12. to see some photos that the words might be
 13. similar, but in actual fact, what the experience
 14. is differs a fair bit. And that is the gap or the
 15. hole that ACCT is able to address.
 16. So the exemptions that are listed are
 17. educational curriculum, therapeutic programs,
 18. training purposes, team and confidence building.
 19. And many of your camps, park districts, and
 20. schools, therefore, don't fall under the scope of
 21. ASTM.
 22. This model hopefully explains a
 23. little bit what's going on. What we call
 24. "programs" tend to be facilitated, and rather than
 25. amusement devices that are open to the public --

1. and those are aerial adventure parks and our zip
 2. lines -- that's me, I've made a booking, and I've
 3. shown up to voluntarily participate. That is
 4. generally not what happens at camp. That is not
 5. what happens in a school phys-ed program. They
 6. are what we might call invitation-only groups
 7. where these are the campers that are participating
 8. in a camp program. This is a grade 10 physical
 9. education class. And the supervision and
 10. experience that is provided is different.
 11. The reason this distinction is
 12. important is that it reasonably but not
 13. specifically maps towards the commercial
 14. application. So the open-to-the-public, those
 15. tend to be your commercial or market-driven
 16. enterprises, high through foot experiences.
 17. The invitation-only groups, they tend
 18. to be being provided by mission-driven
 19. organizations, often nonprofits, generally
 20. community based. And it is a different experience
 21. because of how that is connected to their mission.
 22. And so it looks the same on the surface but when
 23. you go a little bit deeper, it is, in fact,
 24. different.
 25. And so this is a fairly typical

1. picture. I found it on Google images. I don't
 2. know where particularly it's from. But what
 3. you'll notice is that the portion of people who
 4. are in the air as compared to the portion of
 5. people who are on the ground are very different.
 6. Lots of folks are involved in the safety system.
 7. Lots of folks are involved in the team-building
 8. aspect. But this is not what we might imagine
 9. when we say "amusement ride."
 10. The other thing to point out -- and
 11. I've got a pointer that you can see behind you --
 12. is that the safety system is different. This
 13. person up here (indicating) is connected to a rope
 14. system that runs down and is being managed by this
 15. person here (indicating). Similarly, these two
 16. young ladies who are climbing are being belayed by
 17. these two folks down here (indicating). So the
 18. safety system runs all the way up and comes back
 19. down to them.
 20. That is fairly different than a
 21. lanyard-based system that you're going to see on
 22. aerial adventure parks and zip lines. And the
 23. reason that's important from a regulatory
 24. standpoint is that it is fairly easy to write a
 25. standard or make a decision that doesn't quite

<p style="text-align: right;">Page 61</p> <ol style="list-style-type: none"> 1. apply and then leaves a gap. 2. This is a low activity, so, you know, 3. you are about six inches, maybe eight inches off 4. the ground. And absolutely this needs to be safe. 5. Absolutely this needs to be managed appropriately. 6. But this is, again, a different sort of 7. experience. 8. Here, again, this is a ground-based, 9. team-building initiative, and the folks who are in 10. the back spotting, with their hands up, they're 11. not doing -- that is the spotting; that is the 12. safety system. Because that is how the 13. team-building aspect gets created. 14. You could deal with this using some 15. sort of collective safety system, whether a safety 16. net or water or padding, but that would be counter 17. to the goal of this activity, which is to work 18. together, both with the people on the ground and 19. with the folks who are in the air. And so we need 20. to be careful when we use the term "challenge 21. course," which flavor of challenge course we're 22. talking about and being aware that what 23. mission-driven organizations that tend to be 24. noncommercial are offering and what aerial 25. adventure parks and zip lines and commercial 	<p style="text-align: right;">Page 63</p> <ol style="list-style-type: none"> 1. also does not include window cleaner belts or 2. sports-related activities. That is outside their 3. scope, outside their mission, and so it is not 4. particularly appropriate to look at that. 5. I'm not going to read this paragraph 6. to you, but I would like to draw your attention to 7. the final sentence which is yes, the systems, 8. subsystems, components, and equipment might be the 9. same, but when you are doing these other 10. activities, they do not intend for their standards 11. to apply. And so it is important -- you know, 12. this is the fine print at the beginning of the 13. standard and it's not very exciting reading -- but 14. it is important in terms of figuring out, well, 15. does this matter? 16. Finally, "Definitions." As we 17. continue to move forward, it seems silly to say 18. that a word might not mean what you think it 19. means. This is particularly true from a standards 20. standpoint because if you are comparing standards, 21. or more appropriately, when you are comparing 22. standards, if you think the word means the same 23. thing throughout all the standards that you are 24. comparing, that is another opportunity to make a 25. mistake because the word might not, in fact,
<p style="text-align: right;">Page 62</p> <ol style="list-style-type: none"> 1. operations are offering differ in ways that are 2. significant. 3. This is a school phys-ed class at a 4. climbing wall, and this is a very different belay 5. system than what you've seen in the past and what 6. you traditionally see at climbing walls. They're 7. using a counter-weight system, walk backwards, and 8. the climber, who's hiding up in that corner, that 9. is how they're being protected. And this is 10. important because it's that team aspect that is 11. trying to be leveraged. 12. Moving on to "Context," this is about 13. the setting and the circumstances in which the 14. event or the experience takes place. And what is 15. most important here is that the laws of whatever 16. state you are in continue to apply when you are on 17. a challenge course, zip tour or aerial adventure 18. park. The standards do not supercede, duplicate, 19. or replace those regulations. And so it is 20. important when we are reading standards to be 21. aware of that context. 22. ANSI's Z359, which absolutely applies 23. in a labor context, does not apply to sports 24. activities such as mountaineering because the 25. inherent intent of the activity is different. It 	<p style="text-align: right;">Page 64</p> <ol style="list-style-type: none"> 1. either be part of the standards, or be defined in 2. similar ways. 3. Here we have another issue that I 4. would like to draw your attention to which is 5. "Suspension." Suspension is literally hanging 6. 100 percent of the person's body weight. It is 7. outside the scope of the ANSI Z359 standards. And 8. this is important because this is what suspension 9. means. That is what happens on a zip line. You 10. have a patron or a participant that is being 11. suspended, and so it is not sensible to apply a 12. standard which on its face says, "Hey, this 13. definition doesn't apply to us." 14. The second thing I would like to draw 15. your attention to is that this zip line doesn't 16. particularly resemble some of the zip line canopy 17. tours that you have seen. And, again, it is much 18. more typical of that noncommercial mission-driven 19. type of programming that is currently not served 20. by the ASTM standard. 21. I'm going to skip ahead to 22. "Approach." And this is once again where you are 23. going to see, experience, and read about 24. differences in the standards that are likely going 25. to have you scratching your head, going, well,

1. this doesn't seem the same at all. There are two
 2. main approaches. One is a systems approach that
 3. focuses on the whole, and one is component
 4. analysis, whereby, the parts of the system are
 5. broken into separate elements. And being aware of
 6. which approach is being used is helpful because it
 7. lets you know where the numbers or the data have
 8. come from and why they are important.
 9. ACCT uses a systems-based approach.
 10. There is harnesses, being that they are the
 11. patron-conveying unit, receive a lot of the
 12. tension. And what's important here is that there
 13. appears to be a difference in the strength of the
 14. standards. However, what you'll notice is between
 15. the PRCA standard, the ACCT standard, and the ASTM
 16. standard, the listed specifications and standards
 17. that are cited are the same.
 18. One of the base standards is
 19. EN 12277. And, again, I'm not going to read this
 20. technical explanation to you, but I would draw
 21. your attention to this bracket right here which
 22. talks about 15 kilonewtons. That's an important
 23. number when we're talking about this system. This
 24. is an EN 12277 harness which is recognized by all
 25. the standards that we are discussing today.

1. It has -- or it is tested to, which
 2. is different than it has a breaking strength of 15
 3. kilonewtons -- it is tested for 15 kilonewtons.
 4. And it is being used appropriately, and, in this
 5. case, we've got an operating system that uses
 6. lanyards, so we have no problem with the harness
 7. across the standards that are being discussed.
 8. However, when we look at the lanyard standard,
 9. you'll notice that with ACCT it matches the
 10. harness standard. That's because having the
 11. lanyards have a greater breaking strength in this
 12. system does not necessarily provide a greater
 13. level of safety. It is a safety chain, and the
 14. chain is as strong as its weakest link. So we can
 15. be thinking that surely a set of lanyards with a
 16. breaking strength of 16 kilonewtons or
 17. 22 kilonewtons, which converts to 5,000 pounds,
 18. well, those would be better. But if we are
 19. connecting them to the same piece of equipment,
 20. that's not creating a different system safety
 21. factor.
 22. From the presentations that you have
 23. received from the PRCA, a number of differences
 24. have been highlighted. Some of those differences
 25. matter. Some of them don't matter. And some of

1. them simply don't exist. They are differences in
 2. wording. Differences that don't matter aren't
 3. substantive or significant or they're not relevant
 4. in this context. So one of the differences is
 5. that the equipment standard is intended to apply
 6. to participants and not to equipment used by
 7. installers, operators, or other staff members.
 8. That is because the labor regulations in the state
 9. are, in fact, the laws that apply. And so it is
 10. not intended to convey that installers, operators,
 11. and other staff members can do whatever they want,
 12. but simply to recognize that the rules and
 13. regulations and standards that pertain to them
 14. have already been established. It's the
 15. participants that need particular care and
 16. attention to their safety. So that is a
 17. difference.
 18. There is a fair amount of discussion
 19. certainly at the ANSI BSR meeting around .2 of a
 20. kilonewton. The number in the U.S. and in
 21. Tennessee is 5,000 pounds, which converts rightly
 22. to 22.24 and a whole lot of decimal spaces after
 23. that kilonewtons. 22 kilonewtons is 98.9 percent
 24. of that, and so we are literally talking about
 25. 1 percent difference.

1. The statement that seems to be the
 2. source of confusion or misunderstanding is not, in
 3. fact, part of the ACCT standard. It is part of
 4. the explanatory material. And it is our
 5. metrication policy which is simply that a
 6. published rating of 22 kilonewtons is equivalent,
 7. because it's a rounding issue, and we don't expect
 8. that all manufacturers are going to stamp a
 9. carabiner or any other type of connector with a
 10. decimal point.
 11. Furthermore, the safety factor is 5
 12. to 1. 1 percent is far smaller than a 5-to-1
 13. safety factor. We are literally talking about
 14. 54 pounds. Is it a difference? Yes. Is 54
 15. pounds likely to be the difference in any type of
 16. strength accident? I certainly hope not. We want
 17. a much larger, and the standard calls for a much
 18. larger safety factor than 1 percent.
 19. The last thing I will say about
 20. connectors and lanyards is that strength is not
 21. the only safety criteria. Obviously, people
 22. disconnecting themselves is a problem, and so
 23. focusing on .2 of kilonewton or 54 pounds is
 24. probably not the leverage point for safety.
 25. Differences that do matter, the biggest

1. one is around redundancy. ACCT has a requirement
2. that when there is redundancy required that it
3. have the same safety factors of the primary
4. system. That's different than 80 percent. That
5. is a difference, and as far as I can tell from my
6. comparison of the two documents, that is a real
7. difference.

8. And finally, a little bit more about
9. carabiners, the difference here is that when they
10. are used as a fall arrest system, ACCT categorizes
11. its safety equipment into four different
12. categories. And the reason those four categories
13. exist is because the loading and the safety
14. systems used are different. We have not simply
15. chosen one number. We have recognized that there
16. are differences across these four safety systems.

17. So similarly, lanyards that are used as
18. fall arrest systems, not the photo that you
19. previously saw, they are intended to be compliant
20. with work-at-height legislation throughout North
21. America. So this difference that has been
22. reported is not actually a difference when you
23. read all of the words.

24. And I think that in the interest of
25. time, I will end my presentation there and turn

1. clarification. I know that a lot of these
2. standard discussions really gets into a lot of
3. nuances that there's really no way you can
4. completely consider.

5. What you're ultimately going on is, I
6. believe, a process of verifying and a process of
7. ensuring that not only operators are acting in the
8. best interest of public safety to protect
9. consumers, but ultimately that the organization
10. has not only the credibility and the standing and
11. the ability to continue not only to develop the
12. standards but to ensure that, also, we have a
13. process where we can ensure that the risks
14. associated are being mitigated to the greatest
15. extent possible.

16. So our organization actually started
17. in the late '80s, came out of a builders symposium
18. and over the years has grown into a very large,
19. reputable, credible organization. We are the
20. largest ANSI, American National Standards
21. Institute, accredited standard development
22. organization for this industry. We do have the
23. 03-2016 American National Standard. I believe
24. you-all have a copy of that in front of you so
25. that you can get a sense of what these standards

1. things over to Shawn Tierney who is the executive
2. director of ACCT.

3. CHAIRMAN FOX: Sir, may I ask a
4. question? How long will your presentation last?

5. MR. TIERNEY: The most important
6. thing of the day. I will keep my presentation
7. very brief. I'm expecting about no longer than
8. ten minutes. And I hope you can appreciate that.

9. Again, I just wanted to thank you,
10. Chairman Fox, and the rest of the board for the
11. opportunity to come before you today. I will also
12. try to speak slowly so that you can capture what I
13. have to say.

14. I really just want to sort of wrap up
15. our presentation with a couple of main points. I
16. want to talk about our organization, the
17. Association for Challenge Course Technology, ACCT,
18. and then a couple of main points around our
19. rationale for this board considering inclusion of
20. the ANSI/ACCT 3-16 standard in the Tennessee
21. rules.

22. For the last year, our association
23. has provided representation and participation at
24. these meetings in the hopes of really providing
25. some assistance, some information, some

1. entail and the work that has gone into that
2. publication. It is, essentially, the ninth
3. edition.

4. We've been publishing standards for
5. the past 20 years. We are a standard development
6. organization. But we go beyond that. Our
7. organization is really comprised of a nucleus of
8. over 3,000 members worldwide, not just the United
9. States and North America. We have members and
10. operators throughout Europe, Asia, the Caribbean,
11. Japan, Korea, Central America. So we really do
12. have tremendous international support. We're just
13. not a U.S.-based organization. We truly are
14. international. And I think that fact alone gives
15. us a lot more information not only about what's
16. happening on the international level but how we
17. can then take that information to improve the
18. process and the standards that we develop.

19. So the rationale really for including
20. our standard, there's a couple of things. Adding
21. our standard to the Tennessee rules provides the
22. State of Tennessee and the constituents with
23. access to really a wide variety of our
24. organizational benefits. I really do want to
25. highlight this because I think that is a very

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1. important aspect of what we try to do, working
2. with our constituents and stakeholders. So we are
3. a full-service training association. We provide
4. education and training, accreditation programs,
5. research grants, consultations with regulators and
6. members of the insurance industry, trade shows.
7. We have industry publications, networking events,
8. as well as being the secretary for the standards
9. development work at ACCT. We hold annual
10. conferences that are attended by over 1,100, 1,200
11. individuals worldwide, and we also have a lot of
12. different stakeholders who attend our conferences
13. to learn more about the industry and what we do as
14. an organization.
15. Currently we have more than 160
16. certified inspectors at the professional and
17. in-house level. The State of Tennessee has
18. recognized our inspector certification
19. credentialing since March 2015, and we maintain
20. frequent communications with the workplace
21. regulations and compliance division. And we have
22. operated and maintained a vender accreditation
23. program since 1998, which currently has 40
24. accredited venders worldwide.
25. In 2017 -- and you heard a little bit

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1. about this -- we plan to introduce the first
2. program accreditation for both commercial and
3. noncommercial operations. Really, as you may
4. know, credential -- accreditation is a
5. credentialing process. We will administer that
6. process and recognize and endorse qualified
7. challenge courses, aerial adventure courses, zip
8. lines and canopy tour operations that meet
9. stricter criteria.
10. Accreditation requires annual renewal,
11. and status remains as long as the minimum
12. requirements and maintenance duties are all met by
13. the accredited operation. Most importantly,
14. program accreditation will promote to the general
15. public and consumers those challenge courses,
16. aerial adventure courses, zip lines and canopy
17. tour operations that demonstrate ongoing
18. compliance with the guidelines and the policies of
19. current ACCT standards along with local and/or
20. state regulations. So this will be an important
21. development in the industry that we will not only
22. be pioneering but will put into place to, again,
23. ensure the greatest degree of public safety that
24. is possible.
25. Lastly, ASTMs, as you've heard, F 2959,

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1. specifically excludes educational fitness
2. programs, organizational competitive programs and
3. events, the repeated programs, programs for
4. training purposes, getting confidence building.
5. There's a lot of exclusions there as well. It's
6. not just the commercial operations. There's an
7. entire industry of noncommercial, what we call
8. traditional uses.
9. The ACCT standard has a proven track
10. record since '94 in effectively supporting these
11. noncommercial operations such as summer camps and
12. schools operating multiple programs which utilize
13. components of the challenge course industry.
14. In the ASTM standard, the expectation is
15. that operators have the on-site skills to do their
16. own internal inspections and internal maintenance,
17. while the ACCT standard does not make that
18. assumption. And that is a huge consideration
19. right there.
20. The ACCT standard requires inspections
21. to be a third-party process outside the ownership
22. of the facility. Currently, ACCT certified
23. inspectors at the professional level are qualified
24. to provide third-party inspections in accordance
25. with either ASTM or ACCT standards. However,

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1. current Tennessee rules make no distinction
2. between commercial and noncommercial applications.
3. As a result, under Tennessee rules, camps and
4. schools are subject to a standard that was never
5. intended to cover such installations. By adding
6. the ANSI ACCT standard, not necessarily replacing
7. the ASTM standard to the Tennessee rules,
8. noncommercial facilities, like camps and schools,
9. would be inspected to a more appropriate standard
10. for their application.
11. So I'll just close by saying if the
12. safety board wants to retain use of F 2959 for
13. regulating challenge courses, zip lines, and
14. aerial adventure parks in the state of Tennessee,
15. I would urge you to consider adopting ANSI ACCT
16. 03-2016, the manual that you have in front of you,
17. alongside, for the reasons I've just stated.
18. Again, I wanted to thank you-all for
19. hanging through our presentation which covered a
20. lot of information, and I'll just open it up to
21. any other questions that you might have at this
22. point for us.
23. CHAIRMAN FOX: Any questions from
24. the board?
25. MR. HALE: In your guidelines, in

1. the ACCT guidelines, are portable zip line devices
 2. addressed anywhere in that? If not, are --
 3. MR. TIERNEY: When you say
 4. "portable," are you referring to sort of
 5. commercially made, like, backyard zip lines,
 6. things that particularly have --
 7. MR. HALE: I'm talking about mobile
 8. zip line devices. I was in another state -- and I
 9. don't know of any local -- any carnivals that are
 10. playing in Tennessee that are bringing one in --
 11. but a carnival that I was at in another state had
 12. a zip line system that was brought in there and
 13. erected for the five days and torn down and moved
 14. to another fair. Is that addressed in your
 15. standard, and if not, is that something that you
 16. are looking at addressing?
 17. MR. TIERNEY: I would defer to some
 18. of my colleagues, actually, for that answer
 19. specifically so that I'm not giving any inaccurate
 20. information about that.
 21. MS. HARAS: Right now they are
 22. addressed. There are no separate guidelines,
 23. however, for that, so they would need to meet all
 24. of the standards for permanent zip lines. There's
 25. not a separate set of standards that they would be

1. required to meet.
 2. MR. HALE: And I can certainly
 3. agree with you, as far as cable inspection and
 4. sizing and harness and that type of thing. I
 5. guess my particular question is about the anchor
 6. points and whether that is something that would be
 7. addressed in the future. Obviously, they're not
 8. coming in with a portable line and hooking it to a
 9. tree, so ...
 10. MR. JACOBS: The manufacturer
 11. specification --
 12. THE REPORTER: I don't know who
 13. that is.
 14. CHAIRMAN FOX: Excuse me. You'll
 15. have to stand and state your name.
 16. MR. JACOBS: Keith Jacobs. I am
 17. also with ACCT.
 18. The manufacturer specifications for
 19. portable rides would have to be followed. There
 20. is a manual for the three manufacturers of current
 21. portable zip lines that do specify what the anchor
 22. strength, the ratings, and how they need to be
 23. inspected are.
 24. CHAIRMAN FOX: Thank you.
 25. Anything else? Any other questions?

1. MR. STOCK: Just one question.
 2. Would it be outside the scope to ask that this
 3. board consider creating a position that is -- that
 4. would be representative of our industry? That's
 5. just a question that I would hope you guys would
 6. consider. Nothing else to say except I would like
 7. to at least make that request.
 8. CHAIRMAN FOX: Okay. We will run
 9. that through the process. I don't know how that
 10. works.
 11. MR. STOCK: Okay.
 12. MS. KELSEY: That would have to be
 13. addressed through the governor's office.
 14. MR. STOCK: Thank you. I just
 15. wanted it on the record. That's all.
 16. CHAIRMAN FOX: All right. Thank
 17. you.
 18. With your-all's indulgence, I'll
 19. add -- let's go to 16-02, and at the end of his
 20. presentation, then we will make a decision, if
 21. any, on what we want to do to either accept ACCT
 22. or the PRCA or both or none. That will be
 23. your-all's decision obviously.
 24. Mr. Barker, I would recognize you and
 25. ask you to step forward -- and please understand,

1. you-all, at the last meeting, you-all made your
 2. presentation, and I'm sure you have some rebuttal
 3. for today. And if I could limit that to about ten
 4. minutes as well. And then we will try to make a
 5. decision on what we want to do, if this board is
 6. willing to do that or -- if I haven't overstepped
 7. the bounds.
 8. Please go ahead, sir.
 9. MR. BARKER: All right. I don't
 10. want to get into all the minutia about the
 11. standards and development and this and that and
 12. everything else. The PRCA standards were actually
 13. developed with thousands of public comments. It's
 14. very typical to have a committee look at the
 15. public comments rather than an entire group.
 16. These are common things within standard
 17. development.
 18. The PRCA standard, the ANSI/ACCT --
 19. the American National Safety standards -- we hate
 20. saying PRCA after it now because it's moved past
 21. that. It's the American National Safety standard.
 22. That's the one big difference between the two
 23. standards, is the safety standard, the ACCT
 24. standard is not. It was developed in association
 25. with other world international standard

<p style="text-align: right;">Page 81</p> <p>1. developers, European ropes course, Australia and 2. New Zealand, all these different things. It 3. contains a national training scheme that addresses 4. all these issues that we're talking about with the 5. operators. Now, does that mean every single 6. operator will follow every single standard they 7. get promptly? No. If they did, we wouldn't need 8. inspectors. We wouldn't need a safety board. 9. The big thing here is we keep getting 10. back to some of these general comments about the 11. differences between the standards. And once 12. again, there's a safety standard. If you're up on 13. a course and you're being held by a lanyard, and 14. that lanyard is supposed to stop you from falling 15. and getting killed, does it matter if you're a 16. worker or somebody paying to be on that course? 17. Shouldn't it be the same strength requirements? 18. Our general counsel left, but I was 19. going to look over at the attorneys and basically 20. say, "If you went to court and I said, 'Well, it's 21. okay because it was a participant. It wasn't a 22. worker, so it didn't need to be the same 23. strength,' I'm sure you would have a field day 24. with that in court." 25. If the U.S. says 5,000 pounds, it's</p>	<p style="text-align: right;">Page 83</p> <p>1. courses say the participants can be up to 2. 250 pounds. A 250-pound person falling two feet 3. and then getting caught by the lanyard, and the 4. lanyard taking one foot to stop them, generates a 5. thousand pounds of force. That broke at 900. 6. Do you want your family members on that? 7. These are the real questions. This is about 8. safety. You're the safety board. We're the 9. Department of Labor. This is about worker safety. 10. Why adopt a standard that only addresses 11. participants and not participants and workers? 12. Why adopt a standard that does not provide the 13. training issues that you need? Why adopt a 14. standard that doesn't give you testing information 15. on how to test harnesses appropriate to this 16. industry? 17. We had some comparisons back and forth 18. of the two standards, and one of the things that 19. was mentioned was the redundancy. The 20. redundancies, if you look at those two standards 21. side by side, again, are different. Like we said, 22. the definitions make a big difference. One of 23. them, the ACCT standard, says safety factor. The 24. PRCA standard says tinsel strength. They are 25. different. There's a major difference there</p>
<p style="text-align: right;">Page 82</p> <p>1. 5,000 pounds pretty much. And that should be 2. applied across the board. So if one standard says 3. this is only for employees, this is only for this 4. and this is only for that, why is it different? 5. In the PRCA standards, they are not different. 6. It's the same strength requirements. And those 7. are based on normal testing and so forth. 8. A copy of testing of recent 3,375-pound 9. lanyards was sent around. It was passed around 10. the room here just to give you an idea. Now, the 11. first field test, which is a field test -- 12. quickly, so we had some for down here -- right 13. now, we have 12 different types of 3,375-pound 14. lanyards out for testing in the independent lab. 15. When those results come in, we'll make sure you 16. get to see them, even if you've made your 17. decision, so you know what you're dealing with. 18. All right? But I know that what you're saying is 19. dramatic stuff and everything, but safety is 20. dramatic. If someone is falling and dying, it is 21. dramatic. And we're not trying to scare people. 22. We're trying to educate. 23. This is a 3,375-pound lanyard that was 24. pole tested. It broke at 900 pounds. Most 25. courses, ariel adventure parks and zip line</p>	<p style="text-align: right;">Page 84</p> <p>1. between safety factor and tinsel strength. Safety 2. factor is part of a whole system, period. All 3. right? Systems have to be complete. You can't 4. just sit there and say, well, we'll use this 5. system and it will be all right even if it's less 6. strength. It doesn't work that way. 7. And harnesses, the straps on leg straps 8. on harnesses can be 3,375 pounds when you look at 9. the ASTM requirements and some of the other 10. requirements for harness manufacturing around the 11. world. 12. The belay loop, the thing that people 13. are attaching to, is 5,000 pounds here in the U.S. 14. That's what's required. So that entire system is 15. 5,000 pounds. The auto-lock carabiner is 5,000 16. pounds. The lanyard, 5,000 pounds. The 17. attachment is 5,000 pounds. It's a 5,000-pound 18. system all the way back to the anchor 19. requirements. Not "Well, maybe we'll do 3,375 20. here and maybe we'll allow this gate to open under 21. stress." 22. Putting a standard out there that if I 23. came in as a builder or a manufacturer or somebody 24. who wanted to run a course here in Tennessee, you 25. put out a standard that says, "Well, you can use</p>

1. any one of these carabiners." Because -- it's so
2. vague. It says, "It could be mechanical. It
3. could be fall arrest." And it leaves it all up to
4. me. And then I start looking through those
5. standards. I wind up with this carabiner out
6. there like we had in the zip line course here in
7. Tennessee that opened and the person fell to the
8. ground. Does it matter if it was a worker or a
9. user? It doesn't matter.

10. All right. The idea here is to
11. develop -- do you go with the best, safest
12. standard. ASTM does not address a lot of things.
13. The current legislation -- we were just talking a
14. little while ago, the current legislation right
15. now has people like the Boy Scout camps and so
16. forth being held to the same regulations, same
17. permitting costs and everything else. And that's
18. an absolute shame but that has to go through
19. legislative services so we can try to get that
20. addressed.

21. Boy Scout camps operate on, you know,
22. volunteers. They're team building. That's what
23. they're all about. They're not about commercial
24. operations and so forth. They shouldn't be
25. included in the same category. But that's

1. something to be dealt with separately.

2. It all comes down to safety. You've
3. heard me here numerous times. I even joked before
4. that I feel like a member of the board already,
5. I've been here so much. We've offered to do the
6. training for the new inspectors. We've offered to
7. do that at no cost.

8. This isn't a popularity contest. This
9. is about what's safest and what's best for the
10. people.

11. I've got one last thing I'm going to
12. pass around. I do need to get it back, please.
13. No one keep it. And it's just to make a point, a
14. very important, valuable point. What you see
15. there is this man's last half-second of life with
16. a carabiner rolled out, improper connector.
17. Tennessee OSHA cited someone here in Tennessee for
18. using a connector that did not meet the PRCA
19. requirements. Did it meet the ACCT standard
20. requirements? Yes.

21. MR. STOCK: It did not.

22. MR. BARKER: And you also need to
23. know that in the ACCT standard -- we keep saying
24. the ACCT standard has been 20 years, 20 years,
25. 20 years. But the ANSI/ACCT standard has been

1. getting developed for the last couple of years.
2. If you take the eighth edition standard and lay it
3. next to this, they're two totally different
4. things. And they needed to be because those first
5. 20 years, those standards were developed
6. specifically by the builders, so it needed to be
7. changed.

8. Once again, the PRCA standard has --
9. is fully harmonized with the ACCT standard except
10. with safety issues, except with training issues.
11. It follows a national training scheme developed
12. successfully in Australia and New Zealand. That
13. has been working excellent over there for many
14. years. It's a good safety standard. And that's
15. the key. It's a safety standard. In order for a
16. thing to be classified by ANSI as a safety
17. standard, every single aspect of that standard has
18. to be open for public review. From definitions,
19. to explanatory notes, everything had to be opened.
20. Nothing could be closed and controlled
21. specifically by that little group. That's what
22. makes it a safety standard.

23. It's also being controlled right now
24. by a standard managing committee that represents
25. over 5,600 different entities, associations,

1. members, and so forth. So -- and it's being
2. accepted. It's only been around a couple of
3. years. We've seen how long it takes just for this
4. little process here. Imagine how long it takes
5. for every state to come around and say, "Well,
6. wait a minute, yeah, this one is better." Same
7. thing.

8. Does anybody have any questions? Any
9. questions about anything that was brought up that
10. you want to ask about the PRCA that I can clarify
11. for you?

12. MR. HALE: I'm going to ask the
13. same question of you that I asked of them. Are
14. mobile devices addressed?

15. MR. BARKER: All the aspects of
16. mobile devices are. Is it addressed as a
17. specific, you know, mobile device? No. But are
18. hydraulics and aspects like that all addressed
19. within the standards? Yes. So that would be the
20. raising and that would be the anchoring. As a
21. matter of fact, I'm now an expert witness on a
22. case in Pennsylvania where an anchor came up and
23. struck a child in the head and killed him. And
24. I'm there because I'm showing how the standard
25. would have covered that.

1. CHAIRMAN FOX: Any other questions
 2. from the board?
 3. (No verbal response.)
 4. CHAIRMAN FOX: Thank you for your
 5. presentation.
 6. MR. BARKER: Thank you-all for your
 7. time.
 8. CHAIRMAN FOX: Okay. Under Old
 9. Business we've heard from both groups. We've
 10. heard from both -- I guess both groups three times
 11. now. So with that being said, we need to make a
 12. decision. Under 16-01, recommendation to adopt
 13. the ANSI/ACCT standard, is there -- what's the
 14. pleasure of the board?
 15. MR. HALE: I first want to say I
 16. believe, wholeheartedly believe, that both of
 17. these organizations are passionate about safety.
 18. I don't think there's any doubt that both of y'all
 19. are passionate about the safety of participants.
 20. But with that said, I have spent too many hours
 21. trying to weed through and review each of you's
 22. standards. And so I'm going to make a motion that
 23. we document the ANSI/ACCT standards to complement
 24. the ASTM standard in Tennessee.
 25. MR. RADER: I second.

1. CHAIRMAN FOX: We have a motion and
 2. a second. Any discussion?
 3. MR. BAILEY: Mr. Chairman?
 4. CHAIRMAN FOX: Sir?
 5. MR. BAILEY: I just want to make
 6. sure we're clear on everything here. The
 7. statutory language currently requires that the
 8. amusement device meet ASTM standards.
 9. CHAIRMAN FOX: Right.
 10. MR. BAILEY: So if you adopt
 11. whichever standard that has been presented here
 12. today it's going to take a legislative change to
 13. bring that about. It cannot be done by
 14. rulemaking. And so I just want to make sure we're
 15. clear that whatever standard, if any, is adopted
 16. today, it's basically a recommendation for
 17. legislation to incorporate that either along with
 18. the ASTM or in substitution of it or whatever.
 19. CHAIRMAN FOX: And so the other
 20. side of that is if a legislation decides not to do
 21. it, then it does not pass and we're still at the
 22. ASTM rules and regulations.
 23. MR. BAILEY: That would be correct,
 24. yes, sir.
 25. MR. HALE: I think that my intent

1. was that this not replace the ASTM but to
 2. supplement or complement the ASTM standard, and
 3. not to completely replace it.
 4. MR. BAILEY: Correct.
 5. CHAIRMAN FOX: So your motion is --
 6. do you want to modify your motion to express that?
 7. MR. HALE: I thought my motion
 8. already did.
 9. CHAIRMAN FOX: Okay. Well, then if
 10. it does, there needs to be a second.
 11. MR. RADER: I second. I second
 12. your motion.
 13. MR. HALE: My recommendation is
 14. that we document the ANSI/ACCT guidelines to
 15. complement the ASTM standard.
 16. MR. BAILEY: Again, just for
 17. clarity, when you say complement, do you mean to
 18. work in conjunction or to be the two recognized
 19. standards?
 20. MR. HALE: No, to work in
 21. conjunction.
 22. MR. BAILEY: Work in conjunction.
 23. And I don't know if there is any conflict
 24. between -- like, on a particular -- I've dealt
 25. with a lot of OSHA standards and so if one body of

1. standards address a situation a certain way and
 2. the other addresses it in a different way, which
 3. one rules? And I don't know if there's any
 4. situations out there like that, but I would be
 5. willing to bet it will come up.
 6. MR. HALE: If that exists, I did
 7. not find it in my research that there was a
 8. conflict between the standard that my motion
 9. covers and ASTM.
 10. CHAIRMAN FOX: Yes, sir?
 11. MR. DEASON: I see a concern in
 12. that for permitting purposes -- you know, we're
 13. not the experts. We're not the industry
 14. experts -- when these reports come in, we've
 15. had -- you know, we've had problems with the
 16. various forms and this and that in determining
 17. what standard was applied, and we've had recent
 18. issues with that. I can foresee a potential --
 19. when somebody submits a report and it says ACCT
 20. certified, I mean, whether or not -- which
 21. standard that you use, do they use all of one and
 22. part of another. Would it be better to -- and I'm
 23. just throwing this out there to say that in terms
 24. of zip lines in aerial adventures and stuff like
 25. that, as opposed to working in conjunction with,

1. that ACCT may be used as well as ASTM, as opposed
2. to -- that "in conjunction with" is what bothers
3. me and what, I think, we'll get off the beaten
4. path and can be interpreted a lot of different
5. ways.

6. MR. BAILEY: Well, I could add to
7. that thought a little bit. Just adding to that,
8. what Chance is, I think, onto there is -- and I
9. don't know if the legislature would want to do it
10. or not because they specifically put ASTM in the
11. statutory language, but would they be willing to
12. not reference a particular standard and allow the
13. board to do that through rulemaking? So that way,
14. if 20 years down the road there's a better group
15. of standards, you wouldn't have to go through the
16. legislative process to change it. So I don't
17. know, I mean, that's just something I was thinking
18. out loud. Whenever you write something in the
19. statute, it's pretty hard -- it's pretty hard to
20. get it changed because it's kind of like trying to
21. herd cats sometimes, but -- where if they'd leave
22. it, leave that to the experts, you know, through
23. the board to determine which is the better safety
24. standards and adopt it by rule and change it by
25. rule or amend it by rule -- but, I mean, I know

1. that's not something you-all can do.

2. The legislature may say, "We want to
3. know what set of standards and we want to put it
4. in the statute." But it would be functionally a
5. lot easier if they didn't do that, so ...

6. MR. HALE: Well, I guess I had
7. maybe the misconception that we already had the
8. authority to adopt the ACCT as rulemaking because
9. the ASTM is part of the law already.

10. MR. DEASON: As inspectors but not
11. just standard itself.

12. MS. JEFFRSON: Right. I'll speak
13. to that. The law allows the commission of the
14. department to approve other certified agencies.
15. However, the ASTM standard is the approved
16. standard for the state of Tennessee, and those are
17. two separate issues.

18. So if we're talking requesting
19. approval from the commissioner to certify
20. inspectors in Tennessee, then we can -- the board,
21. in your authority, can submit that recommendation
22. to the commissioner, and he'll decide whether or
23. not, you know, he wants to do that.

24. If we're talking standards, on the
25. other hand, because Tennessee recognizes the ASTM

1. standards, then that's a different process.
2. Although a recommendation can be made to the
3. commissioner that we utilize ACCT standards or
4. PRCA standards, whichever you-all prefer, at that
5. point, then we have to decide -- the commissioner
6. has to decide -- is this in this year's
7. legislation? And I know Leanne is not here today.
8. She speaks to that. But will it be in next year's
9. legislation? But that's something totally
10. different.

11. CHAIRMAN FOX: Okay.

12. MR. HALE: And in March of 2015, we
13. adopted that ACCT inspectors were the
14. recognized -- that was the recognized standards
15. for people to inspect zip lines in Tennessee,
16. correct?

17. MS. JEFFRSON: Yes, sir. In
18. addition to --

19. MR. HALE: And so part of my motion
20. is that if we believed that that was the way then,
21. and was effective, why would we not continue
22. forward with that same standard?

23. MS. JEFFRSON: Right. Well, that's
24. what we're doing now. I think their question is
25. different. They've already been approved. ACCT

1. has already been approved as a certifying agency
2. in Tennessee. Now they want their standard to be
3. used as well. Because although they were approved
4. as a certifying agency, their standard was not
5. approved, and, of course, we can't do anything
6. contrary to what the law states. And the law only
7. recognizes ASTM.

8. CHAIRMAN FOX: So our function,
9. then, would be to make a recommendation to the
10. commissioner and -- whether it would go forward or
11. not.

12. MS. JEFFRSON: Right.

13. CHAIRMAN FOX: That would be our
14. function here today --

15. MS. JEFFRSON: Yes.

16. CHAIRMAN FOX: -- or not. Okay.

17. MR. HALE: So I will modify my
18. motion to say that we recommend that to the
19. commissioner.

20. MR. RADER: And I will modify my
21. second to second that.

22. CHAIRMAN FOX: Okay. We have a
23. motion on the floor, a motion and a second on the
24. floor, to make a recommendation to the
25. Commissioner of Labor to adopt the ACCT/ANSI

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1. standard for inspection purposes, correct?
2. MS. JEFFERSON: Yes.
3. MR. HALE: That's correct, sir.
4. CHAIRMAN FOX: Okay. Any
5. discussion?
6. MR. FARMER: You might want to
7. clarify which edition that you wanted to adopt,
8. because there is 9, I think is what you said,
9. right?
10. MR. STOCK: It's gone through nine
11. editions. The current one is the one that you
12. have.
13. MR. FARMER: But you might want to
14. clarify either the latest edition or what edition
15. you want.
16. MR. RADER: The 03-2016.
17. MR. HALE: Yes, that's correct.
18. MR. RADER: David, is that --
19. MR. HALE: That's correct, 03-2016.
20. CHAIRMAN FOX: The current edition.
21. MR. HALE: The current edition.
22. CHAIRMAN FOX: Okay. All right.
23. All in favor of the motion, let it be known by
24. saying "aye."
25. (Affirmative response.)

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1. CHAIRMAN FOX: All opposed, like
2. sign.
3. (No verbal response.)
4. CHAIRMAN FOX: Motion carries.
5. Okay. Under 16-02, Recommendation to
6. Adopt ANSI/PRCA Standards. What is the pleasure
7. of the board?
8. (No verbal response.)
9. CHAIRMAN FOX: Hearing no action,
10. the, I guess, recommendation at this time would be
11. rejected.
12. Moving to New Business. Item Number
13. 8, 16-03, the International Association of
14. Trampoline Parks would like to present information
15. on their service tech certification program.
16. And who is here to speak to that,
17. please?
18. MR. REED: Good morning,
19. Mr. Chairman. My name is Ed Reed. I'm with the
20. board of the IATP, International Association of
21. Trampoline Parks. Five minutes, I promise.
22. Good morning. We would like to thank
23. you for the opportunity to come before you today
24. to talk about our program and what we would like
25. to see as far as legislation and regulation with

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1. the State of Tennessee.
2. We realize that in our industry that
3. regulation is a way to help make our parks safer
4. for our customers, and we support the regulation
5. of our industry and welcome the opportunity to see
6. how we can help with the State of Tennessee.
7. The IATP has had the opportunity to
8. work with regulators or legislators to help
9. establish regulation in Colorado, Arizona, and
10. Michigan, and we are excited to work with
11. Tennessee. We believe that there are 15 parks
12. currently operating in the state of Tennessee that
13. will be affected by this legislation and
14. regulation which is now in place, and six of those
15. parks are IATP members.
16. We have reviewed the current
17. legislation and had the opportunity to meet with
18. Ms. Jefferson and her staff, and some of the
19. questions that we had, some of the discussion that
20. we had led to possibly coming before this board
21. today and asking those questions. And so the
22. board has asked me to open up that dialogue with
23. you today.
24. The first item that we would like to
25. present for your consideration is adopting

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1. specifically ASTM 2970-15 to be used as a baseline
2. for the inspection in compliance of indoor
3. trampoline parks.
4. ASTM 2970-15 is the standard practice
5. for the design, manufacture, installation,
6. operation, maintenance, inspection, and major
7. modification of trampoline courts. Our board has
8. worked and continues to work closely with ASTM to
9. develop this standard.
10. And maybe I could offer up a little
11. bit of history that would just give you a little
12. bit of background into why we think this is
13. important. The first park for our industry opened
14. in 2005, and today we have more than 400 parks
15. open in the United States. In 2011 ASTM starting
16. talking seriously or taking a serious look at our
17. industry and decided a task group should be set up
18. to develop the standard for our industry. At that
19. time we had less than 50 parks.
20. Our task group began under the
21. subcommittee for the amusement rides and devices,
22. 2460, and then in 2014 ASTM had seen a shift in
23. amusement rides and devices from traditional
24. roller coasters and Ferris wheels to more
25. patron-driven amusement rides. And so 2461 was

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1. created for adventure attractions or patron-driven
2. amusement rides. This is the community we now
3. work in.
4. The first task group meeting came in
5. 2012. In June of 2013, we were able to codify our
6. first standard. We had a new version published in
7. 2015, and we expect a new version to publish again
8. in 2017. So this is a very -- it's an ongoing
9. working group. Our industry continues to grow and
10. the group tries to stay with it. But there's been
11. a lot of clarification. It's a very prescriptive
12. standard, and there's a lot of information that's
13. in it.
14. I think when -- as I mentioned
15. earlier, I also represent Jumpstreet. We have
16. three parks here in Nashville. And when we went
17. through the inspection process to comply with the
18. new regulation for trampoline parks, Mr. Wayne
19. White came in and he did our inspection for us.
20. And when we started the inspection, we started
21. with, you know, "Mr. White, what will you inspect
22. as we go through this park today?" And so he went
23. through his list of things, which are
24. safety-driven, absolutely. So they have to do
25. with our maintenance records, our inspections, our

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1. injury records, making sure we have our fire
2. extinguishers, making sure that we have access in
3. and out of the building, so -- but when we started
4. delving into our standard, there was things that
5. came up that had to do with containment, that had
6. to do with redundant netting, had to do with
7. capacity ratio for people being on the court,
8. padding that goes around a court. It's very
9. prescriptive and it makes our industry much safer.
10. And so as we went through, Mr. White
11. spent the day with me, thankfully. And so we
12. walked through all three of the parks we have here
13. and we just kind of dissected what it was and kind
14. of the differences between what the normal
15. amusement ride device inspection would be and what
16. it would be if it was based on our standard. And
17. I think it's a much more effective inspection to
18. have a base understanding, because there are a lot
19. of standard -- there are a lot of safety
20. precautions in there that I think take precedence,
21. so -- and we appreciate his time going through
22. that, and thankful we passed those inspections, so
23. it was great.
24. We do think that in the end, the ASTM
25. standard creates a safer environment for our

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1. customers, and I think that's what we're all
2. after, and so we support it very much, and so we
3. would definitely like to see that adopted as a
4. baseline for third-party inspectors when
5. inspecting at our trampoline parks. And if the
6. time arises, we'd certainly be happy to work with
7. the in-house inspectors.
8. Congratulations on that. That's big
9. news. Congratulations.
10. But we'd certainly be willing to work
11. with them, too, to walk through our standard and
12. educate them to our way of thinking.
13. The second item we'd like to present
14. for your consideration is a third-party inspector
15. program similar to ACCT. IATP has developed an
16. inspection program specific to the indoor
17. trampoline industry. We would like the board to
18. consider recognizing the IATP Service Tech Level 1
19. as an improved third-party inspector program for
20. indoor trampoline parks.
21. The Service Tech Level 1 Inspector is
22. required to attend eight hours of approved
23. training on ISTM 2917 specifically, and to pass an
24. open book exam specific to that standard.
25. We also recognize NAARSO and AIMS

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1. certification, and so they wouldn't necessarily
2. have to come take the eight-hour course. They're
3. pretty familiar with the standards, and so it
4. should be -- but we would like them to be able to
5. test and make sure that they are familiar with our
6. standard before they're able to inspect.
7. And, in fact, right now, here in
8. Nashville, as part of our conference, that test is
9. being -- actually, we're doing the eight-hour
10. course right now. So, sorry we're all missing
11. that.
12. What we have is -- currently we have
13. close to 50 service techs, one or two certified
14. inspectors at this time, and we have an additional
15. 25 that we think we'll come out of our conference
16. with. We think this would be a great resource for
17. our industry. And, again, just being familiar
18. with our standard, we think it would make for a
19. very effective inspection.
20. The last item I would like to present to
21. the board for discussion is injury reporting and
22. protocol. We understand that the current language
23. requires an operator to report serious injuries
24. and close down the device for inspection purposes.
25. We would like the board to consider adding

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1. language that would allow for the operator to
2. close down the device if the injury is a result of
3. a device failure.
4. If, however, the serious injury is a
5. result of patron-directed activity or behavior,
6. and not the device failure, then the injury
7. reporting will continue in place but the device
8. will not need to be closed down for the
9. inspection.
10. The safety of our industry relies not
11. only on the responsibility of our manufacturers
12. and operators but also on the responsibility of
13. our patrons. We can do much in our industry to
14. build and operate optimally safe facilities for
15. our customers, but ultimately, we cannot control
16. the outcome of every patron's behavior or jumping
17. activity.
18. Our industry, I think, is caught a
19. little bit -- we're obviously regulated under
20. amusement device, but our activity is more akin to
21. an athletic/sporting activity where it's very
22. active from the patron. And so I think that you
23. would see in our industry that our injury rates
24. are higher than what you would typically see in
25. the amusement industry, but I think that you would

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1. see that they are lower than what you would see in
2. an athletic competition such as football or soccer
3. or even cheerleading.
4. So most of our injuries are due to
5. patron-driven and not failure of the device. The
6. most common failure of the device that we would
7. see in our industry would be a bed tear, so the
8. trampoline bed tears and somebody goes through the
9. bed. But in our industry, with the ASTM, if
10. they're compliant with our standard, there's a
11. redundant system underneath there and it should
12. not lead to an injury. So we really don't see a
13. lot of other device failures within our industry.
14. There are some where possibly the padding or the
15. suspension system or whatever are possibly not as
16. protected as they should be. So that would be a
17. situation where it would need to be inspected but
18. the majority of our industry is definitely patron
19. driven, so ...
20. And I think that, you know, you're
21. seeing it within ASTM. Moving from 2460 to 2461,
22. going to that patron driven, I think the ropes
23. courses are seeing some of the things where it is
24. very patron driven and rely on those guys. And we
25. work with our patrons to become safe in our

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1. industry, so ...
2. These are really the only items that we
3. wanted to present with you today. We'd like to
4. support the regulation. We're very much behind
5. your regulation, and we'd like to know how we can
6. help.
7. And then as a final note, I think I
8. mentioned that our conference is in Nashville this
9. year, so it will actually be -- the committee
10. meetings are going on today and then our
11. conference will be held tomorrow and Thursday at
12. the Sheraton Music Hall. You are all welcome as
13. our guests. We have over 500 attendees coming,
14. which for our fourth annual conference is pretty
15. good, so we're very excited about that. So not
16. too bad.
17. And that's all. If you have any
18. questions, I'd be happy to answer them. Thank you
19. very much.
20. CHAIRMAN FOX: Okay. I'm going to
21. ask Ms. Kelsey to address one issue there.
22. MS. KELSEY: To one of your points
23. about reporting injuries --
24. MR. REED: Yes, sir.
25. MS. KELSEY: -- that is law.

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1. MR. REED: Okay.
2. MS. KELSEY: It is -- there's no
3. exception to the law. It's applicable to any and
4. everyone. It was drafted, I think, in the past
5. legislation, and we, as the state agency, and you,
6. as the provider, must adhere to the law.
7. MR. REED: Okay.
8. MS. KELSEY: So there's no skirting
9. around that aspect of it at all. It went into
10. effect, I believe, July 1 of this year. And I'm
11. just clarifying that.
12. MR. REED: Thank you very much.
13. MS. KELSEY: Yes, sir.
14. MR. REED: Is there options for our
15. industry -- and, again, we support the regulation.
16. Is there options for our industry to be exempt
17. from this regulation, then? And then go back and
18. work and have a bill brought forward that would be
19. specific, maybe for our industry but also for
20. patron-driven exercises, that maybe would change
21. within the law?
22. CHAIRMAN FOX: Let me address that.
23. MR. REED: Okay.
24. CHAIRMAN FOX: I don't think so.
25. MR. REED: Okay.

1. CHAIRMAN FOX: I think we would all
 2. have to adhere to the same rules and regs. And we
 3. had a commissioner -- a meeting with Commissioner
 4. Phillips the other day and we looked at maybe
 5. going forward to establishing some objective or
 6. using some objective criteria for the report
 7. feature. But right now we're under the law that's
 8. written. So until that changes, we are where we
 9. are.
 10. MR. REED: Okay.
 11. CHAIRMAN FOX: And as far as your
 12. information on 2970 or your request about 2970-15,
 13. we're already there on that. So that's what
 14. someone would have to inspect, to that particular
 15. criteria. If you haven't read that lately, it's
 16. exciting stuff.
 17. MR. REED: So is 2970, so ...
 18. CHAIRMAN FOX: 2970-15. And can't
 19. wait until '16 gets here.
 20. MR. REED: '17.
 21. CHAIRMAN FOX: But I think that we
 22. would have to inspect to those standards, so I
 23. think we've answered that question. But as far as
 24. the reporting goes, right now the law is pretty
 25. specific on what we do, but we hope to maybe

1. change that a little bit later on. But again,
 2. that's a recommendation and we have to get the
 3. legislature to buy in on that as well.
 4. MR. REED: Absolutely. What would
 5. be the process for us to help get involved and
 6. maybe change that to go down that path?
 7. MR. RADER: Speak with their
 8. legislator, I guess.
 9. MR. REED: Okay.
 10. CHAIRMAN FOX: It's probably the
 11. easiest thing to do.
 12. MR. REED: Okay.
 13. CHAIRMAN FOX: Okay. Anything
 14. else, sir?
 15. MR. REED: That's it, sir. Thank
 16. you very much.
 17. CHAIRMAN FOX: Okay. Thank you
 18. very much.
 19. Okay. Still under New Business,
 20. 16-04, Recommendation for Proposed Fee Structure.
 21. Ms. Jefferson, on the 16-04,
 22. Recommendation for Proposed Fee Structure, I'll
 23. turn it over to you.
 24. MS. JEFFERSON: Okay. Well, at the
 25. last meeting, the department provided the proposed

1. fee structure and asked for your recommendation on
 2. that fee structure. And we just wanted to get the
 3. recommendation today. Did you-all need for me to
 4. review that information? Did you have any
 5. questions about what we proposed earlier?
 6. MR. RADER: I don't.
 7. CHAIRMAN FOX: Do you have a
 8. question?
 9. MR. MOORE: No. I think I've
 10. reviewed it. And I did not bring a copy of that.
 11. But no, no questions.
 12. CHAIRMAN FOX: Okay. What's the
 13. pleasure of the board on the proposed fee changes?
 14. MR. HALE: Do you have that
 15. information that we're talking about?
 16. MR. FISHER: Actually, I don't have
 17. that information.
 18. MR. HALE: Would it be possible
 19. that we could provide him with that information?
 20. I thought maybe it was in there but it's not. At
 21. least it's not in mine. Of course, I might have
 22. taken it with me, too.
 23. MS. BENNETT: Let me see if I have
 24. a copy.
 25. MS. JEFFERSON: I printed a copy but

1. I left it upstairs, but we'll be happy to provide
 2. a copy after the meeting.
 3. CHAIRMAN FOX: He's looking at a
 4. document here. Just a couple of minutes. He
 5. wants to review this.
 6. MS. JEFFERSON: If we have a few
 7. minutes, I can have someone go up and make some
 8. copies.
 9. CHAIRMAN FOX: Folks, let's take
 10. ten minutes and we'll come back. We'll be back
 11. here at 8 minutes till ...
 12. (Recess observed.)
 13. CHAIRMAN FOX: Ms. Jefferson, one
 14. of the things that Mr. Moorer did, he took the
 15. last information that we had and put it on an
 16. Excel spreadsheet and he was wanting to present
 17. that. It's the same information that you had
 18. given us out, if that's okay.
 19. MS. JEFFERSON: Okay. That's fine.
 20. Okay. So the last time we talked
 21. about the proposed fee structure, we talked about
 22. there being a need to revise the current rules
 23. because we need to create a new fee structure,
 24. because we're moving actually in a different
 25. direction now. So we wanted to create a new fee

1. structure that would allow us to become a viable
2. amusement device unit. Because everybody out here
3. probably understands that we don't have enough
4. funding to support a program.

5. Although we received legislative
6. funding for this year and next year, it's only
7. good for two years. It's only been guaranteed
8. two years, but after that we're pretty much on our
9. own.

10. What we're trying to do is establish
11. a fee structure that will allow us to operate the
12. unit after the next two years. And last time, I
13. talked about the program history and program
14. facts, the purpose of the proposed fee, the number
15. of companies that have valid permits, the number
16. of devices per company, the device range and
17. number of companies that fit within certain
18. ranges, and then we talked about a flat fee.

19. I'm not familiar with that
20. information, that particular chart. And if
21. someone wants to explain ...

22. CHAIRMAN FOX: I would ask
23. Mr. Moore if he would go through that with us.

24. MR. MOORE: What I did following
25. this last presentation that Ms. Jefferson gave

1. increase.
2. And one other question I did have,
3. Ms. Jefferson, was it considered to have an
4. increase in percentage -- not only change how it
5. was done but just a basic increase in percentage
6. across the board versus -- because the reason I
7. say that, if you look at -- you know, some of them
8. are going down almost half, some of them even more
9. than half, and several are a hundred percent or
10. above, as I mentioned earlier. But I was just
11. wondering if that was the only way to increase the
12. fee that was looked at.

13. MS. JEFFERSON: Okay. Well, what we
14. did -- and for people in the audience, I'm not
15. sure if you understand what we're doing -- but
16. here, the number of devices -- we looked at
17. companies, amusement device companies that we
18. currently serve. Last year we permitted
19. approximately 250 companies, and we took a look at
20. the number of devices that each company had. Of
21. course this varies because there are different
22. types of amusement devices. We consider, you
23. know, everything in that amusement industry. We
24. consider, say, for example, if you're a trampoline
25. and you have, what, 5, 6; say, if you're a zip

1. was -- as you can see, due to laziness, I did not
2. type out the company name. I didn't type out the
3. company name. I just went through the line number
4. from her presentation.

5. There was some question at the last
6. board meeting about how many would go up and what
7. that percentage was, and, to me, I see things very
8. well in Excel. So just for clarification, I
9. wanted the board to be able to see, you know, what
10. the increase and/or decrease would be. The
11. decrease has been highlighted in green as well as
12. in the negative in the percentage of change.

13. But I did think it would be important
14. for some to see the amount of change that would be
15. taking place. You know, several of them are in
16. the hundred percent or more. Some are actually
17. decreasing. But, you know, across the board
18. there's one 200. I think the highest that shows
19. up is 400-and-some-percent increase. I believe
20. I'm remembering that right.

21. But I did want everyone to see before
22. there was any proposed change or -- in the rule, I
23. did want everyone to see what those changes would
24. be, how it would affect -- because this is the
25. business that it's going to be affecting, the

1. line, you have 2 or 3; if you're a carnival Ferris
2. wheel, you have 20; or inflatables, you have 30.
3. We considered all of that and we counted the
4. number of devices that each company had. Based on
5. that, we took a look at it and tried to look at it
6. equitably. But, of course, you know, no matter
7. how you do it, you're going to have dissatisfied
8. customers.

9. And so what we tried to do is take a
10. look at it, and in the most equitable way
11. possible, and what we came up with was a flat fee,
12. charging a flat fee. Because right now you may be
13. familiar -- I'm sure you're familiar with the
14. fees. If you're an inflatable, for example,
15. that's \$25 -- is that correct? -- \$25 per device.
16. Say, if you are a kiddie ride, it's \$50 per
17. device. If it's a large ride, then it's \$100 --
18. or a large device, rather, \$100. And if it's some
19. spectacular ride, it's \$200 per device.

20. So that's the way we currently do it.
21. Based on that, it will not fund the program. So
22. that's why we're trying to come up with something
23. a little differently. And looking at this
24. particular chart, and looking at what we came up
25. with earlier, we decided that maybe a flat fee

1. would be more appropriate. Say, for example, if
 2. you look at 1 to 5 devices or 6 to 10 devices, 11
 3. to 20, 21 to 30, 31 to 40, 41 to 50, and if you
 4. apportion that way, we looked at -- based on 200
 5. companies, for example -- 200 companies, we looked
 6. at if you have -- of those 200 companies that we
 7. service, if the company has 1 to 5 devices, we
 8. looked at charging \$500; 6 to 10 devices, \$750; 11
 9. to 20, \$1,000; 21 to 30, \$2,000; 31 to 40, \$3,000;
 10. and so on and so forth. And that's based on 200,
 11. which is closer to the amount that we serviced
 12. last year.

13. So that's how we came up with the
 14. particular fee charge. But we do realize --
 15. that's a really good point -- no matter how we do
 16. this, no matter how we cut and we dice this,
 17. someone is going to be dissatisfied. So we're
 18. just looking to you-all. If this is not a good
 19. way to do it, maybe you-all can provide us a
 20. suggestion as to how it should be done.

21. MR. MOORE: Ms. Jefferson, also, at
 22. the bottom of this chart what I tried to do was --
 23. and I hope I didn't get any of these figures
 24. wrong, but I put them in three different times and
 25. checked it three different times.

1. MR. MOORE: That's what we were --
 2. okay. Yeah, okay. There it is.

3. MS. JEFFRSON: Now, keep in mind,
 4. to fund the program -- and I know we provided
 5. something to you-all on this -- to fund the
 6. program based on the number of employees that we
 7. currently have, it's going to cost about \$409,920.
 8. So that's still not sufficient. But that would
 9. give us a good start, but that's not exactly what
 10. we need.

11. So what we did is provide different
 12. variations to let you-all know what we're
 13. expecting. Hopefully with more folks on board,
 14. instead of 250 that we had, based on the number of
 15. people that we currently have, hopefully next year
 16. we'll be able to provide permits to more
 17. companies.

18. And we're hoping if we have more
 19. folks, we can move up to the 600 range. They'll
 20. guarantee the first year because we still have to
 21. train people and you have to count some of that
 22. time for training. But that's what we're hoping.

23. But just to let you-all know,
 24. the \$409,000, that's what we need.

25. MR. MOORE: And again, the reason I

1. The existing fee total is shown in
 2. this area here. Does that look close to what came
 3. in last year?

4. MS. JEFFRSON: Yes. Last year
 5. that's approximately how much we collected.

6. MR. MOORE: And this would be for
 7. the proposed fee total if they were -- and so this
 8. is showing the difference in change of what we
 9. would have versus what we did have.

10. MS. JEFFRSON: And last year -- let
 11. me say this, that we started our new process in
 12. February of 2015. So we only calculated between
 13. February and the end of the fiscal year, which was
 14. June. So during that time -- is that correct,
 15. Carlene? No, I'm sorry. That was the previous
 16. year. The previous year we did it February to
 17. June. Last year we did it the entire fiscal year.
 18. So we did collect about \$150,000 last year. So
 19. yes, that amount -- the next amount would
 20. represent more closely the amount based on the
 21. figures that I just provided.

22. MR. MOORE: What was that figure --
 23. I'm sorry, I don't remember -- but you gave it to
 24. us in the last one.

25. MR. RADER: 201,250.

1. created this is because there was so many lists
 2. and so many -- and what the changes would be. And
 3. again, for some of our businesses, I think they're
 4. going to be happy one is going to go down to
 5. 61 percent. The ones that's going to increase
 6. 217 percent, I don't think they're going to be too
 7. happy about it. But again --

8. MS. JEFFRSON: How many of those
 9. did you find?

10. MR. MOORE: The ones that
 11. increased?

12. MS. JEFFRSON: Yes.

13. MR. MOORE: I know there's a way to
 14. filter that. Let me just filter it this way.

15. Robbie, you need a bigger computer
 16. and I need better eyes. Never mind. Like I said,
 17. there's -- and I can email this to you or Robbie
 18. can forward it on also. Everywhere you see the
 19. green show up, or the negative percentage -- I
 20. guess I could highlight that and then have it
 21. count.

22. MR. RADER: Just scroll down there
 23. and it will count. There's two --

24. MR. MOORE: Okay. Two from 8 --

25. MR. RADER: -- 3, 4, 5 ...

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1. MR. MOORE: -- 6, 7, 8, 9, 10, 11,
2. 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23,
3. 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35,
4. 36, 37, 38. Looks like 38.
5. MS. JEFFRSON: Out of 200?
6. MR. HALE: So can we roll back
7. through now and count --
8. MR. MOORE: Out of 250, we'll
9. actually decrease.
10. MR. HALE: Could we roll back
11. through and count how many are going to increase
12. by 100 percent or more?
13. MR. MOORE: If somebody else will
14. count that, yes. But, again, the reason I did
15. this is not to show that what you suggested is
16. wrong or right. I just think it would be
17. important for the board to see, you know, some are
18. going to increase, some are going to decrease, and
19. some are going to increase exponentially. But I
20. just think it would be important because I know
21. we're going to get questions when we go back home
22. and people say, "Well, my fees have done this."
23. Here is why.
24. CHAIRMAN FOX: So here you go, from
25. 215 to 252.

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1. MR. HALE: Roll back a little bit
2. further. Go down just a little bit and let's see
3. how many increase 100 percent or more. So a 107
4. of them went up by 100 percent or more.
5. CHAIRMAN FOX: 73 to 108.
6. MS. JEFFRSON: Okay. And, for
7. example, Number 92, I believe that 250 -- if we
8. could freeze the top frame, then, and kind of see,
9. but I think that 250 is how much they currently
10. pay, I believe, what they paid last time. And
11. then it's going to increase to 500?
12. MR. MOORE: Yes. Column C is what
13. they currently pay; D is what the proposed fee
14. increase would be; and then, again, on the far
15. right is the percentage and the amount.
16. MR. HALE: And I certainly agree
17. that we've got to do something to bring in more
18. revenue.
19. MR. MOORE: Yes. Yes, we do.
20. MR. HALE: I do have a little
21. concern about increasing people's cost by --
22. especially small businesses -- by 400 percent.
23. For instance, if I owned 50 inflatables right now,
24. I pay \$1,200. Under this I'll pay \$5,000. I
25. don't know about anybody else's small business,

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1. but a \$4,000 increase in my business is a lot of
2. money. I mean, that makes a difference of how
3. much help I keep and things like that.
4. But I certainly agree and understand
5. that we've got to do something to increase the
6. revenue. I'm not 100 percent sold on this
7. particular system, at least not yet. But I don't
8. know that I've got an idea for something better,
9. either.
10. And I guess part of that I base on
11. the fact that it takes 20 minutes to inspect an
12. inflatable and it may take eight hours to inspect
13. a roller coaster. So I think we also have to look
14. at it in the amount of time that our employees
15. have invested in that work versus the cost.
16. MS. JEFFRSON: Well, I was going to
17. say I was thinking about those -- the third-party
18. inspectors, is that the one we're still -- the
19. third-party inspectors are going to be inspecting
20. these devices initially?
21. MS. KELSEY: (Nods head.)
22. MS. JEFFRSON: So the inspectors
23. that we have on staff, with those that we have on
24. staff, they'll just be focusing on the fairs and
25. carnivals and emergencies? Is that correct?

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1. MS. KELSEY: (Nods head.)
2. MS. JEFFRSON: So it's not like
3. they're going to inspect every device. That's the
4. first thing. So we wouldn't receive --
5. MR. HALE: Okay. So if I'm the
6. small business owner, I'm going to say, "So you
7. increased my fee from \$1,200 to \$5,000, but you're
8. still not going to come out and look at my
9. device."
10. MS. KELSEY: Let me just make a
11. suggestion, I think, for Kim's perspective. When
12. we were looking at it, we know that the funding
13. for these physicians is coming to -- I mean, it's
14. only for two years. We're trying to --
15. MR. HALE: I realize that.
16. MS. KELSEY: Whatever
17. recommendation that -- if you-all can come up with
18. that would be fair and equitable to small and
19. large, I think that would be a recommendation that
20. we certainly -- the commissioner -- and we can
21. approach the NFIB or the small business and just
22. present it to them and say, "Look. This is what
23. we're trying to do," get the buy-in from them, and
24. just get their feedback. We need to do our due
25. diligence on our part as well.

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1. MR. HALE: I'm certainly not blind
2. to the fact that we've got to have more funding.
3. MS. KELSEY: Sure.
4. MR. HALE: Do I believe we'll ever
5. fully fund it? I'm skeptical that we would ever
6. fully fund it. We don't fully fund the highway
7. patrol either. You know, they're not
8. self-sufficient either and they're a safety
9. agency, too.
10. MS. KELSEY: To your point, what we
11. do not want to happen and hopefully that's what
12. we're trying to help, preventing the storm before
13. it hits. You know, you get your life jackets out
14. before the dam breaks. But what we want to make
15. sure is that when we get to a point in two years
16. we have these inspect -- these consultants in
17. place. And all of a sudden the brakes are on and
18. we no longer have funding to support that. I
19. think that --
20. MR. HALE: I am fully in support of
21. finding a way. I'm just not totally convinced --
22. MS. KELSEY: Right. I understand.
23. MR. HALE: -- that we've reached
24. the ...
25. MS. KELSEY: Sure.

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1. CHAIRMAN FOX: Let me ask this
2. question. What -- as bad as I hate to ask the
3. question. What's the chances of us doing a
4. workshop within the next 30 days and coming in
5. here and devoting a meeting time to put this -- I
6. mean, we need to look at -- we need to do those
7. considerations with the inflatables and the
8. coasters and then figure out exactly what we want
9. to do and not worry about whether it's 48 inches
10. tall or you have to be at 52 to ride or whatever.
11. It's the machine or the device or the lines,
12. the -- whatever it may be, we need to establish a
13. fee for those commonalities that would be across
14. the state.
15. MS. JEFFRSON: Right. I think
16. that's a good idea.
17. CHAIRMAN FOX: And, you know, maybe
18. we -- we may want to use some of this. I don't
19. know. But I think we just -- we put together a
20. workshop, and, again, within the next 30 days, and
21. see if we can hammer this out. Does that work?
22. Is anybody opposed to that? I'm not trying to put
23. you on the spot, but if it's a bad idea, let's not
24. do it.
25. MR. MOORE: I think it's a great

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1. idea.
2. MR. RADER: I think the board is
3. all in agreeance that we need to generate income.
4. I'm like David. I just -- but I don't have a
5. solution either. I think we just need to take
6. another look at it and see if we can come up with
7. some better ideas.
8. CHAIRMAN FOX: I think if we all
9. work together, we can come up with the answer map.
10. How is that? With the exception of one person
11. here, you've got some really smart people on this
12. board. And I'm the one person that's not, so ...
13. MR. RADER: So do we need a motion
14. to table that?
15. CHAIRMAN FOX: I think we would,
16. yes. Table it until we have -- well, no. Let's
17. not table it. Let's just make a motion to have a
18. workshop -- defer it and have a workshop.
19. MR. RADER: I make a motion that we
20. defer and have a workshop on Item 16-04, the
21. Recommendation Proposed Fee Structure.
22. MR. HALE: Second.
23. MR. MOORER: Third.
24. CHAIRMAN FOX: Any discussion?
25. (No verbal response.)

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1. CHAIRMAN FOX: All in favor of the
2. motion, let it be know by saying "aye."
3. (Affirmative response.)
4. CHAIRMAN FOX: All opposed, like
5. sign.
6. (No verbal response.)
7. CHAIRMAN FOX: Can you-all give us
8. a couple of dates that you-all would be available
9. and then we'll see if that will work within our
10. schedules and make it amenable to as many people
11. as possible?
12. MS. JEFFRSON: Sure.
13. CHAIRMAN FOX: Okay.
14. All right. Item Number IX,
15. Discussion Items. Overview of the Greene County
16. fair incident.
17. Would you tell us about that,
18. Ms. Jefferson?
19. MS. JEFFRSON: Sure. As I
20. indicated before, there were two major accidents
21. involving fairs. We have the Greene County fair
22. as well as the Delta fair in just this past
23. weekend. In Tennessee, we've had seven reported
24. accidents since July 1st, 2016. And that's a lot.
25. Because previously we didn't have that. And I'm

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1. not sure if there wasn't that many or if they
2. weren't being reported. So it was one of the two.
3. The Greene County accident occurred
4. on August the 8th. The TOSHA administrator
5. actually called me. It was after work hours. He
6. called me -- he called Melinda, and Melinda
7. contacted me to let me know that an accident had
8. occurred in Greene County.
9. At that time, I talked with -- there
10. was a number of representatives there at the fair.
11. The mayor was there. We had just different
12. representatives, you know, from the State. You
13. had -- actually, they were sending federal
14. inspectors, state inspectors -- or third-party
15. inspectors were on the way. Lots going on there.
16. Of course, the fair officials and everybody
17. involved in the process.
18. And so at that time it was reported
19. that one of the devices was tipped to the
20. interior, approximately 90 degrees, and the device
21. was located in the 3 o'clock position. Emergency
22. personnel responded to the scene.
23. There were three little girls who
24. were injured. Two of the three were flown by
25. helicopter to the Johnson City Medical Center, and

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1. then the third young lady was transported by
2. ambulance to the Johnson City Medical Center.
3. So just to make a long story short,
4. it was a very serious accident. A lot was
5. involved. Lots of people from our department who
6. were interacting, just trying to get things under
7. control. So when I talked with them, they
8. indicated that one of the devices had caused the
9. problem.
10. Of course, you know, when you hear
11. about something serious, you know, a serious
12. injury involving folks that have to be flown, of
13. course, you become -- you know, it was just a
14. situation where we had to act immediately and do
15. something because we couldn't just, you know, sit
16. there and not do anything.
17. So at that point, we talked with the
18. officials at the fair, and they understood, you
19. know, due to the severity. They said they were
20. going to cease and desist not only that particular
21. device -- only the device is generally required to
22. cease and desist under the law -- but under the
23. circumstances, they decided to cease and desist
24. all devices. Now, they continued to operate the
25. food stands and some of the other activities. But

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1. as far as the devices, they wanted to cease and
2. desist because most of those were owned by the
3. same amusement device company.
4. And for that reason, the next day the
5. commissioner took a look at that. I believe the
6. next day, at that point, our legislative persons
7. and different people within the Department
8. contacted officials and it was determined that
9. those other rides, those other devices were okay.
10. As far as the one that caused the accident, that
11. was to continue to cease and desist under the law.
12. Later, during the week, we had one of
13. our elevator inspectors go out and help us to take
14. photos along with the fair officials. They took
15. photos of the different devices so we could match
16. with the serial numbers on the devices. Because
17. that's part of our new process.
18. Previously, we hadn't obtained
19. photos, but because of the severity and everything
20. that's happening, we found the need -- the
21. Department found the need to actually take photos
22. and match those to the information that we receive
23. on the ride or device list. So we did that.
24. Post-accident reports were conducted
25. by certified, qualified inspectors. We had two

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1. qualified inspectors, Francis Guenther and Wayne
2. White, who is here. And Wayne, could you stand
3. up, please.
4. MR. WHITE: (Complies.)
5. MS. JEFFERSON: Thank you. And,
6. Wayne, if I say anything incorrect, just feel free
7. to come on up here and correct me.
8. They determined that the device was
9. not safe for operation. They submitted, of
10. course -- the company is required to submit the
11. inspection report. And I'll talk about that.
12. We'll talk about the accident report and
13. requirements. But they submitted the inspection
14. report.
15. In addition to them doing it --
16. because the company is the only one under the law
17. that's required to submit the inspection report.
18. But the law states owner/operator. And for that
19. reason, we had the fair to also submit their
20. version of what happened, a representative from
21. the fair. So they submitted something as well.
22. The inspector's analysis determined
23. that during the setup and tear-down, that
24. particular device had been set on the ground and
25. moved about which caused wear on the rivets that

1. affix the trim plate to the fiberglass door --
 2. floor, rather. And over time, those rivets became
 3. worn. And so they said that's the primary reason
 4. why the accident occurred. The bottom aluminum
 5. cover plate underneath the tub itself became loose
 6. due to the worn rivets. So it's mainly worn
 7. rivets on that particular device.

8. After the accident investigation and
 9. inspection, the device was turned over to the
 10. manufacturer for a complete inspection and repair.
 11. And to my knowledge, that device is not operating.
 12. It's still at the manufacturer's or it's, you
 13. know, out of circulation at this point.

14. The company, Family Attraction
 15. Amusement, had a valid permit at the time of the
 16. accident. The permit is still valid. I can't
 17. remember when that permit expires, but that's
 18. something that we'll look into.

19. Do you know right offhand, Carlene?

20. MS. BENNETT: It was in the process
 21. of renewal, I think, when the accident occurred.
 22. So we had received all of the accident report and
 23. then renewed it for another year.

24. MS. JEFFRSON: Yes. That was the
 25. night we were here until 10:30. We stayed here

1. till 10:30 to get that taken care of. Because I
 2. believe this particular company -- were they going
 3. to operate the next day? Is that what it was?

4. MR. FARMER: A different county.

5. MS. JEFFRSON: Yes. Yes. And so
 6. we stayed and we actually ensured that the company
 7. was compliant. I mean, there's a process that we
 8. have to go through and ensure the companies are
 9. compliant. Because not only do they submit their
 10. permit application, their itinerary ride list,
 11. they have to submit information to show that their
 12. insurance is valid, and we have to check that.
 13. And sometimes we do receive policies that aren't
 14. valid. We also -- with our new process, we obtain
 15. photos for each device. So we have to go through
 16. and check those photos against the serial numbers
 17. that are listed on the ride list. Sometimes they
 18. have serial numbers. Sometimes we're going back
 19. and forth, talking to the inspector or the
 20. owner/operator, trying to get the information that
 21. we need.

22. In addition to that, we have to check
 23. the inspection reports to make sure that they're
 24. accurate and complete. As I indicated before,
 25. some of the inspection reports say "safe and

1. operable." Some say it passes or fails. Some say
 2. "satisfactory." So we just have to make sure on
 3. our end that we're not giving them permission to
 4. do something that they shouldn't be doing. And we
 5. have to make sure those inspection reports don't
 6. have any remedial action. Because if we miss that
 7. and we actually give them a permit based on the
 8. fact that the inspector told them to correct
 9. something, then we know that would fall back on
 10. us. So we really take that seriously, and that's
 11. a pretty long, extensive process, especially if
 12. the company has a number of devices.

13. So that's pretty much what happened
 14. with that particular -- with the Greene County
 15. fair.

16. CHAIRMAN FOX: Okay. Anything
 17. else?

18. (No verbal response.)

19. CHAIRMAN FOX: Okay. Thank you
 20. very much.

21. Next item, the discussion on hiring
 22. compliance officers. I think we're ready to go on
 23. that.

24. MS. KELSEY: Yes, sir.

25. CHAIRMAN FOX: The next item would

1. be discussing rules for investigating device
 2. accidents and what is required of the
 3. owner/operator. And you're working on the list of
 4. what's required by that owner/operator? Have you
 5. got the check-off list?

6. MS. JEFFRSON: As far as the
 7. accident reporting list? We do. We have a
 8. checklist now. We have a checklist, but that's
 9. something a little different. As far as the
 10. accident reporting requirements, we have a staff
 11. member who checks every day, because we have an
 12. accident reporting form on the website now. We
 13. thought it would just be convenient, just like
 14. with the inspection form that's been proposed, to
 15. have the accident reporting form on the website,
 16. so if there's an accident, the company,
 17. owner/operator, they can go directly to our
 18. website and report that, because the State
 19. requires that it be reported within 24 hours of
 20. the accident. In addition, the requirements also
 21. require the owner/operator to hire a third-party
 22. inspector within 24 hours of reporting it to us.
 23. And just lots of requirements there. And so we
 24. have a staff member to go on the website and
 25. access that information to see if there's been an

1. accident reported, on a daily basis, every
2. morning. That's what they do just to make sure
3. that we don't miss anything.

4. In Tennessee, we understand that
5. serious incidents and serious physical injuries
6. and fatalities are required to be reported based
7. on the new law. And so they're required to do
8. that. If they don't report those serious physical
9. injuries, the incidents or the fatalities, there's
10. a \$300 penalty.

11. Only one company has been assessed
12. \$300 since the law became effective on July 1st.
13. But if there's a serious incident, serious
14. physical injury or fatality in Tennessee, this is
15. what we do in our office. The staff, they
16. understand we have to notify. They have to notify
17. the supervisor. We have to immediately send a
18. cease-and-desist notice to the amusement device
19. company. We request a post-accident inspection be
20. performed. We request that if a post-accident
21. inspection report be submitted to our office and
22. then upon receipt of that post-accident report,
23. that demonstrates the device is safe and operable,
24. then the staff notifies the supervisor and I
25. notify the commissioner. Because ultimately, in

1. those types of cases the commissioner wants to be
2. involved and he wants to be able to say, well,
3. "yay" or "nay," you know, that this company can
4. resume or not resume.

5. And we don't do that until we receive
6. information to show the device is safe and
7. operable. And there are other administrative
8. steps associated with it, but that's mainly --
9. that's our process for now.

10. CHAIRMAN FOX: Okay. With the
11. board's indulgence, could we also get this
12. added -- because we're going to get inspectors --
13. could we get the discussion for investigating
14. amusement device accidents, can we get that put on
15. that workshop with the fees as well?

16. MS. KELSEY: And, Chairman, while
17. we're on that, just for the matter of the record,
18. during the incident with Greeneville, we got
19. contacted from the Associated Press, CBS, Good
20. Morning America, ABC, every -- because of the
21. incident that had occurred elsewhere.

22. CHAIRMAN FOX: Oh, absolutely.

23. MS. KELSEY: -- so we appreciated
24. the communication that we had from the
25. commissioner's office and communications office.

1. We handled it very -- because they're wanting to
2. know, "Are you going to operate this?" It's going
3. to another county and we have legislatures asking
4. if this device is going to be coming into their
5. county. They had very serious concerns. So just
6. as a matter of record. And I know you and I had
7. spoken about that.

8. CHAIRMAN FOX: We had.

9. MS. KELSEY: I do want to give
10. credit to the Department for being so proactive in
11. making sure that the public was very well aware of
12. what was occurring in our state and how we, as a
13. state, was addressing the seriousness of the
14. accident within itself.

15. So I don't like to be on national
16. news on something that was as serious and could
17. have been deadly, but I think we approached it
18. very timely and I think that the feedback from the
19. media is not always positive. But we got some
20. really good feedback from that. So thank you-all
21. as well for helping us with that process.

22. CHAIRMAN FOX: I agree. You did a
23. good job with that and it was evident that the
24. mission of the State of Tennessee was to keep as
25. many people as we possibly can as safe as we can.

1. MR. BAILEY: Mr. Chairman, on --
2. two things -- that you, as I understand it, want
3. to add an additional item to the workshop?

4. CHAIRMAN FOX: Just the process for
5. the investigation of an incident.

6. MR. BAILEY: Okay. Since the
7. workshop was done through motion, I think you
8. might ought to do that through motion also, to add
9. that item to the workshop agenda.

10. CHAIRMAN FOX: Okay.

11. MR. BAILEY: But also, this
12. workshop, we may need to put out a public notice
13. in order to make sure we don't run afoul holding
14. open meetings. Basically, any meeting where the
15. board may deliberate on something is considered an
16. open meeting.

17. Now, if it's just for information
18. purposes only -- but this sounds like it's more of
19. trying to work to a solution, which that is
20. deliberative. And so I think we would have to do
21. a public notice.

22. CHAIRMAN FOX: I certainly expect
23. to.

24. MR. BAILEY: Okay.

25. MR. HALE: What if I just amend my

1. motion to include this discussion, amend my
 2. original motion? Or do you want me to make a
 3. separate motion?
 4. CHAIRMAN FOX: Let's just make a
 5. separate motion.
 6. MR. HALE: I make a motion we
 7. include discussion regarding rules for
 8. investigation of device accidents in our workshop.
 9. MR. RADER: I second it.
 10. CHAIRMAN FOX: Okay. Any
 11. discussion?
 12. (No verbal response.)
 13. CHAIRMAN FOX: All in favor of the
 14. motion, let it be known by saying "aye."
 15. (Affirmative response.)
 16. CHAIRMAN FOX: All opposed by like
 17. sign.
 18. (No verbal response.)
 19. CHAIRMAN FOX: Thank you-all very
 20. much. Motion carries.
 21. MR. HALE: Can we add one comment
 22. to our discussion about -- I have been contacted
 23. by probably no less than 12 carnival companies,
 24. owner/operators, and all of those folks are,
 25. including Family Attractions, are very supportive

1. of inspection and regulation in Tennessee. I have
 2. not had a single operator contact me and say,
 3. "Y'all need to do away with that." Everybody is
 4. supportive.
 5. I think the only thing that I have
 6. heard, if you want to say negative, is they just
 7. want to know what the rules are and what's
 8. expected of them and it remain constant. And I
 9. think there was a little bit of perception that
 10. the rules changed in the middle of the game
 11. because of submitting photographs and all those
 12. things, and it had never been required before.
 13. And I'm not saying that's a bad thing, to get the
 14. pictures. I'm just saying they felt like somebody
 15. should have told them. You know, "I didn't know I
 16. had to submit photographs and all of a sudden I'm
 17. asked for photographs."
 18. MS. JEFFRSON: Right. And that
 19. occurred after the accident.
 20. MR. HALE: Absolutely.
 21. MS. JEFFRSON: So that was a change
 22. that actually came up --
 23. MR. HALE: I think all they're
 24. looking for is for us to be consistent. And, like
 25. I said, they're all in support of that, including

1. Family Attractions, you know, who expressed to me
 2. that even though he hadn't jumped through a lot of
 3. hoops, he knew that it's what needed to be done.
 4. MR. MOORE: Can I make a
 5. suggestion? And I hate to put anything on
 6. Carlene, because I'm afraid that's where it would
 7. end up. But if we issue a hard-copy permit, which
 8. I'm assuming we do, right? Not just electronic?
 9. But would it not be possible to include that with
 10. the permit, a hard copy of the injury checklist,
 11. and include photographs that, one, let's the
 12. carnival and/or ride owner know this is what
 13. you're supposed to do? When you hand them that
 14. permit, you get them a hard copy of the accident
 15. checklist and with a "This is what you do," and
 16. that way there's no ignorance. They can't plead
 17. ignorance. They don't have to have a wife
 18. connection. They know what they're supposed to do
 19. immediately.
 20. MS. JEFFRSON: Well, I think that's
 21. a good idea. We give it to them when they apply.
 22. When they make application, that's the first thing
 23. that Carlene sends them, the requirements. They
 24. get it on the front end, during the process.
 25. MR. MOORE: They get the accident

1. checklist?
 2. MS. JEFFRSON: They receive
 3. everything.
 4. MR. MOORE: Okay.
 5. MS. JEFFRSON: They receive
 6. everything. They have requirements to become
 7. noncompliant. As far as our website, we cited the
 8. website, where to find all that information.
 9. Because all of the information is on the website.
 10. So if you-all run into anyone who says, you know,
 11. "Hey, I'm not really sure what it takes to become
 12. compliant," refer them to the website. That's why
 13. we're trying to educate and just publicize the
 14. website.
 15. CHAIRMAN FOX: Yes, ma'am?
 16. MS. KELSEY: Just another little
 17. addition. One of the things we've discussed
 18. previously is what we've seen lately. Their
 19. permit is getting ready to expire. They're coming
 20. into Davidson County. They have been permitted
 21. outside of the state of Tennessee. They're coming
 22. in three days before their expiration -- and
 23. correct me, Carlene and Kim -- three days before
 24. they know that they're actually coming into a
 25. particular area, knowing that that permit is going

1. to expire, and expect the State of Tennessee to be
 2. able to flip a coin and get everything operable.
 3. You know, we're going to ask for
 4. guidance on that and maybe some direction.
 5. Because the role and responsibility is for Kim's
 6. division to turn that around very quickly. But
 7. the company within itself knows when their permit
 8. is to expire. So it shifts the burden of proof
 9. and it looks like that the State of Tennessee
 10. Workplace Regulations is not doing their job,
 11. which, in fact, they get it two to three days
 12. prior to the time for it to expire.
 13. MS. JEFFRSON: Or try the same day.
 14. MS. KELSEY: Try the same day.
 15. We've had that occur.
 16. MR. RADER: You can't get that
 17. done, Kim?
 18. MR. HALE: And that's certainly a
 19. discussion I've had with every single carnival
 20. that I've talked to.
 21. MS. KELSEY: Absolutely.
 22. MR. HALE: You can't wait until the
 23. day before and expect a rabbit to be pulled out of
 24. the hat.
 25. MS. KELSEY: Absolutely.

1. MR. HALE: Now, let me ask this,
 2. Carlene or Ms. Jefferson, whichever one of you,
 3. what is a reasonable amount of time? Is 15 days
 4. reasonable? Is a month reasonable? What's that
 5. magic time?
 6. MS. JEFFRSON: Do you want to speak
 7. to that, Carlene?
 8. MS. BENNETT: Well, I just know
 9. that the law does say traveling amusement devices,
 10. it's 30 days. They should have their paperwork in
 11. to --
 12. MR. HALE: In 30 day?
 13. MS. BENNETT: Yes, 30 days.
 14. MR. HALE: And I assure you, I'll
 15. convey that.
 16. MS. BENNETT: Thank you.
 17. CHAIRMAN FOX: And that is a
 18. reasonable expectation. I mean, it takes a while
 19. to do that.
 20. MS. BENNETT: Well, there's so much
 21. other things going on, you know, with the news
 22. media and accidents and people being out, you
 23. know, of the office for one reason or another.
 24. You know, it takes it when you have fair season
 25. and they all want to be permitted at one time.

1. MR. HALE: Well, and on occasion
 2. there are situations that occur where a carnival
 3. will come in and their contract with the fair says
 4. they have to have "X" number of a certain type of
 5. ride. They realize they don't have that. They've
 6. got to contact somebody. But that should not be
 7. the norm.
 8. And three days is probably even not
 9. reasonable at that. But still, there may be
 10. occasions when something like that would happen.
 11. I know of a situation, actually, in Georgia that
 12. two rides were, on the way to the fair, involved
 13. in a traffic accident. They're not going to be
 14. there, so they had to get another company to come
 15. in. But that should not be the norm.
 16. And I kind of applaud y'all -- I do
 17. applaud y'all for the late nights that I know your
 18. office has put in, but we have to express that
 19. that can't be the norm. That has to be the
 20. exception.
 21. CHAIRMAN FOX: Anything else on
 22. that?
 23. (No verbal response.)
 24. CHAIRMAN FOX: All right. With the
 25. exception of the workshop, which we don't have

1. dates yet, the next meeting will be December the
 2. 6th at 9:00 a.m., I'll assume back here in this
 3. room?
 4. MS. BENNETT: I'm not sure. I had
 5. the Tennessee room, but if we change it, we'll let
 6. you know.
 7. CHAIRMAN FOX: Okay. First of all,
 8. I want to say thank you-all, everybody for hanging
 9. around here today. Thank you for your-all's
 10. patience and your understanding. This has been a
 11. long meeting. It's been very informative. I
 12. think we've all learned a lot. And with that I'll
 13. accept a motion for adjournment.
 14. MR. RADER: So moved.
 15. CHAIRMAN FOX: We're out of here.
 16. END OF THE PROCEEDINGS.
 17.
 18.
 19.
 20.
 21.
 22.
 23.
 24.
 25.

1. CERTIFICATE
2. STATE OF TENNESSEE)
3. COUNTY OF WILLIAMSON)
4. I, Cassandra M. Beiling, a Notary Public
5. in the State of Tennessee, do hereby certify:
6. That the within is a true and accurate
7. transcript of the proceedings taken before the
8. Elevator and Amusement Device Safety Board and the
9. Chief Inspector or the Chief Inspector's Designee,
10. Tennessee Department of Labor and Workforce
11. Development, Division of Workplace Regulations and
12. Compliance, Elevator and Amusement Device Unit, on
13. the 13th day of September, 2016.
14. I further certify that I am not related to
15. any of the parties to this action, by blood or
16. marriage, and that I am in no way interested in
17. the outcome of this matter.
18.
19. IN WITNESS WHEREOF, I have hereunto set my
20. hand this 5th day of October, 2016.
21.
22.
23. _____
24. Cassandra M. Beiling, CCR, LCR# 371
Notary Public State at Large
25. My commission expires: 3/15/2020

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