

1 STATE OF TENNESSEE  
2 ELEVATOR AND AMUSEMENT DEVICE SAFETY BOARD

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

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15  
16 September 24, 2019  
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22 **ORIGINAL**  
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25 CASSANDRA M. BEILING, LCR# 371  
STONE & GEORGE COURT REPORTING  
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Page 2

1 APPEARANCES:  
 2 Robbie Fox, Chairman  
 Fixed Amusement Device Representative  
 3  
 Mike McPherson  
 4 Elevator Inspector Supervisor  
 5 Mike H. Hardy  
 Amusement Device Manager  
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 David Hale, Board Member  
 7 Tennessee Fair Association Representative  
 8 Kelly O'Connor, Board Member  
 Public at Large Representative  
 9  
 Larry R. Moore, II, Board Member  
 10 Owner and Lessees Representative  
 11 Lewis Moorer, Jr., Board Member  
 Public-at-Large Representative  
 12  
 Mitch H. Rader, Board Member  
 13 Insurance Company Representative  
 14 Victor LaPorte, Board Member  
 Manufacturer Representative  
 15  
 James Roy Pope, Board Member (not present)  
 16 Traveling Amusement Device Representative  
 17 Tom Herrod, Esq.  
 Assistant Commissioner, State of Tennessee  
 18  
 Dan Bailey, Esq.  
 19 Legal Counsel, State of Tennessee  
 20 Jennifer Murphy  
 Board Secretary, State of Tennessee  
 21  
 22  
 23  
 24 \*\* Reporter's Note: All names are spelled  
 phonetically unless otherwise provided to the  
 25 Reporter by the parties.

Page 4

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2 CHAIRMAN FOX: Good morning. I  
 3 will call the September 24, 2019 meeting of the  
 4 Elevator and Amusement Device Safety board to  
 5 order.  
 6 And, Mr. LaPorte, will you do the  
 7 pledge for us and get us started off right,  
 8 please, sir.  
 9 (Whereupon, the Pledge of Allegiance  
 10 was recited.)  
 11 CHAIRMAN FOX: Thank you.  
 12 Okay. Introductions? Ms. Murphy,  
 13 because you're sitting on the right, it's your  
 14 turn.  
 15 MS. MURPHY: Jennifer Murphy, board  
 16 secretary.  
 17 MR. HARDY: Mike Hardy, amusement  
 18 device unit manager.  
 19 MR. MCPHERSON: Mike McPherson,  
 20 elevator chief.  
 21 MR. LaPORTE: Vic LaPorte, board  
 22 member.  
 23 MR. MOORER: Lewis Moorer, board  
 24 member.  
 25 MR. HALE: David Hale, board

Page 3

A G E N D A

2 I. Call Meeting to Order  
 3 II. Introductions and Announcements  
 4 III. Pledge  
 5 IV. Adoption of Agenda  
 6 V. Approval of the June 4, 2019 Minutes  
 7 VI. Elevator Unit's Report  
 8 VII. Amusement Device Unit's Report  
 9 VIII. Old Business  
 \* Elevator Sub Committee Update  
 10 \* Amusement Device Sub Committee Update  
 11 IX. New Business  
 \* Don Stock to address board about  
 12 inspections of ziplines  
 \* Fee Increase for Elevators/Permitting  
 13  
 X. Open Discussion Items:  
 14 \* ASTM F-24  
 \* Divisions's Update on Jurisdiction Online  
 15 for the following programs:  
 \* Elevator Unit  
 16 \* Amusement Device Unit  
 17 XI. Announcement of Next Meeting- The next  
 regularly scheduled meeting of the Elevator  
 & Amusement Device Safety Board meeting will  
 18 be held at 9:00 a.m. (CST) on Wednesday,  
 19 December 4, 2019, at the State of Tennessee  
 Department of Labor and Workforce  
 20 Development building, located at 220 French  
 Landing Drive, Nashville, Tennessee.  
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 XII. Adjournment  
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Page 5

1 member.  
 2 CHAIRMAN FOX: Robbie Fox, board  
 3 member.  
 4 MR. RADER: Mitch Rader, board  
 5 member.  
 6 MR. MOORE: Larry Moore, board  
 7 member.  
 8 MS. O'CONNOR: Kelly O'Connor,  
 9 board member.  
 10 MR. HERROD: Tom Herrod, assistant  
 11 commissioner.  
 12 MR. BAILEY: Dan Bailey, legal  
 13 counsel.  
 14 And I'm going take a moment to remind  
 15 everybody this meeting is being transcribed, so  
 16 make sure you don't talk over each other. Let  
 17 somebody who's asking a question complete the  
 18 question before you start to answer so that the  
 19 record is clean. Thank you.  
 20 MR. YORK: Kevin York, Schindler  
 21 Elevator.  
 22 MR. TAYLOR: Lawrence Taylor,  
 23 Schindler Elevator.  
 24 MR. TARPLEY: John Tarpley, safety  
 25 compliance officer.

<p style="text-align: right;">Page 6</p> <p>1 MR. KLUTTS: Kevin Klutts, safety 2 compliance officer. 3 MR. STOCK: Don Stock, state 4 inspector. 5 MR. JACKSON: Thomas Jackson, 6 assistant chief elevator inspector. 7 MS. RHODES: Anita Rhodes, elevator 8 office supervisor. 9 MS. ALDRIDGE: Erica Aldridge, AAL 10 for amusement device unit. 11 MR. SCHMID: Paul Schmid, Premier 12 Elevator. 13 CHAIRMAN FOX: And the other part, 14 to hitchhike on with Mr. Bailey, please speak 15 loudly so that all of us can hear, because, quite 16 frankly, I'm almost deaf. So if you could help 17 me, I'd appreciate it. 18 Okay. Announcements: In the event 19 of an emergency or a natural disaster, security 20 personnel will take attendees to a safe place in 21 the building or direct them to exit the building 22 on the Rosa Parks side. And that is on that end 23 of the building. 24 Item Number 4, Adoption of the 25 Agenda. I would entertain a motion to adopt the</p>	<p style="text-align: right;">Page 7</p> <p>1 agenda as presented. 2 MR. RADER: So moved. 3 MR. HALE: Second. 4 CHAIRMAN FOX: I have a motion and 5 a second. Any discussion? 6 (No verbal response.) 7 CHAIRMAN FOX: Hearing none, all in 8 favor of the motion let it be known by saying aye. 9 (Affirmative response.) 10 CHAIRMAN FOX: All opposed, like 11 sign. 12 (No verbal response.) 13 CHAIRMAN FOX: You should have the 14 minutes of the June 4th meeting in your packet. 15 And I would entertain a motion to approve as 16 presented. 17 MR. RADER: So moved. 18 MR. MOORE: Second. 19 CHAIRMAN FOX: We have a motion and 20 second. Any discussion? 21 (No verbal response.) 22 CHAIRMAN FOX: Hearing none, all in 23 favor of the motion, let it be known by saying 24 aye. 25 (Affirmative response.)</p>
<p style="text-align: right;">Page 8</p> <p>1 CHAIRMAN FOX: All opposed by like 2 sign. 3 (No verbal response.) 4 CHAIRMAN FOX: Thank you. 5 Item Number 6, we have the Elevator 6 Unit's Report. Mr. McPherson? 7 MR. MCPHERSON: Yes, sir. Year to 8 date, we have 18,551 inspections completed. We've 9 done 392 new installations, 132 remodels, and 10 19 accidents to report. 11 CHAIRMAN FOX: Is that all? 12 MR. MCPHERSON: That's it. 13 CHAIRMAN FOX: Sounds like you've 14 been busy. 15 MR. MCPHERSON: We are busy. 16 CHAIRMAN FOX: So I'll ask you the 17 question I used to ask Mr. Farmer. Is Nashville 18 still growing? 19 MR. MCPHERSON: It is. 20 CHAIRMAN FOX: Would we say at an 21 unprecedented rate? 22 MR. MCPHERSON: I think we're not 23 quite -- in our area, I don't think it's quite as 24 fast as it was. As far as elevators are going, 25 we're not permitting quite as much, but we're</p>	<p style="text-align: right;">Page 9</p> <p>1 still growing. 2 CHAIRMAN FOX: Any other area of 3 the state -- are there any other areas of the 4 state that are growing rapidly? 5 MR. MCPHERSON: Not to compare to 6 Nashville, no. 7 CHAIRMAN FOX: Thank you very much. 8 Item Number 7, Amusement Device 9 Unit's Report. Mr. Hardy? 10 MR. HARDY: Okay. I would like to 11 make an introduction, a further introduction, if I 12 could. We lost our safety compliance officer in 13 East Tennessee. We didn't lose him permanently, 14 but we lost him in the unit in late April of this 15 year. But with the help of HR and here and 16 Mr. Fred Gaston, we were able to make an early 17 July hire. 18 John stand up, if you will. 19 John Tarpley has joined the unit as 20 our safety compliance officer for East Tennessee 21 on July the 8th. And he's hit the ground running. 22 He's doing a good job for us over there in East 23 Tennessee, and we appreciate all that were 24 involved in making this a quick turnaround. 25 Thank you, John.</p>

<p style="text-align: right;">Page 10</p> <p>1 MR. TARPLEY: Thank you.</p> <p>2 MR. HARDY: If you'll refer to your</p> <p>3 handout, on the first page you'll see the number</p> <p>4 of devices per minute. And our board meeting was</p> <p>5 prior to the end of our fiscal year, so we closed</p> <p>6 the fiscal year '18-'19 -- again, it ended on</p> <p>7 June 30th with a record number of permits issued,</p> <p>8 at 456. And that surpassed the fiscal year of</p> <p>9 '17-'18 where we had issued 408 operating permits.</p> <p>10 Right now we're approaching the end</p> <p>11 of the first quarter, and we have issued 123</p> <p>12 operating permits. So that puts us on track with</p> <p>13 our goal of issuing 500 permits for this fiscal</p> <p>14 year. We should be right on line with those</p> <p>15 numbers as of now.</p> <p>16 The next sheet, new permits issued,</p> <p>17 we ended the fiscal year with 113 new or</p> <p>18 first-time operating permits issued. The previous</p> <p>19 year we had 134, but we were lacking some</p> <p>20 compliance officers. We had some personnel issues</p> <p>21 there, and I think that kind of attributes to that</p> <p>22 number being lower than the fiscal year '17-'18.</p> <p>23 We have issued 36 permits, operating permits to</p> <p>24 new companies, first-time permits, so far, in this</p> <p>25 fiscal year that we're in.</p>	<p style="text-align: right;">Page 11</p> <p>1 And again, with a few exceptions, I</p> <p>2 think it's our goal that we should be able to</p> <p>3 capture the majority of the companies that are</p> <p>4 doing business in the state at the end of this</p> <p>5 fiscal year that we're in. Our goal is 500</p> <p>6 companies to permit.</p> <p>7 The third page of your handout is the</p> <p>8 number of devices. Kind of getting away from that</p> <p>9 terminology where we permit -- we permit companies</p> <p>10 and we register devices. So we registered</p> <p>11 4,247 devices in fiscal year '18-'19. That was an</p> <p>12 18.6 percent increase over the previous fiscal</p> <p>13 year where we registered 3,582 devices. We have</p> <p>14 registered 1,193 devices thus far. And most of</p> <p>15 you know, but there's a direct correlation between</p> <p>16 these devices that we've registered and</p> <p>17 inspections. So each one of these devices has</p> <p>18 undergone an annual inspection as the law</p> <p>19 specifies.</p> <p>20 Accidents, the first thing I want to</p> <p>21 mention about the accident report is we've gone in</p> <p>22 there and we've converted -- the accident report I</p> <p>23 used to present was a calendar year, but it made</p> <p>24 it a little bit confusing because all of the other</p> <p>25 reports are on fiscal year. So we took the dates</p>
<p style="text-align: right;">Page 12</p> <p>1 of these incidents and accidents and converted</p> <p>2 those to a fiscal year chart so everything would</p> <p>3 be more of an apples-to-apples kind of comparison.</p> <p>4 Again, we've talked about before in</p> <p>5 our board meetings that the accident looked a</p> <p>6 little concerning. The fiscal year, beginning in</p> <p>7 fiscal year '16-'17 and then the next two, because</p> <p>8 we started permitting trampoline parks. So</p> <p>9 that's -- we've talked about it before. That's</p> <p>10 attributed to most of these accidents.</p> <p>11 We ended the past fiscal year,</p> <p>12 '18-'19 with 44 accidents, but 40 of those were</p> <p>13 with trampoline parks and related. So of the four</p> <p>14 accidents not involving trampoline parks, two</p> <p>15 involve mountain coasters, one that was</p> <p>16 classified -- you'll see on the next sheet -- as</p> <p>17 "other" involved indoor skydiving, and one</p> <p>18 involved an aerial adventure-type of device, like</p> <p>19 a zipline.</p> <p>20 And then the final chart there is the</p> <p>21 explanation and the justification for increase or</p> <p>22 these spikes in the trampoline parks. The unit,</p> <p>23 you can see, so far, in fiscal year '19 and '20,</p> <p>24 we only have two reportable accidents thus far.</p> <p>25 The unit, we're now taking more of a commonsense</p>	<p style="text-align: right;">Page 13</p> <p>1 approach to reportable accidents -- I believe we</p> <p>2 talked about that last time -- deeming these</p> <p>3 trampoline park-type incidents and accidents as</p> <p>4 nonreportable if those incidents were not a result</p> <p>5 of being owned or the operation of the device.</p> <p>6 So meaning that if there wasn't a</p> <p>7 defect or something wrong with the trampoline or</p> <p>8 other related device that was found in the</p> <p>9 trampoline parks, we did not deem those, just</p> <p>10 because there was a transport for turned ankle or</p> <p>11 elbow or whatever, as a reportable accident.</p> <p>12 And we are requiring detailed</p> <p>13 explanations on these and photos, specifically, of</p> <p>14 where the incident took place so we can make a</p> <p>15 determination of whether it should be considered</p> <p>16 as reportable or nonreportable.</p> <p>17 And also, if you -- normally, if you</p> <p>18 have a reportable accident you would have a</p> <p>19 corrective action, something that was wrong. And</p> <p>20 we've had -- I think, maybe, one comes to mind on</p> <p>21 all of these trampoline park incidents.</p> <p>22 So we have two truly reportable incident</p> <p>23 accidents -- so far for this fiscal year -- one</p> <p>24 involving a trackless train and one involving a</p> <p>25 mountain coaster, again, in East Tennessee, that</p>

<p style="text-align: right;">Page 14</p> <p>1 involved an employee and actually not a patron.  2           So is there any questions about the  3 accident reports as shown?  4           (No verbal response.)  5           MR. HARDY: And finally, the last  6 thing I have is that fair season has been fast and  7 furious again this year. It started with the Clay  8 County Fair June the 11th, and the last one as  9 listed by the Tennessee Fair Association will be  10 the Franklin County Fair that starts in early  11 October.  12           It was our intent, again, to visit  13 all the first-time players, the first time a  14 traveling carnival company came in, letting the  15 owners and operators know that we're available for  16 them if needed and that we support them as they do  17 business here in the state.  18           We had a few minor obstacles to  19 overcome at the various fairs, but the safety  20 compliance officers did a great job of being there  21 and working through these issues with our fairs  22 and our amusement device companies. We'll  23 continue to spot-check county fairs. And two  24 things that we're doing, we're making sure that  25 the company has a valid operating permit, and the</p>	<p style="text-align: right;">Page 15</p> <p>1 second thing is that we're insuring that the  2 devices that they turn in that have been inspected  3 and they turn for their permit are, in fact, the  4 devices that they have on the ground.  5           And like I said, we've had a couple  6 of incidents where a couple of devices showed up  7 and were constructed that had not been inspected.  8 But again, these guys have done a great job of  9 being there, number one, and taking care of these  10 issues, making sure they were compliant with the  11 law before they turned the switch on.  12           So I think we've had -- knock on  13 wood, I think we've had another successful and a  14 safe fair season this year. I appreciate them and  15 the work they've done.  16           Does anybody have any questions for  17 me or amusement device?  18           CHAIRMAN FOX: Yes. As you-all  19 have been traveling with the carnivals, have you  20 run across third-party inspectors who were  21 physically on property with these carnivals for  22 fairs?  23           MR. HARDY: Oh, yes. Yes. Like,  24 you know -- like I say, one of our biggest fairs,  25 the Wilson County Fair, they have -- David, you</p>
<p style="text-align: right;">Page 16</p> <p>1 might have to help me -- but they have third-party  2 inspectors on-site.  3           And, as a matter of fact, this time  4 Reithoffer did all of their inspections once they  5 were set up in Wilson County. Now, you know,  6 we'll allow inspections from other states if they  7 meet the criteria, if they're fresh, within three  8 months of their application for a permit here in  9 Tennessee. But they had all of theirs done on the  10 ground there.  11           And I think Kevin -- I think we saw  12 some of that at the Delta Fair over in Memphis.  13 So, you know, Florida's law says that they inspect  14 every time that they move. But this is an example  15 of accomplishing the same thing, is the way they  16 did it at Wilson this year.  17           CHAIRMAN FOX: I know that the  18 fairs that come in our area are now having -- now  19 mandating, internally -- not by us or anyone  20 else -- that they have a third-party inspector  21 on-site, which I think is a great thing to do.  22 It's a great safety feature.  23           MR. HARDY: I think it is, too.  24 And, you know, too, I think it depends upon the  25 size of the company and it depends on a</p>	<p style="text-align: right;">Page 17</p> <p>1 case-by-case basis. But it does work very well to  2 have them on-site, you know, should anything  3 happen or malfunction with any of the rides.  4           CHAIRMAN FOX: Anything else?  5           MR. HARDY: Not from me, no, sir.  6           CHAIRMAN FOX: All right.  7           MR. RADER: Good report.  8           MR. HARDY: Thank you.  9           CHAIRMAN FOX: Under Old Business,  10 Item Number 8, the Elevator Sub Committee Update.  11           Mr. LaPorte or Mr. Bailey, are you  12 going to tag-team this, or --  13           MR. LaPORTE: Sure.  14           CHAIRMAN FOX: We'll hear from you  15 first.  16           MR. LaPORTE: So the elevator  17 sub committee met and went through, with  18 Mr. Bailey, all of our changes and developed the  19 final redline version. Highlights of what we did  20 in those changes was there's a lot of reference in  21 the rules to other sections, and the sub committee  22 went through and made sure that everything that  23 one line would point to was actually pointing to  24 the correct reference.  25           The actual redline changes, just to</p>

<p style="text-align: right;">Page 18</p> <p>1 recap some of the major exchanges, is the State is  2 looking to move to A17-1 2016, which is the main  3 elevator code, basically.</p> <p>4           Some of the changes in that code,  5 though, is the State never previously adopted  6 A17-7, the performance-based code. Decided that  7 wasn't something we were looking to do at the  8 time, so we removed reference to A17-7, and that  9 was in A17-1 so that there's no conversation  10 there.</p> <p>11           We removed alternative testing means  12 for Category 5 testing, one that required an  13 actual full-load test, not an electronic  14 alternative. And the biggest thing was the  15 maintenance control program. We rewrote a lot of  16 the requirement, basically, not allowing the  17 electronic version, but wanting a written  18 maintenance control program per unit out there in  19 the state. And the recordkeeping of that would  20 all be done on-site and not through electronic  21 meetings. However, the inspectors would not have  22 to reach out to different companies or sources to  23 try to receive electronic records.</p> <p>24           CHAIRMAN FOX: So let me understand  25 what I think you just said, that we have to</p>	<p style="text-align: right;">Page 19</p> <p>1 provide the written so-called manual and it be  2 physically on property for that particular unit at  3 all times; is that fair?</p> <p>4           MR. LaPORTE: Correct.</p> <p>5           CHAIRMAN FOX: Okay.</p> <p>6           MR. LaPORTE: And actually, per the  7 code, those records need to be maintained on-site  8 for five years.</p> <p>9           CHAIRMAN FOX: Okay. So if I'm an  10 owner of an elevator, can I have that available to  11 you on computer and hand that to you, or let you  12 view it on the computer, as long as I have that  13 available?</p> <p>14           MR. LaPORTE: No. So --</p> <p>15           CHAIRMAN FOX: That's why I asked  16 the question. We need to be clear.</p> <p>17           MR. LaPORTE: There's one small  18 caveat that we allowed in. So we're looking for  19 an actually written book or a complete manual.  20 Maintenance control program is made up of several  21 different sections with instruction logbooks,  22 things like that. However, trying to stay modern,  23 if a manufacturer decided to put some type of  24 tablet device mounted to that piece of equipment  25 where they wanted to maintain this program</p>
<p style="text-align: right;">Page 20</p> <p>1 electronically on that equipment where it was  2 readily available to the inspectors, that would be  3 allowed. What we did not want was for the  4 inspectors to have to be able to obtain  5 information electronically via email, text,  6 however.</p> <p>7           So electronically, on-site, there is  8 a provision in there for that.</p> <p>9           CHAIRMAN FOX: Okay.</p> <p>10           MR. LaPORTE: And the last major  11 thing in A17-1 was we took out the requirement for  12 all of the testing to be witnessed by the  13 inspectors. We felt that the changes we made to  14 the maintenance control program would give us  15 enough assurance that the testing was being done  16 properly. Some quick math, I think we figured for  17 the State to keep up with the testing, we would  18 have to hire about another 28 additional  19 inspectors. That just would never happen. So  20 we've taken it out.</p> <p>21           The other highlights would move into  22 the A17-2 2017 version of the inspector's guide,  23 which is not a code but it's a guide that the  24 inspectors use to inspect elevators to meet code.  25 We're moving to the A17-6 2017 code for suspension</p>	<p style="text-align: right;">Page 21</p> <p>1 means in its entirety with no changes. That A17-2  2 inspectors guide is also with no changes. The  3 A18-8 2014 version for lifts and ANSI B77-1 2017  4 for aerial trampolines. I believe that is also in  5 its entirety.</p> <p>6           CHAIRMAN FOX: Okay.</p> <p>7           MR. BAILEY: First of all, the -- I  8 had submitted the rules to the Governor's office  9 after we had our sub committee meeting, and I was  10 able to get the redline version done. And as of  11 last Friday, I got the approval for them from the  12 Governor's office, last Friday afternoon. And, of  13 course, I'm getting ready -- I'm hoping that the  14 board takes a vote today to adopt the rules. And  15 if that happens, I will record that on the  16 proposed rule form -- I have to record each  17 person's name and how they voted or if they were  18 here -- and prepare it to send to the attorney  19 general's office.</p> <p>20           Now, this says, like, final redline  21 version, but actually, as I was going through it  22 yesterday, getting ready to send it to the  23 attorney general's office, there are some minor  24 changes to this. I wanted to just make you aware  25 of that.</p>

<p style="text-align: right;">Page 22</p> <p>1 All of this all-cap -- like, the  2 heading that's all caps, the titles for each rule,  3 like scope, definition that's all caps, they won't  4 accept it if it's all caps. So I had to go back  5 and change all that where just the first word is  6 capitalized -- or the first letter is capitalized.  7 But any of those all-caps is no longer all caps.  8 Also --  9 CHAIRMAN FOX: Is there anything in  10 the substance part versus the form?  11 MR. BAILEY: A little bit, very  12 little bit. On page 3 -- and me and Vic spoke  13 yesterday on the phone about this -- new  14 paragraph 14 under the elevator safety code, it is  15 struck through, all the way through to the word  16 "engineers," comma. That has been -- currently,  17 it's struck through all the way through July 30,  18 2010, but the words "prepared and published by the  19 American Society of Mechanical Engineers" is not  20 struck through. That should have stayed in. And  21 so that's been un-redlined, you know. And we  22 spoke about it yesterday. Because the statute  23 references this ASTM, so we wanted to make sure  24 the rules were consistent. So that was also  25 changed.</p>	<p style="text-align: right;">Page 23</p> <p>1 And then again, on page 21, you know,  2 again where all the all-caps shows up about the  3 signs about -- you know, when you get on an  4 amusement device, all of that had to be changed to  5 just the first letter being capitalized.  6 And on page 26, Rule 0800-03-04  7 regarding spot inspections, when it says "The  8 commissioner," I had added the word "designee"  9 after, or I made it the "commissioner's designee  10 may conduct a spot inspection," because later,  11 about two lines down, it references  12 "commissioner's designee," so I thought that  13 needed to be consistent.  14 So that's the only changes that have  15 been made, but I just wanted to make sure you were  16 aware that this isn't quite the final redline  17 version.  18 But anyway, the process now will be  19 to -- once this body has taken a vote, is for me  20 to, as I said, record that vote on the proposed  21 rule form, and then I've got to make -- get with  22 our commissioner because I have to submit three  23 originals plus a redline version to the A.G.'s  24 office. And then I don't know how long it will  25 sit there, but once -- if they will sign off on</p>
<p style="text-align: right;">Page 24</p> <p>1 it -- and I don't know how much feedback I'll get.  2 Sometimes they'll find stuff, and no matter how  3 many times you go through these things, somebody  4 else will find something.  5 But once they approve it, they'll  6 send back the three originals that are signed by  7 the attorney general and signed by our  8 commissioner, and then I submit those three  9 originals plus the redline version, plus I have to  10 email them a Word-format version of it to the  11 Secretary of State's office, division of  12 publications. Once it's filed with them, then as  13 long as no ten people or an organization  14 representing ten or more people file an objection  15 requesting a public hearing on it, those rules  16 will go into effect 90 days from the date that  17 it's filed with the Secretary of State's office.  18 So depending on how long before it gets there and  19 how long the A.G.'s office takes and things like  20 that, will depend on how long it will be before  21 they actually become effective.  22 MR. RADER: So you're saying it's  23 going to move slow.  24 MR. BAILEY: Yes. It's government,  25 so yes, it will move slowly.</p>	<p style="text-align: right;">Page 25</p> <p>1 CHAIRMAN FOX: Sometimes that's a  2 good thing.  3 MR. BAILEY: Sometimes it is. I'm  4 not saying it's good or bad. It's just the way it  5 is.  6 CHAIRMAN FOX: That's the way it  7 is.  8 So let me try to understand what I  9 heard you say, that if we do get a motion and a  10 second and we vote, do we need to have a roll-call  11 vote?  12 MR. BAILEY: Well, I need to know  13 for -- I need to know whether it's -- and it looks  14 like all the board members are here, so...  15 CHAIRMAN FOX: With the exception  16 of James Roy Pope.  17 MR. BAILEY: Okay. So I need to  18 note that right off the bat. So he'll be recorded  19 as absent on the form. But I guess I'll need to  20 know if there's any, you know -- if it's all ayes,  21 then it's all ayes, you know, everybody was a yes.  22 If anybody abstains or votes no, I need to know  23 that and record that.  24 CHAIRMAN FOX: Well, let's just do  25 it. It's kind of like another little board that</p>

<p style="text-align: right;">Page 26</p> <p>1 I'm familiar with. If it's an ordinance, it's  2 roll call. Anything else is by voice. So this is  3 sort of an ordinance in my world, so we'll do a  4 roll call, if that works, and it'll be voted up or  5 down. Does that work for you? And that way  6 you'll know exactly who votes for and/or against.  7 MR. BAILEY: That's all I need to  8 know, is how each person voted.  9 CHAIRMAN FOX: All right.  10 MS. O'CONNOR: Mr. Chair, I'll make  11 a motion.  12 CHAIRMAN FOX: Okay. We have a  13 motion.  14 MR. LaPORTE: Second.  15 CHAIRMAN FOX: We have a second.  16 Any discussion?  17 MR. HARDY: Can I interject  18 something here? I don't know if I can or not, but  19 would this be for both the elevator and the  20 amusement device? It's not separate?  21 CHAIRMAN FOX: Separate and apart.  22 MR. BAILEY: Do what now?  23 CHAIRMAN FOX: Separate and apart.  24 MR. BAILEY: No. These rules are  25 all together.</p>	<p style="text-align: right;">Page 27</p> <p>1 MR. HARDY: That's why -- yeah.  2 That's why I was asking.  3 MR. BAILEY: These elevator and  4 amusement device rules are all the same set of  5 rules.  6 CHAIRMAN FOX: But I thought we  7 were just discussing the elevator portion of this  8 right now.  9 MR. RADER: Do we need to vote on  10 both of them together? I thought we would vote  11 on --  12 MR. BAILEY: I mean, the 0800-03 --  13 is a single set of rules.  14 CHAIRMAN FOX: Then certainly, we  15 need to --  16 MR. BAILEY: It's elevator/  17 amusement device safety board rules.  18 CHAIRMAN FOX: Okay. Then we need  19 to also discuss the elevator -- or excuse me --  20 the amusement portion of this --  21 MR. BAILEY: Amusement device and  22 then vote.  23 CHAIRMAN FOX: -- and then vote.  24 MR. BAILEY: I'm sorry I was  25 talking over him. I told everybody not to do</p>
<p style="text-align: right;">Page 28</p> <p>1 that.  2 CHAIRMAN FOX: It's my fault. It's  3 my fault.  4 So let's go back, for the record, and  5 we need to discuss the amusement device portion of  6 this before we have a final vote. Are you-all  7 good with that?  8 MS. O'CONNOR: Yes.  9 MR. HALE: Would she need to  10 withdraw her motion?  11 MR. BAILEY: Yes.  12 MS. O'CONNOR: Okay. I withdraw  13 that motion.  14 MR. BAILEY: And the second.  15 MR. LaPORTE: I withdraw the  16 second.  17 CHAIRMAN FOX: All right. So we're  18 back to square one. Then we need to have the  19 amusement device...  20 MR. HALE: Well, the amusement  21 device sub committee met as well, and we spent a  22 majority of our time making sure that the  23 amusement device sections of this were in line  24 with the ASTM standards, the current standards,  25 and the ACCT standards as well. And we also spent</p>	<p style="text-align: right;">Page 29</p> <p>1 some time discussing some procedural or  2 operational aspects of things to get some  3 clarification for the board. And particularly,  4 one of those discussions was the submission of  5 insurance, how that was done and that each  6 individual device should be -- there should be  7 some documentation that says ACME Amusement Device  8 Company owns a Tilt-a-Whirl and that Tilt-a-Whirl  9 is insured by XYZ Insurance Company. So we've  10 clarified some of those types of things.  11 One of the -- probably the longest  12 discussion was held in reference to the wording of  13 reporting accidents. And so at the end of the  14 day, I think we've deferred that to Mr. Bailey and  15 his staff to work through that verbiage and bring  16 it more in line with what the ASTM standard says,  17 so...  18 Mr. Bailey is on coffee run so we'll  19 defer to him when he returns in a moment.  20 MR. BAILEY: I didn't know I was  21 going to be part of this report. That's why I  22 thought I had an opening.  23 CHAIRMAN FOX: Well, he normally  24 talks longer.  25 MR. HALE: I'm usually longer</p>



<p style="text-align: right;">Page 30</p> <p>1 winded. I've really tried to work hard on that.</p> <p>2 MR. BAILEY: Now, what was the...</p> <p>3 MR. HALE: Where we discussed in</p> <p>4 the meeting -- it's on page 26 of the redline</p> <p>5 version in the amusement device sub committee</p> <p>6 report. And we had discussed bringing, under the</p> <p>7 03-04-23 Section 1, bringing that more in line</p> <p>8 with what the ASTM standard says.</p> <p>9 Am I correct, Mr. Chairman?</p> <p>10 CHAIRMAN FOX: Yes.</p> <p>11 MR. BAILEY: I'm not sure what</p> <p>12 you're asking me.</p> <p>13 MR. HALE: Well, when we left, you</p> <p>14 were going to look at what action would be</p> <p>15 recommended to bring that a little more in line.</p> <p>16 We felt like that the requirement for reporting</p> <p>17 was not -- was burden -- was written in a</p> <p>18 burdening manner, that if you stub your toe and</p> <p>19 you end up with a reportable accident and ride</p> <p>20 shutdown, for instance.</p> <p>21 MR. BAILEY: I would have to say</p> <p>22 I'm totally drawing a blank on this. I don't even</p> <p>23 remember that discussion.</p> <p>24 MR. HARDY: Well, we had</p> <p>25 discussions of what the law says about serious</p>	<p style="text-align: right;">Page 31</p> <p>1 injuries and --</p> <p>2 MR. BAILEY: Serious incidents.</p> <p>3 MR. HARDY: Serious incidents,</p> <p>4 right -- and I think another thing we had that</p> <p>5 David may be alluding to, that we struck that an</p> <p>6 oral report for an accident would be acceptable.</p> <p>7 We struck that out of the rules.</p> <p>8 MR. BAILEY: Right.</p> <p>9 MR. HARDY: And a couple more</p> <p>10 things that might be significant, we eliminated</p> <p>11 the -- on the back sheet, we eliminated what we</p> <p>12 called the device feed, different feeds for</p> <p>13 certain heights of passengers and if it's a design</p> <p>14 for 42 inches or more in height. It was kind of</p> <p>15 complicated.</p> <p>16 And the way that the rules read now,</p> <p>17 it matches what we're doing for \$150 for an annual</p> <p>18 permit. And then through the rules, we also -- I</p> <p>19 don't like to use the term "generically," but if</p> <p>20 you cite these ASTM standards for amusement</p> <p>21 devices, specifically as they're listed under</p> <p>22 ASTM, they're going to be obsolete by the time our</p> <p>23 next board meeting comes around. So we decided to</p> <p>24 cite the base and not the suffix so it would be</p> <p>25 applicable for years to come. So to me, that's</p>
<p style="text-align: right;">Page 32</p> <p>1 the gist of what the revisions were in the</p> <p>2 amusement device.</p> <p>3 CHAIRMAN FOX: And the serious</p> <p>4 incident or serious injury, it had to have</p> <p>5 happened on the ride. And it must comply with the</p> <p>6 ASTM rule or standard regarding the reporting of</p> <p>7 accident.</p> <p>8 MR. MOORE: Is that stated in these</p> <p>9 red lines, Robbie?</p> <p>10 MR. HALE: I don't see that we</p> <p>11 changed that, and that's the reason I was asking</p> <p>12 that. Because I think part of what we talked</p> <p>13 about is that the accident had to be a result of</p> <p>14 the operation of the ride, not walking up the</p> <p>15 steps going to the ride, for instance.</p> <p>16 CHAIRMAN FOX: Or a malfunction of</p> <p>17 the ride.</p> <p>18 MR. HALE: Right.</p> <p>19 MR. BAILEY: Well, that's what the</p> <p>20 rule basically says. It says known accident where</p> <p>21 maintenance, operation, or use of the amusement</p> <p>22 device results in a fatality, serious physical</p> <p>23 injury or serious incident. That's the way it</p> <p>24 reads now. So if it's not device related, it's</p> <p>25 not -- it shouldn't be a reportable accident.</p>	<p style="text-align: right;">Page 33</p> <p>1 Is that the way you see it?</p> <p>2 MR. HARDY: Yes.</p> <p>3 CHAIRMAN FOX: Specific to what</p> <p>4 page? 26?</p> <p>5 MR. BAILEY: 26. 0800-03-04-.23,</p> <p>6 paragraph 1, reporting of accidents.</p> <p>7 MR. HALE: Well, I think the</p> <p>8 committee's intent was to provide the unit with an</p> <p>9 improved understanding or wording that allowed</p> <p>10 them to make a more commonsense approach to what</p> <p>11 was a reportable accident.</p> <p>12 MR. BAILEY: Well, again, I think</p> <p>13 the rules covers that, that if it's not device</p> <p>14 related, then it's not a reportable accident. It</p> <p>15 has to be because of the maintenance operation or</p> <p>16 use of the device results in a fatality, serious</p> <p>17 physical injury, or serious incident. So if it's</p> <p>18 not --</p> <p>19 MR. STOCK: Mr. Chairman?</p> <p>20 CHAIRMAN FOX: Wait just a second,</p> <p>21 Mr. Stock.</p> <p>22 MR. STOCK: I'm sorry.</p> <p>23 CHAIRMAN FOX: I'll get to you.</p> <p>24 MR. BAILEY: So I was just going to</p> <p>25 say if it's not device related -- if the injury is</p>

<p style="text-align: right;">Page 34</p> <p>1 not device related, then it's not reportable, 2 according to these rules. 3 CHAIRMAN FOX: Okay. 4 MR. HARDY: Yeah, I will agree with 5 that. And in our rules committee meeting, I 6 think, Dan, when you came in, you pointed out that 7 the rules can't contradict the law. 8 MR. BAILEY: Right. 9 MR. HARDY: So we're still using 10 serious incident and serious personal injury. 11 MR. BAILEY: Right. The serious 12 incident language, that has to be a legislative 13 change. 14 MR. HARDY: Right. 15 MR. BAILEY: That has to come out 16 of the statute. Until then, we've got to live 17 with that definition. 18 CHAIRMAN FOX: And that's what I 19 thought we were changing. That's the reason I've 20 been hesitant to jump in with both feet. So the 21 serious incident definition, you're saying we 22 can't change it through the rules; we have to 23 change it through the legislature? 24 MR. BAILEY: Yes. 25 CHAIRMAN FOX: So what's the steps</p>	<p style="text-align: right;">Page 35</p> <p>1 that we would need to take to do that? 2 MR. BAILEY: You'd have to convince 3 the commissioner to put it on his legislative 4 package from the department to take to the 5 Governor, and then the Governor would have to 6 agree to put it in his legislative package to 7 present to the legislature. 8 CHAIRMAN FOX: And is there a date 9 for that? 10 MR. BAILEY: For this coming 11 legislative session, it's passed. Usually, that 12 needs to be done by, like, June, July. Because I 13 think usually the last -- I think it has to be put 14 together, like, by the end of August or early 15 September. 16 Do you know? 17 MR. HERROD: Yeah, at least by 18 September. 19 MR. BAILEY: If Tia was here, she 20 would know exactly, but I know it's right around 21 there. So those kinds of things have to start 22 getting on the agenda or on somebody's radar 23 around June-July. 24 CHAIRMAN FOX: And it's too late 25 for this year?</p>
<p style="text-align: right;">Page 36</p> <p>1 MR. BAILEY: Yeah. For this coming 2 legislative session, right. 3 CHAIRMAN FOX: Right. Okay. 4 MR. HALE: I guess I did not 5 articulate my question to Mr. Bailey well. I 6 believed that that's what we were working toward, 7 was a change in -- recommending a change in the 8 law that would make it to this term of the 9 legislature... 10 MR. BAILEY: Yeah. Well, I mean, 11 that can be done but it can't be done this 12 legislative session. And until that time, 13 "serious incident" is still part of the law. 14 CHAIRMAN FOX: Okay. 15 MR. BAILEY: And if serious 16 incident never comes out of the statute, then we 17 can go in and amend the rules to take it out of 18 the rules. 19 CHAIRMAN FOX: Okay. 20 MR. MOORE: Dan, is there anywhere 21 in the reference standards that give a clear 22 definition of "serious physical injury" or 23 "serious incident"? 24 MR. BAILEY: Yeah, it's in the 25 statute.</p>	<p style="text-align: right;">Page 37</p> <p>1 MR. HARDY: I didn't bring my copy, 2 and I should have. 3 MR. MOORE: I read through these 4 definitions, and I may have overlooked it, but I 5 didn't... 6 MR. BAILEY: It's TCA 68-121-101, 7 paragraph 20, "Serious incident means any single 8 incident where any person or persons are 9 immediately transported to a licensed off-site 10 medical care facility for treatment of an injury 11 as a result of being on or the operation of the 12 amusement device. 13 And paragraph 21 is "Serious physical 14 injury means a patron's personal injury 15 immediately reported to the owner or operator as 16 occurring on an amusement device and that results 17 in death, dismemberment, significant 18 disfigurement, or other significant injury that 19 requires immediate inpatient admission and 24-hour 20 hospitalization under the care of a licensed 21 physician for other than medical observation. 22 CHAIRMAN FOX: I think our intent 23 was that a person would have to stay there 24 overnight, I believe, is the verbiage that we came 25 up with. And the part about just because you were</p>

<p style="text-align: right;">Page 38</p> <p>1 transported does not mean that it's an automatic 2 shutdown and/or reinspection of the ride. Again, 3 that goes back to little Sally or little Bobby who 4 steps off and krills their ankle and walks away, 5 and they have no -- they're with a school group 6 and they have to be transported by ambulance. 7           So if we can use the verbiage that 8 they have to be there overnight or the 24 hours as 9 we're stuck with today on that law, then I think 10 we're good until we can get it changed. 11           MR. BAILEY: Say that again. 12 Because I don't think that meets the definition of 13 "serious incident." 14           CHAIRMAN FOX: Well, we're talking 15 about changing that, where -- 16           MR. BAILEY: Right. 17           CHAIRMAN FOX: -- just because 18 you're transported by ambulance, heretofore, that 19 was the criteria for reporting the accident. It 20 wasn't because of the malfunction of the ride or 21 that it happened on the ride. You could be either 22 boarding or getting off of the specific ride. And 23 if you fell getting off, that was a reportable 24 accident. 25           MR. HARDY: We're evaluating those</p>	<p style="text-align: right;">Page 39</p> <p>1 on a case-by-case basis. Like the law says, if 2 it's a result of being on or the operation of the 3 device. 4           MR. BAILEY: Right. And I think 5 that could reasonably be interpreted that it has 6 to be device related, just as I was saying 7 earlier, that the rules pretty much say that. And 8 I think that's a reasonable interpretation of that 9 statute, that it's not to cover somebody twisting 10 an ankle walking up to the ride or getting off 11 and, you know, stumbling or something. It's got 12 to be ride related. 13           MR. HALE: But I think part of -- 14 also, what we're saying is, is that just because 15 you're transported by ambulance does not 16 necessarily mean that it's a serious incident. It 17 could be because they're there with a large group, 18 and the only way to go to the emergency room and 19 get one stitch put in their head is by ambulance 20 unless you load an entire 60-kid school group up 21 and take them in the school bus to go get little 22 Sally one stitch put in her head. That is part of 23 our -- 24           MR. BAILEY: Yeah. But that still 25 wouldn't be a serious incident unless that stitch</p>
<p style="text-align: right;">Page 40</p> <p>1 in her head was a result of the amusement device. 2           MR. HALE: But let's say little 3 Sally bumped her head getting in the ride, and 4 she's transported. Just because she needs one 5 stitch put in her head, by that definition, it 6 shuts the ride down. 7           CHAIRMAN FOX: Right. And 8 reinspection. 9           MR. HALE: And causes a 10 reinspection. 11           MR. BAILEY: Do you see it that 12 way? 13           MR. HARDY: Well, again, on our 14 evaluation, if it's a result of being on or the 15 operation of the device. You know, it goes back 16 to trampoline parks. I mean, if we get a detailed 17 explanation and a photo with specifically where 18 that turned ankle occurred on that trampoline and 19 there's not any fault or defect of the trampoline, 20 then we have the discretion as a unit to not 21 classify that as a reportable. And I think that 22 falls in line with other devices as well. 23           CHAIRMAN FOX: I always say that 24 common sense has to prevail. 25           MR. HARDY: Yes, sir. And it's</p>	<p style="text-align: right;">Page 41</p> <p>1 actually -- the law says a transport. It doesn't 2 specify ambulatory. So, you know, if the 3 amusement device company is aware of a transport 4 by Momma, Daddy, Grandma, Grandpa, then it should 5 be reported. But then we're using a lot more 6 common sense and discretion in determining whether 7 that is truly a reportable accident. 8           CHAIRMAN FOX: Okay. So are we 9 good with it the way it is right now until the 10 next legislative session to take that out, take 11 the ambiguity out of it? 12           MR. BAILEY: I'm good. 13           MR. RADER: I am. 14           MR. LaPORTE: Yes. 15           CHAIRMAN FOX: Mr. Stock? 16           MR. STOCK: You covered it. It was 17 the transport issue that seemed to be the sticking 18 point or the thing that was confusing last time. 19           CHAIRMAN FOX: So I would 20 entertain -- okay. Let's ask the last question. 21 Anything else that we need to address on both the 22 elevator and/or the amusement? 23           (No verbal response.) 24           CHAIRMAN FOX: I would entertain a 25 motion to send this forward.</p>

<p style="text-align: right;">Page 42</p> <p>1 MS. O'CONNOR: Mr. Chair, I would 2 like to make that to send this forward. 3 MR. LaPORTE: Second. 4 CHAIRMAN FOX: So I have a motion 5 and a second. 6 Any discussion? 7 (No verbal response.) 8 CHAIRMAN FOX: Okay. Mr. Bailey, 9 are you good with a roll-call vote? 10 MR. BAILEY: That's fine. 11 CHAIRMAN FOX: Okay. 12 So Ms. Jennifer, are you the 13 recorder? 14 MS. MURPHY: Yes. 15 CHAIRMAN FOX: Okay. So 16 Mr. LaPorte, yes or no. 17 MR. LaPORTE: Yes. 18 MR. MOORER: Yes. 19 MR. HALE: Yes. 20 MR. RADER: Yes. 21 MR. MOORE: Yes. 22 MS. O'CONNOR: Yes. 23 CHAIRMAN FOX: Yes. It's 24 unanimous. Motion carries. 25 Well, that was very painful but we</p>	<p style="text-align: right;">Page 43</p> <p>1 got through it. But that's okay, and I think it 2 will work out fine. 3 Okay. Under new business, Mr. Stock, 4 if you would, please come to the podium, give us 5 your name, address, phone number. Speak loudly so 6 that I can hear and this lady can hear you, and 7 tell us what you have to say. 8 MR. STOCK: Don Stock from The 9 Adventure Guild. Address is 888 High Point Drive, 10 Dunlap, Tennessee. 11 I'm kind of picking up the 12 conversation from the workday that we had related 13 to the challenges around aerial adventure 14 inspections within the state. 15 I don't know how you want to approach 16 this. I sent a letter in for you guys to be able 17 to read and review. And I don't want to insult 18 your intelligence by reading the letter to you. 19 CHAIRMAN FOX: Please don't. 20 MR. STOCK: What's that? 21 CHAIRMAN FOX: Don't read the 22 letter to us. 23 MR. STOCK: Right. So basically, 24 what we've been talking about -- Mr. Hardy and 25 Ms. Murphy and I -- for quite a long time is the</p>
<p style="text-align: right;">Page 44</p> <p>1 challenges that the prior administration's 2 interpretation of third party and all that stuff 3 involved. And I, kind of, would talk with those 4 guys, and I think we're on the same page of doing 5 some clarifications on these things. Because it's 6 extremely confusing for people who are in our 7 industry, not only people who don't necessarily 8 even know exactly what they're supposed to do, and 9 there's a little bit of inconsistency. There's a 10 spiraling difficulty in complying with what has 11 historically, have been -- how that's been 12 interpreted. And I outlined that in my letter. 13 And really, I'm just recommending 14 that we kind of do some clarification -- or you 15 guys do some clarification, the unit do some 16 clarification kind of around the same model that 17 Colorado uses. And it ticks all the boxes in 18 terms of public safety. It makes it consistent 19 with how our industry typically works, and it -- I 20 think it just -- it covers everything. We all, 21 kind of, need together in good regulation around 22 aerial ventures in Tennessee. So assuming you 23 read the letter, I just put it to you to how you 24 want to proceed. 25 CHAIRMAN FOX: I think the question</p>	<p style="text-align: right;">Page 45</p> <p>1 here, or to me -- and you and I have discussed 2 this -- what essentially it means is that you 3 could inspect your own facility. 4 MR. STOCK: No. 5 CHAIRMAN FOX: Fair statement? 6 MR. STOCK: No. That's an 7 inaccurate statement. 8 CHAIRMAN FOX: Okay. 9 MR. STOCK: What the -- so 10 there's -- so basically, what has historically 11 been done if a -- and I kind of expressed it in 12 the letter -- is if we as a company -- because I 13 kind of wear a couple of hats when I'm in this 14 room -- but as a company owner, because I'm a 15 company owner whose company builds these 16 structures all over the eastern United States. 17 I'm also a certified inspector. I also happen to 18 own a facility. But what we are discussing is not 19 the ownership of the facility. Like, we have our 20 place in Chattanooga at Camp Jordan. It's our 21 challenge course where we do our team building. 22 I'm not advocating for -- not just me, but our 23 industry -- but me being able to field an 24 inspector to inspect a course I own. That's not 25 the model. That's not what I'm talking about.</p>

<p style="text-align: right;">Page 46</p> <p>1 That's not consistent with what I'm putting forth.  2           What has happened, historically, how  3 it's been interpreted, is if -- I had a camp  4 client "Aw Shucks I'm Poor" down in Chattanooga,  5 and I design and build a course for them as a  6 company, how it's been interpreted before is my  7 company could not field an inspector for that  8 course, even if they're a certified inspector who  9 had never seen that facility before. That is the  10 piece that is extremely difficult and extremely  11 inconsistent, not only with kind of inspections  12 that are typically done, but also, like, other  13 industries.</p> <p>14           I kind of make the comparison to,  15 like, if you own a Chevrolet vehicle or Dodge  16 vehicle or whatever, and there's a state  17 inspection for -- that thing has to be inspected  18 for a safety inspection. That's like saying that  19 you can't take it back to the Ford dealership just  20 simply because they manufactured the car.</p> <p>21           I mean, the reality is, and  22 especially in our industry, the people who know  23 those structures the best are the people who  24 designed and built them.</p> <p>25           Because in challenge courses, there</p>	<p style="text-align: right;">Page 47</p> <p>1 is an interplay between design, training,  2 equipment, operations that no one knows as  3 intimately and as well as the company who designed  4 and built and trains on that structure.</p> <p>5           What we currently have is a mandate  6 for people who don't have as much knowledge  7 inspecting those structures, looking at those  8 documents and those kinds of things. The other --  9 the thing that makes this a little different than,  10 like, the traditional amusement world like the  11 Tilt-a-Whirls and the roller coasters, you have  12 manufacturers who build these things. They come  13 and install them, and they have a gigantic manual  14 that is -- it covers every single bolt, the type,  15 the torque specifications, all the things that go  16 into maintaining that thing. And I'm sure you  17 guys probably have them, and most carnivals --  18 anybody who owns an amusement device, a mechanical  19 amusement device, typically have in-house  20 employees, the mechanics, who take care of  21 maintaining those devices based on the  22 manufactures' instructions/guidelines, all those  23 things.</p> <p>24           A. In our industry, the camp owners, the --  25 some commercial applications who are bigger</p>
<p style="text-align: right;">Page 48</p> <p>1 commercial applications, they have in-house people  2 who can take care of those things, but the vast  3 majority of camp owners and things like that that  4 we permit in the state don't have people who have  5 those skills, have those tools, have that  6 knowledge in house, so -- and it's kind of -- and  7 part of how we have worked as an industry, our end  8 users, our clients, have always historically  9 relied on their vendor, their challenge course  10 installer, their trainer to do their inspections,  11 to do their maintenance, and to make sure they're  12 staying up to date with standards.</p> <p>13           So the "third party," how it has been  14 historically interpreted, that used to be in the  15 statute and it's not anymore. The term "third  16 party" got relaced with "qualified," then, the  17 same time that the ACCT standard and the ACCT  18 inspector certification was adopted.</p> <p>19           So there's not a statute limitation that  20 impinges upon the interpretation like there was,  21 historically, prior to that. But even after that  22 change, this very rigid concept of third-party  23 inspection for the device's permit continued to  24 kind of be perpetuated.</p> <p>25           And so what I'm asking, kind of, for you</p>	<p style="text-align: right;">Page 49</p> <p>1 guys to consider, for us to consider, kind of, all  2 of us who have to work in this milieu, is that  3 there kind of be a breakdown. If it's a new --  4 and this is how Colorado reads, because they have  5 gone through the same situation. Washington has  6 gone through the same situation. Alaska has  7 wrestled with these same questions.</p> <p>8           And I work pretty closely -- I'm the  9 chair of the government relations panel for the  10 ACCT, so I get a lot of cross-talk and traffic  11 conversation from these different regulatory  12 areas. And these are the people who have wrestled  13 with this same question and have dealt with these  14 problems. And Colorado has come up with what I  15 feel is the most consistent universally applicable  16 and really good -- it takes care of all of the  17 different aspects.</p> <p>18           So how the inspections are broken down  19 for Colorado is if it is a new installation --  20 like, as The Adventure Guild, we go and we build a  21 project here in Crossville for a camp. To get the  22 first year inspection, I would need one of my  23 colleagues, not a part of my company, to come in  24 and do an outright third-party inspection, verify  25 standards compliance, all those sorts of things,</p>

<p style="text-align: right;">Page 50</p> <p>1 for that first year to make sure there's a  2 third-party set of eyes on it. I'm absolutely  3 behind that. I think it makes a lot of sense.  4         But subsequently, we would be able --  5 once it had a set of third-party eyes on it, as  6 long as there were no major modifications -- and  7 "major modifications," as it's described in the  8 ACCT standard, is anything that changes the  9 operation of the device. So if there was a rusty  10 belay cable, then the inspector came in and it  11 needs to be replaced, it could be replaced, in  12 kind, changes nothing. That's not a major  13 modification; that's just a simple repair.  14         That would allow us to continue to  15 maintain -- or us as venders, continue to maintain  16 client relationships, take care of what they need  17 to have, and also making sure that we're  18 maintaining them in industry compliance with the  19 ACCT standard. But it wouldn't require us to have  20 another vender come in and inspect our client's  21 course that's exactly what it was last year when  22 it was looked at.  23         Because currently, what we have is --  24 and I think maybe you'll understand the problem.  25 How this has been interpreted in the past, is if</p>	<p style="text-align: right;">Page 51</p> <p>1 we built the course, we couldn't field an  2 inspector for it. So we had to call somebody else  3 or they had to call them. Well, so Company A  4 built it; Company B comes and inspects it. Well,  5 Company B, if there's a repair that needs to be  6 done, even if it's switching out a rusty rapid  7 link or a rusty wire rope clip that needs to be  8 done, that inspector couldn't do it. Or if they  9 did do it, they couldn't submit the inspection.  10         So then they either have to go -- to  11 put the inspection report in, if they happen to  12 file it, then it has a deficiency that has to be  13 addressed, then either we, who built the course,  14 or Vendor C has to come in and make the repairs,  15 and then they've got to communicate back to the  16 inspector or send a picture, or they've got to go  17 back and inspect it again, and it becomes an  18 unnecessary confusing thing that doesn't really  19 advance the issue of public safety. It just makes  20 it confusing and expensive.  21         So I think that's the -- the way that  22 Colorado works really makes a lot of sense. It  23 does -- and I think I summarized at the end --  24 that it would ensure that all new construction or  25 additions have an outside set of eyes before it</p>
<p style="text-align: right;">Page 52</p> <p>1 gets permitted. It would ensure that the  2 operators, the camp owners, do not employ someone  3 who is doing the inspection for their course.  4 Because that's where it creates that conflict of  5 interest piece.  6         So if you're a course owner, even if  7 you're a builder like me, it still would require  8 someone from the outside to inspect the course  9 that you own. So that kind of eliminates that  10 piece.  11         And it would also allow  12 manufacturers, designers, and builders of courses  13 to continue to serve their clients by inspecting  14 and maintaining their courses without the  15 complications of having to arrange a third-party  16 inspection annually and arranging for necessary  17 repairs required for the inspection.  18         CHAIRMAN FOX: Comments?  19 Discussion?  20         MR. HALE: So this requires a  21 change in the rule; is that right?  22         MR. BAILEY: No. As I understand  23 it, this is more of a policy issue.  24         MR. STOCK: It is.  25         MR. RADER: What's your take on</p>	<p style="text-align: right;">Page 53</p> <p>1 this, Mr. Hardy?  2         MR. HARDY: Don, to simplify it,  3 you designed and built a zipline course on Lookout  4 Mountain, right?  5         MR. STOCK: Correct.  6         MR. HARDY: Okay. You don't own  7 that course.  8         MR. STOCK: I do not.  9         MR. HARDY: You designed and built  10 it.  11         MR. STOCK: Correct.  12         MR. HARDY: You're asking for the  13 State to be able to accept your certified ACCT or  14 whoever --  15         MR. STOCK: Correct.  16         MR. HARDY: You're asking the State  17 to accept that as a qualified -- used to be  18 third-party --  19         MR. STOCK: Sure.  20         MR. HARDY: -- inspection for --  21         MR. STOCK: Correct.  22         MR. HARDY: -- Lookout Mountain's  23 zipline course.  24         MR. STOCK: Correct. As --  25         MR. HARDY: Where --</p>

<p style="text-align: right;">Page 54</p> <p>1 MR. STOCK: Yes. Go ahead.</p> <p>2 MR. HARDY: Where before, it was</p> <p>3 deemed that that would have been a conflict of</p> <p>4 interest, is the issue that we're basically</p> <p>5 talking about, I think here.</p> <p>6 MR. STOCK: Correct. So basically,</p> <p>7 it's, again, three categories. If we go out and</p> <p>8 we build a course and it's a new course or we make</p> <p>9 a major modification to a course, like, we add a</p> <p>10 new element that requires new training and new</p> <p>11 gear, then we are advocating and I am advocating</p> <p>12 that we do have a third party, another qualified</p> <p>13 vender who is not an employee of our company do</p> <p>14 the initial -- what we call the acceptance</p> <p>15 inspection -- do the acceptance inspection or the</p> <p>16 preliminary or, at least, the first permitted</p> <p>17 inspection for the first permit of that course.</p> <p>18 Okay? Does that make sense? So that's kind of</p> <p>19 one category which is called, basically, the</p> <p>20 initial inspection of a new device or a major</p> <p>21 modification.</p> <p>22 Once that has been done, then we --</p> <p>23 MR. RADER: Can I stop you?</p> <p>24 MR. STOCK: Yes.</p> <p>25 MR. RADER: So that hasn't changed,</p>	<p style="text-align: right;">Page 55</p> <p>1 I mean, what you're asking there. You build the</p> <p>2 course and then you get a third-party inspection.</p> <p>3 MR. STOCK: We have to do -- under</p> <p>4 how it's been interpreted, every inspection has to</p> <p>5 be an outside --</p> <p>6 MR. RADER: I get it, but, I mean,</p> <p>7 that particular scenario --</p> <p>8 MR. STOCK: Correct.</p> <p>9 MR. RADER: -- hasn't changed.</p> <p>10 MR. STOCK: That's exactly right.</p> <p>11 MR. RADER: That's the way it is</p> <p>12 now.</p> <p>13 MR. STOCK: Correct. What we're</p> <p>14 asking -- advocating for is a loosening of the</p> <p>15 interpretation or the approach to these -- because</p> <p>16 that's already been looked at by a third party.</p> <p>17 Right? That's already been looked at by an</p> <p>18 outside set of eyes that said it's compliant with</p> <p>19 standard; it meets all the requirements necessary</p> <p>20 to permit this device.</p> <p>21 MR. HARDY: Initially.</p> <p>22 MR. STOCK: Initially. So unless</p> <p>23 there's any major changes to this, and there's any</p> <p>24 changes to that structure, there's no major</p> <p>25 modifications made, then any certified inspector</p>
<p style="text-align: right;">Page 56</p> <p>1 should be able to look at that course and give the</p> <p>2 up -- like, the next year's permit inspection.</p> <p>3 MS. O'CONNOR: So long as they</p> <p>4 don't work for that particular --</p> <p>5 MR. STOCK: As long as they don't</p> <p>6 work for that camp or the owner of that course.</p> <p>7 Okay? Because 99 percent of what we built, we</p> <p>8 don't own. We build for other people. Because</p> <p>9 what I'm not advocating for is for Camp Awe Shucks</p> <p>10 I'm Poor to send someone to ACCT to get certified</p> <p>11 so they can do their own in-house inspection and</p> <p>12 send in a report to get their annual permit. That</p> <p>13 is not -- that's the furthest from what I'm</p> <p>14 advocating.</p> <p>15 It's us as venders who are qualified,</p> <p>16 who field-qualified, certified inspectors to be</p> <p>17 able to continue to work with our clients for</p> <p>18 their annual inspections, their repairs, their</p> <p>19 things. And then if we build something new for</p> <p>20 them, we get a third-party set of eyes on it. We</p> <p>21 do that anyway.</p> <p>22 MR. BAILEY: As I remember this</p> <p>23 discussion back when we had our sub committee</p> <p>24 meetings, as part of the, like, ASTM and ACCT</p> <p>25 standards, there's, like, certain ethical</p>	<p style="text-align: right;">Page 57</p> <p>1 standards involved.</p> <p>2 MR. STOCK: Correct.</p> <p>3 MR. BAILEY: And like inspecting a</p> <p>4 park that you built, as I understand it, violated</p> <p>5 one of the ethical principles of those standards.</p> <p>6 MR. STOCK: No, not -- I mean,</p> <p>7 historically, our industry, for almost 30 years</p> <p>8 now, has operated on we build, inspect, train for</p> <p>9 our own clients, because it grew out of a culture</p> <p>10 that was kind of invisible to the rest of the</p> <p>11 world. I mean, we operated for 20-plus years</p> <p>12 absolutely under the radar of almost everyone. I</p> <p>13 mean, no states regulated challenge courses. You</p> <p>14 would go in to do -- you know, go into a local</p> <p>15 office and say, "Hey, do I need a permit?" And</p> <p>16 they would say, "What are you talking about? Does</p> <p>17 it have stairs?" I mean, they just didn't</p> <p>18 understand.</p> <p>19 So historically no. I mean,</p> <p>20 historically, we have, as venders -- the ACCT</p> <p>21 accredits companies, which our company is an</p> <p>22 accredited vender. We have a very rigid process</p> <p>23 where we are reviewed by peers to make sure,</p> <p>24 theoretically, that we do everything we're</p> <p>25 supposed to do and that we're compliant with the</p>

<p style="text-align: right;">Page 58</p> <p>1 standards.</p> <p>2           The ACCT standards -- and I'll have</p> <p>3 to go back and look at ASTM. I don't think</p> <p>4 there's a requirement for a third-party</p> <p>5 inspection. There's a requirement for a</p> <p>6 commissioning inspection, which means a qualified</p> <p>7 person has to do -- if there's any -- it's a new</p> <p>8 build or a major modification, a qualified</p> <p>9 inspector -- and who's qualified is defined in the</p> <p>10 standards -- has to do a commissioning inspection</p> <p>11 for that device.</p> <p>12           Historically, what we do is we have</p> <p>13 someone within our company, especially if it's a</p> <p>14 major installation, someone who works for the</p> <p>15 company who was not an integral part of designing,</p> <p>16 building, the whole thing. We kind of have them</p> <p>17 come in at the end.</p> <p>18           If we don't have a requirement for --</p> <p>19 a legal requirement for a third-party inspection,</p> <p>20 we still sort of do that with ourselves internally</p> <p>21 anyway, because we have one of our team who comes</p> <p>22 in and, kind of, looks it all over just to make</p> <p>23 sure that someone doesn't have tunnel vision</p> <p>24 because they're the one that built it.</p> <p>25           CHAIRMAN FOX: So if Mr. LaPorte,</p>	<p style="text-align: right;">Page 59</p> <p>1 who works for the ACME Elevator company -- ACME is</p> <p>2 a great company -- and so he designs and builds an</p> <p>3 elevator, and he sells it to the gentleman sitting</p> <p>4 right back there and --</p> <p>5           MR. STOCK: Sure.</p> <p>6           CHAIRMAN FOX: -- he puts that in</p> <p>7 his building, can Mr. LaPorte, then, under your</p> <p>8 scenario, go and inspect that elevator and sign</p> <p>9 off on it next time?</p> <p>10           MR. STOCK: If it has an initial</p> <p>11 inspection by a third party, yeah. So he could</p> <p>12 circle back around after the commissioning and</p> <p>13 after the first year's operation of that device.</p> <p>14 That's a parallel scenario, yes, though those</p> <p>15 industries are radically different.</p> <p>16           CHAIRMAN FOX: They are. But I</p> <p>17 think -- well, what I think is not important.</p> <p>18           MR. STOCK: Because you're talking</p> <p>19 about -- when things were confusing is a company</p> <p>20 and the qualified -- and the qualifications of the</p> <p>21 person looking at the device. Do you understand</p> <p>22 what I mean?</p> <p>23           CHAIRMAN FOX: Oh, I understand.</p> <p>24 In the elevator business, you have to have an</p> <p>25 engineer.</p>
<p style="text-align: right;">Page 60</p> <p>1           MR. STOCK: Correct.</p> <p>2           CHAIRMAN FOX: In my world, if</p> <p>3 there's a modification, a major modification, some</p> <p>4 engineer has to sign off on that.</p> <p>5           MR. STOCK: Correct.</p> <p>6           CHAIRMAN FOX: Is there an engineer</p> <p>7 that would sign off on your modifications?</p> <p>8           MR. STOCK: Most everything that we</p> <p>9 do has an engineer support. It may not</p> <p>10 necessarily be stamped for that location. It gets</p> <p>11 stamped for that location if the AHJ requires it.</p> <p>12           CHAIRMAN FOX: Okay. In my world,</p> <p>13 someone has to stamp that.</p> <p>14           MR. STOCK: Right.</p> <p>15           CHAIRMAN FOX: And I'm sure that's</p> <p>16 the same way in the elevator business, someone has</p> <p>17 to stamp that. I'm just trying to figure out how</p> <p>18 we can modify the system to make it work for you.</p> <p>19           MR. STOCK: Sure. Well, I mean,</p> <p>20 the wording -- and I put it in there -- the</p> <p>21 Colorado inspector certification, the general</p> <p>22 requirements, that language, that accomplishes</p> <p>23 exactly what it is we're discussing.</p> <p>24           For the annual certificate, the</p> <p>25 inspector shall not be affiliated by employment or</p>	<p style="text-align: right;">Page 61</p> <p>1 by a subsidiary relationship to the operator of</p> <p>2 the amusement device. For a new modification, the</p> <p>3 inspector shall not be affiliated by employment by</p> <p>4 the relationship of the operator or the</p> <p>5 manufacturer.</p> <p>6           So a brand-new construction has to be</p> <p>7 third party, has to be completely without any bias</p> <p>8 or whatever. Subsequent inspections for the</p> <p>9 annual inspection, that inspector cannot be the</p> <p>10 employee of the owner of the course.</p> <p>11           CHAIRMAN FOX: Here's another</p> <p>12 question.</p> <p>13           MR. STOCK: Yes, sir.</p> <p>14           CHAIRMAN FOX: So when you build</p> <p>15 this adventure park, whatever it may be, zipline</p> <p>16 or whatever --</p> <p>17           MR. STOCK: Right.</p> <p>18           CHAIRMAN FOX: -- do you give the</p> <p>19 owner a manual stating that this is the type wire,</p> <p>20 these are the type of fasteners, these are the</p> <p>21 type of devices you must use in conjunction with</p> <p>22 and coordination with this particular ride or</p> <p>23 attraction?</p> <p>24           MR. STOCK: They don't -- they do</p> <p>25 not get a maintenance manual like you would see in</p>



<p style="text-align: right;">Page 62</p> <p>1 with a Tilt-a-Whirl or something like that. They  2 do not get a maintenance manual or a repair manual  3 in 99 percent of the cases unless it's a unique  4 situation. They're going to have people who can  5 do that kind of work and have the knowledge and  6 skill to be able to do that work.</p> <p>7           There's a lot of skill sets related  8 to working height, working with the tools that we  9 use, the tensiometer and all those sorts of things  10 that camps especially -- they just don't maintain  11 those kind of people. They keep a guy around that  12 mows the grass, but he's not a guy that can throw  13 on a harness and go up and reset a zip cable or  14 make sure tensions are right on anchors and that  15 sort of thing.</p> <p>16           So we don't supply those -- that  17 documentation because we historically do that work  18 for them and do that maintenance for them and  19 making sure that everything is as they're supposed  20 to be for them on an annual basis. That's  21 historically how our industry has worked.</p> <p>22           CHAIRMAN FOX: Okay. Questions,  23 comments?</p> <p>24           MS. O'CONNOR: I have a comment.  25 I'm struggling with this because I really want to</p>	<p style="text-align: right;">Page 63</p> <p>1 be supportive of this. And I can see, on one  2 hand, how if you designed it, it's in your best  3 interest for it to be safe.</p> <p>4           MR. HARDY: That's true.  5           MR. STOCK: Correct.  6           MS. O'CONNOR: So I don't see that  7 as a conflict of interest at all. I see that as  8 like your analogy about the Ford dealership and  9 taking your Ford to the Ford dealership.</p> <p>10           Where I struggle with it -- and this  11 is a really poor analogy, but I'm a writer, and  12 there's a reason why I don't edit myself and I  13 hire an editor, because I see what I meant to say  14 rather than what's actually there. And that's my  15 hesitation with this. I understand that,  16 initially, somebody else -- there will be a  17 third-party inspector, initially. But going back  18 after that, you see what you expect to see rather  19 than what's necessarily there.</p> <p>20           So help me through that, Don.  21           MR. STOCK: I understand what  22 you're describing, and that is the -- that, to me,  23 is the function of the third-party inspection.  24 The third-party inspection is your editor.  25 They're the one that goes through and does the</p>
<p style="text-align: right;">Page 64</p> <p>1 edits and catches all the things, and then -- I  2 mean, you don't, every single year, go back and  3 reedit your book.</p> <p>4           MS. O'CONNOR: No. But I normally  5 have three or four processes of it before it goes  6 to the publisher. So because of that --</p> <p>7           MR. STOCK: Sure.  8           MS. O'CONNOR: -- you have that  9 first initial with your third-party inspector.  10 Where is that, subsequently?</p> <p>11           MR. STOCK: "Subsequently," in what  12 sense?</p> <p>13           MS. O'CONNOR: If you're not doing  14 it annually.</p> <p>15           MR. STOCK: Well, also, keep in  16 mind that there continues to be a blurring of  17 company, which is -- a company that builds the  18 thing is not necessarily the same person who is  19 doing the inspection.</p> <p>20           One of the things that -- that  21 happens very, very often, is that the company is  22 equated with the person showing up. And what it's  23 historically been, is that people have looked at  24 the company. What all the AHJs are concerned  25 about now is the qualifications of the person on</p>	<p style="text-align: right;">Page 65</p> <p>1 the ground doing the inspecting. It's part of why  2 you guys adopted the ACCT inspector certification  3 process, to verify that the people who are on the  4 ground, you know, were going -- and were qualified  5 to make these determinations and look at these  6 things.</p> <p>7           Just because the company built it,  8 sometimes we don't even -- sometimes people go and  9 inspect and they haven't seen this site. I mean,  10 we have four or five certified inspectors. I  11 inspect stuff all the time in the Northeast. We  12 built it and I've never literally ever even seen  13 it. So even though it still is within my company,  14 it's still stuff, as a certified inspector, I can  15 look at objectively and go this is right, this is  16 not right. I don't know. It's --</p> <p>17           MR. RADER: How many courses does  18 your company build a year?</p> <p>19           MR. STOCK: Oh, boy. 30 to 40,  20 probably. We have about several hundred clients  21 throughout the eastern U.S.</p> <p>22           MR. LaPORTE: So after the  23 commissioning, you're talking about inspections  24 later on. And you said that most of the owners,  25 their employees are qualified to cut the grass.</p>

<p style="text-align: right;">Page 66</p> <p>1 They really don't get into the maintenance and  2 small repair, so --  3 MR. STOCK: As far as -- yeah.  4 Can't --  5 MR. LaPORTE: -- this is where I'm  6 struggling. Because I know in my business -- and  7 it's greatly different -- you're basically asking  8 to inspect your own work, right?  9 MR. STOCK: (No verbal response.)  10 MR. LaPORTE: You may be the most  11 honorable, scrupulous person out there. That  12 doesn't mean that other inspectors or other  13 companies are. And other companies may employ  14 these qualified inspectors going to look at a park  15 that they designed and maybe they never saw, but  16 there could still be that pressure to, if not give  17 a positive inspection result, that may be a way  18 for the company that uses that inspection with  19 their own people to generate additional work, and  20 it becomes a revenue-driving thing.  21 I think there's a lot of --  22 MR. STOCK: You can say that about  23 anything.  24 MR. LaPORTE: -- a lot of what ifs  25 that can happen.</p>	<p style="text-align: right;">Page 67</p> <p>1 MR. STOCK: Sure. Absolutely.  2 MR. LaPORTE: And I'm not saying  3 that you'd do that, but I don't know that I would  4 be comfortable with letting that possibility  5 happen out there, that people would take this and  6 twist it to an advantage for business reasons or  7 even their own liability. If there's something  8 out there that needs to be fixed, maybe the  9 company is responsible for it because they did  10 maintenance on it, and they say, well, that should  11 last another year.  12 I mean, a lot of elevators and  13 escalators are inside and a lot are outdoors.  14 There's metal fatigue over time. So the initial  15 commissioning is a no-brainer. That's got to be  16 third party. But even if there's no major  17 modification, mechanical devices can change over  18 time just through normal use and wear and tear and  19 conditions and things like that. That's my --  20 MR. STOCK: Agreed.  21 MR. LaPORTE: Does that make sense?  22 MR. STOCK: Yeah. Though, keep in  23 mind we're not talking about mechanical devices.  24 But I understand your point.  25 MR. LaPORTE: Well, you're talking</p>
<p style="text-align: right;">Page 68</p> <p>1 about a metal cable, right?  2 MR. STOCK: True.  3 MR. LaPORTE: And it's outside?  4 MR. STOCK: Uh-huh. The vast  5 majority of them are.  6 MR. LaPORTE: Yeah. So, I mean, to  7 me, that's mechanical devices, metal cable --  8 MR. STOCK: Sure understood.  9 MR. LaPORTE: -- being subject to  10 wind, rain, snow --  11 MR. STOCK: Conditions, sure.  12 MR. LaPORTE: -- metal fatigue.  13 You've got a roller rolling across.  14 MR. STOCK: Uh-huh.  15 MR. LaPORTE: You know, it may be  16 not -- again, different than an elevator --  17 MR. STOCK: Right.  18 MR. LaPORTE: -- different than an  19 escalator.  20 MR. STOCK: Sure.  21 MR. LaPORTE: But I'm trying to put  22 my knowledge of my industry to this and --  23 MR. STOCK: Understood.  24 MR. LaPORTE: Yeah. We would  25 never -- that's why the state has inspectors for</p>	<p style="text-align: right;">Page 69</p> <p>1 elevators. And that's understood, but it's a  2 different-size business.  3 MR. STOCK: Yes.  4 MR. LaPORTE: I understand that.  5 MR. STOCK: I completely understand  6 everything that you're saying. I completely  7 understand the mindset. What I'm trying to  8 express is that even though in theory it is a  9 wonderful, very lofty idea of always having a  10 third party, it is creating an escalating  11 difficulty of keeping up with making sure  12 inspections happen, making sure proper repair  13 happens, making sure that we -- because there's  14 only -- I mean, there's a very limited number of  15 inspectors who do what we do.  16 And so if I have an -- what happens,  17 if someone does a repair, then they can't ever  18 inspect that course ever again. If you have  19 someone who does an inspection, they can't do any  20 work on it or they can never inspect again. If  21 you have a -- if you have someone who does an  22 inspection, they can't do any work on it or then  23 they can never inspect it again. If you build it,  24 I can, for now and forever until Jesus comes,  25 never send anybody to inspect that course.</p>

<p style="text-align: right;">Page 70</p> <p>1           That's the scenario we currently have 2 which is creating -- even though I know the idea 3 and the concept is, boy, always get a third-party 4 eye, but part of the thing is, is the more you 5 dwindle down the available people -- I only get 6 people who come and look at our stuff who I trust 7 and I have a quality relationship with who I know 8 is going to come in and they're going to do what I 9 know needs to be done.</p> <p>10           The more you dwindle down that pool, 11 the fewer people you have to reach to, and I don't 12 want to go into the term of scraping the bottom of 13 the barrel, but I don't want to scrape the bottom 14 of the barrel for someone who just has a stamp 15 beside their name that says they're certified but 16 I don't trust they have the eye. Just because you 17 have the certification doesn't necessarily mean 18 you've got the eye that I want as an owner or 19 taking care of my client, to make sure that person 20 is going to do what they're supposed to do.</p> <p>21           CHAIRMAN FOX: And you and I agree 22 on that. And to that point, it's -- in my world, 23 I want to find the very best inspector I possibly 24 can.</p> <p>25           MR. STOCK: Correct.</p>	<p style="text-align: right;">Page 71</p> <p>1           CHAIRMAN FOX: Everyone in the 2 world does not know how to inspect a B&amp;M Wing 3 Coaster.</p> <p>4           MR. STOCK: Correct.</p> <p>5           CHAIRMAN FOX: And I want to have 6 the best in the country to come and look at that. 7 I do. And again, our whole entire goal here, our 8 world, resolves around safety.</p> <p>9           MR. STOCK: Of course.</p> <p>10          CHAIRMAN FOX: And any time that I 11 can have another set of eyes, somebody who is 12 impartial and unbiased and has no skin in the 13 game, when I can have them come look at my ride -- 14 or furthermore, we have elevators, too.</p> <p>15          MR. STOCK: Sure.</p> <p>16          CHAIRMAN FOX: If I can get them to 17 come look at them, I'm much better off and I 18 provide a much better experience for my guests and 19 the people who actually work on them. And 20 that's -- and again, our goal is the ultimate 21 safety of every person who either gets on an 22 amusement ride or gets on an adventure ride.</p> <p>23           And, Mr. Stock, I'm struggling to be 24 able to figure out how to help you go around the 25 third party. And I know there are fewer -- well,</p>
<p style="text-align: right;">Page 72</p> <p>1 someone could make some really serious money if 2 they became an ACCT inspector out there and simply 3 go from attraction to attraction to attraction.</p> <p>4           MR. STOCK: Except that the revenue 5 doesn't warrant it. It's why people haven't done 6 it. There's a whole aspect of our world that's 7 kind of hard to translate to folks that aren't 8 immersed in it and don't have the history in it. 9 I really, actually, don't even like inspecting 10 behind other people's stuff, honestly. Because I 11 spend -- whatever amount put on it, I inspect 12 that, and I'm forever in the line of liability for 13 that activity.</p> <p>14           One of the other issues that is 15 important to understand in this is that it goes 16 back to the design piece. A traditional amusement 17 ride inspector has the big manual that they can go 18 by, and the other piece is the operations of a 19 traditional amusement device is pushing a button. 20 All of the safety mechanisms are engineered into 21 that from centers and relays and gates and lights 22 and all those kinds of things. A huge piece of 23 the safety side -- and to your point, 24 Mr. Chairman, safety is absolutely everything that 25 I'm about as an operator, as a designer, as a</p>	<p style="text-align: right;">Page 73</p> <p>1 trainer, as a builder.</p> <p>2           And this -- I guess, currently what 3 I'm saying is and trying to express is that the 4 current scenario doesn't advance safety. It just 5 makes it more complicated. And that's honestly 6 from 20 years of being in this industry.</p> <p>7           And obviously -- and our industry has 8 historically operated like I'm describing for all 9 these years even before they were regulated -- we 10 are a self-regulated industry long before anyone 11 ever started waving the state flag saying hey, we 12 need to inspect you. This is how we operate it. 13 And it has a long history of safety.</p> <p>14           But back to the button-pushing piece 15 of a traditional amusement device, that's not how 16 our stuff works. The training, inspecting the 17 gear, looking at the operations manual and those 18 sorts of things, understanding how a thing is 19 designed, because they're not -- a Tilt-a-Whirl is 20 a Tilt-a-Whirl is a Tilt-a-Whirl by that 21 manufacturer.</p> <p>22           Our course -- one course we build may 23 operate one way, one may operate another, and 24 between manufacturers, between designers and 25 builders, those systems can be radically</p>

<p style="text-align: right;">Page 74</p> <p>1 different. And if the inspector who's coming in 2 looking at that doesn't understand, he can look at 3 the structure and say, okay, those bolts are there 4 and that back-up is there, but may not recognize 5 that this particular thing, this design, this 6 piece or whatever is a potential hazard because he 7 understand the design because he's never seen it 8 before. So there are aspects of this that are 9 hard to express, being outside of the -- or hard 10 to help someone outside of the industry understand 11 the nuances of how our inspections and things vary 12 and different...</p> <p>13 We can -- I guess I'm asking to 14 consider it just simply because I don't think that 15 it is increasing public safety. I think it's just 16 making it harder for the camps, harder for the 17 inspectors, harder for the builders than it 18 necessarily needs to be. I really truly feel like 19 what we've presented on what Colorado has adopted, 20 because they've been on top of this for a really 21 long time with incorporating the zipline piece, 22 they're one of the first states to do it. I feel 23 like they have a well-rounded sharp approach to it 24 that ticks all the boxes that are the primary 25 concerns.</p>	<p style="text-align: right;">Page 75</p> <p>1 We've been doing how this has been 2 interpreted for the last three or four years. 3 We'll keep doing it if we have to. It's just 4 really burdensome, and I don't think it 5 accomplishes anything more in terms of advanced 6 safety. As a professional in the industry, I just 7 don't. But all I can say is we're going to 8 continue on and we'll just keep doing what we've 9 been doing.</p> <p>10 MR. LaPORTE: Do you have an idea 11 of how many of these devices or parks are out 12 there needing annual inspection in the state?</p> <p>13 MR. STOCK: Tennessee? Mr. Hardy?</p> <p>14 MR. HARDY: 30 to 40 maybe.</p> <p>15 MR. STOCK: Oh, no. It's hundreds. 16 It has to be.</p> <p>17 CHAIRMAN FOX: I've got that many 18 in Sevier County.</p> <p>19 MR. STOCK: Yeah. It has to be 20 hundreds. I mean, at one time I did a call out to 21 vendors and said I don't want a list; just tell me 22 how many you have in Tennessee. And it was 23 several hundred, 200 to 300, probably.</p> <p>24 MR. HARDY: If it's several 25 hundred, we need to get an awful lot more of them</p>
<p style="text-align: right;">Page 76</p> <p>1 permitted, because we permitted 456 companies last 2 year.</p> <p>3 MR. STOCK: Right.</p> <p>4 MR. HARDY: Now, we'll have the 5 capability to get that number once we go 6 through --</p> <p>7 MR. STOCK: Right.</p> <p>8 MS. O'CONNOR: -- our first year of 9 JO. In our data base, we can pull that up at our 10 fingertips. But that's just an estimated guess 11 right now.</p> <p>12 MR. STOCK: And I'm thinking -- 13 now, I'm guessing -- I'm including, like, every 14 camp that has, you know, a challenge course of any 15 structure, whether it's just a single zip or -- 16 but I'm including that in because that's the 17 people that we deal with. There are not 200 18 commercial operations that I'm aware of. I know 19 there's -- but I would be surprised if --</p> <p>20 MR. LaPORTE: So the amusement 21 device unit has inspectors, right?</p> <p>22 MR. HARDY: No. The state -- no.</p> <p>23 MR. LaPORTE: Okay. So that's 24 something maybe the state should do as we do 25 elevators and escalators. I mean, we can --</p>	<p style="text-align: right;">Page 77</p> <p>1 CHAIRMAN FOX: I think that would 2 take a lot of work and a serious transition from 3 where we are today. It's not something we haven't 4 talked about. It's just simply -- in one sense, 5 it's cost prohibitive.</p> <p>6 MR. LaPORTE: Which is his 7 complaint also.</p> <p>8 MR. STOCK: Right. Well, I mean, 9 somebody mentioned Florida. I actually sit on the 10 equivalent of this board for the state of Florida. 11 And they have 16, I think, full-time ride 12 inspectors. I mean, they literally -- they 13 inspect every single -- the place we were in in 14 St. Augustine had a biannual inspection because it 15 was a fixed course. But the carnival rides that 16 move around get inspected every single time, and 17 they have a fee associated with every single time, 18 which is the only way that the program can afford 19 to field 16 full-time people.</p> <p>20 MR. LaPORTE: That's got to be 21 self-sustaining, of course.</p> <p>22 MR. STOCK: Yeah.</p> <p>23 CHAIRMAN FOX: There are other 24 states that do. But right now, I don't know that 25 we're ready to do that.</p>

<p style="text-align: right;">Page 78</p> <p>1 MR. BAILEY: Mr. Chairman, I mean, 2 as I said at the beginning, this is more of a 3 policy issue, as far as what, I guess, the 4 department accepts as an acceptable annual 5 inspection by a qualified inspector. 6 It seems like we all agree if you 7 build the course, you get a third party to inspect 8 it. It's what happens after that as to whether or 9 not the inspection is by a qualified and, what the 10 department considers, an unconflicted inspector. 11 Now, like some of the examples he 12 gave, like, if somebody did some repair work and 13 the course had been built, third-party inspectors 14 approved it, then subsequently somebody does some 15 repair work on it, for that person to never be 16 able to inspect it, you know, I think that's kind 17 of questionable, those kinds of things, those 18 kinds of scenarios. 19 I think that either you need to 20 address that with the Amusement Device Unit and 21 maybe the unit take each of those scenarios and 22 decide, well, okay, is this something we can 23 accept as an annual inspection by a qualified 24 inspector; just because they did some repair work 25 on it a year ago, does that disqualify them? And</p>	<p style="text-align: right;">Page 79</p> <p>1 come up with maybe kind of a policy that you go 2 by. And if you want to bring it back to the board 3 and see if the board agrees with that. But this 4 is more of a question of what the department will 5 accept as an annual inspection by a qualified 6 inspector and whether that qualified inspector is 7 conflicted or not. 8 And I think some of the examples he 9 gave do seem a little, you know, out in left field 10 kind of thing. But some of them may not be. But 11 I don't think you can resolve that right here 12 today. I think that's got to be sat down and 13 thought out by the unit. 14 MR. RADER: I agree. 15 CHAIRMAN FOX: I do not disagree. 16 Going back to the part about the 17 repair work, if someone comes in and does a repair 18 on one of the rides, as long as it meets what the 19 bulletin said should be done, it does not have to 20 be reinspected before it's put back in process. 21 MR. STOCK: Correct. 22 MR. BAILEY: Right. But what he's 23 saying is that if I did that repair work and it's 24 A-Okay the next time, that you've got to get that 25 annual inspection -- I can't do that annual</p>
<p style="text-align: right;">Page 80</p> <p>1 inspection ever again because I did some repair 2 work. 3 MR. STOCK: That's correct. 4 MR. BAILEY: Now, that seems a 5 little extreme to me. 6 MS. O'CONNOR: That's extreme. 7 CHAIRMAN FOX: That does to me, 8 too. 9 MR. BAILEY: But I think that's 10 something that has got to be kind of hammered out 11 in the unit as far as, okay, this is not a 12 disqualifying event; this is a disqualifying 13 event, you know, that kind of thing. 14 And then, you know, if there's any 15 question about it or if you want to bring it back 16 before the board, just say, hey, this is how we're 17 treating these situations. I mean, that's fine, 18 but I don't see that that can be really addressed 19 here right now. 20 CHAIRMAN FOX: Okay. 21 MR. RADER: And so why don't we ask 22 Mr. Hardy to get with Mr. Stock and work through 23 those issues and bring it back to the next board 24 meeting. 25 CHAIRMAN FOX: Bring a</p>	<p style="text-align: right;">Page 81</p> <p>1 recommendation to us. 2 MR. STOCK: Cool. Sounds great. 3 Thank all of you very much. I appreciate it. 4 CHAIRMAN FOX: Thank you. 5 All right. Open discussion on ASTM 6 F-24 items. 7 Thank you, Mr. Stock. 8 MR. STOCK: Thank you. 9 CHAIRMAN FOX: Is there anything 10 that we need to discuss at this time? 11 MR. LaPORTE: Was there something 12 about the fees for the elevator unit? 13 CHAIRMAN FOX: I think -- 14 Mr. Herrod, are we going to skip the fee on the -- 15 MR. HERROD: That's in the 16 Governor's office for review and approval. 17 CHAIRMAN FOX: Okay. All right. 18 So we'll hold that over until December. 19 Again, Item Number 10, Open 20 Discussion, ASTM F-24. Is there anything that 21 needs to be brought forth on that? 22 MR. HARDY: Chairman, I think that 23 was placed on the agenda -- Don is still here. 24 You had a gentleman come in last time that was 25 going to assist us with some of the ASTM</p>

<p style="text-align: right;">Page 82</p> <p>1 terminology and the rules revision. And --</p> <p>2 MR. STOCK: I recall seeing an</p> <p>3 email from Mr. Andrews to the Amusement Device</p> <p>4 Unit. I was copied on it. It was a thing with a</p> <p>5 couple of bullet points. That's as far as I --</p> <p>6 because I was under the impression, when we left</p> <p>7 the rule meeting special thing that we were a part</p> <p>8 of, that that was going to be picked up in a</p> <p>9 further conversation. And then all of a sudden,</p> <p>10 the rules got shot to whoever they went to, and I</p> <p>11 was, like, okay, I guess that conversation is</p> <p>12 over.</p> <p>13 So I think Mr. Andrews just sent that</p> <p>14 to you guys as information. I can certainly have</p> <p>15 him circle back and communicate, you know, again</p> <p>16 in front of the board.</p> <p>17 MR. HARDY: Actually, at this</p> <p>18 point, I think it's after the fact. I mean, Dan,</p> <p>19 you and I talked about that we never got any</p> <p>20 feedback and we had to move the revision process</p> <p>21 along.</p> <p>22 MR. BAILEY: What are you talking</p> <p>23 about?</p> <p>24 MR. HARDY: On the gentleman who</p> <p>25 was going to give us a breakdown on the ASTM</p>	<p style="text-align: right;">Page 83</p> <p>1 standards. But, I mean, to me it's a moot point</p> <p>2 right now because the rules have already been</p> <p>3 submitted, the revision.</p> <p>4 MR. BAILEY: Well, yeah. They've</p> <p>5 been approved by the Governor's office --</p> <p>6 MR. HARDY: Right.</p> <p>7 MR. BAILEY: -- but they haven't</p> <p>8 actually been submitted to the attorney general's</p> <p>9 office.</p> <p>10 MR. HARDY: So, to my knowledge, I</p> <p>11 don't think we had --</p> <p>12 MR. BAILEY: But they have been</p> <p>13 approved by this board right now, so...</p> <p>14 MR. HARDY: Right. But, you know,</p> <p>15 ASTM F-24 is a committee that governs and writes</p> <p>16 and revises all of the amusement device-related</p> <p>17 standards. And there again, in our rule</p> <p>18 proposals, we did shorten those so they would be</p> <p>19 applicable, you know six months, three to five</p> <p>20 years down the road.</p> <p>21 CHAIRMAN FOX: Anybody have any</p> <p>22 other comment on that?</p> <p>23 (No verbal response.)</p> <p>24 CHAIRMAN FOX: Okay. Moving along</p> <p>25 to Division Update on Jurisdiction Online. Who is</p>
<p style="text-align: right;">Page 84</p> <p>1 going to update us on that?</p> <p>2 MR. HERROD: Well, we've had a</p> <p>3 change in personnel recently, so he's not really</p> <p>4 prepared to talk about that other than JO is in</p> <p>5 operation in our elevators, and it's working fine.</p> <p>6 MR. HARDY: It's working fine for</p> <p>7 us in amusement devices as well. It's working</p> <p>8 like it should. And we still have some things</p> <p>9 that we would like to make improvements upon with</p> <p>10 that in the future.</p> <p>11 You know, we've mentioned online</p> <p>12 payment capability, I think, at every board</p> <p>13 meeting we've had, so that's still on our radar,</p> <p>14 to get there eventually. I know that we haven't</p> <p>15 dropped that.</p> <p>16 CHAIRMAN FOX: I know that there</p> <p>17 are a lot of able-bodied people working diligently</p> <p>18 to make that happen, so thank you.</p> <p>19 Well, that brings up probably the</p> <p>20 most exciting thing in the day is the announcement</p> <p>21 of the next meeting.</p> <p>22 MR. HARDY: I'm sorry. Can I say</p> <p>23 one more thing? Is it okay or proper that we</p> <p>24 remove, I mean, elevators and amusement devices JO</p> <p>25 updates, is it proper that we remove this portion</p>	<p style="text-align: right;">Page 85</p> <p>1 of the agenda going forward, as far as a</p> <p>2 Jurisdiction Online updates?</p> <p>3 CHAIRMAN FOX: Absolutely.</p> <p>4 MR. HARDY: Thank you.</p> <p>5 CHAIRMAN FOX: Thank you.</p> <p>6 Again, the most exciting part about</p> <p>7 this is the announcement of the next meeting. The</p> <p>8 next regularly scheduled meeting of the Elevator</p> <p>9 and Amusement Device Safety Board meeting will be</p> <p>10 held at 9:00 a.m. Central Daylight Time on</p> <p>11 Wednesday, December 4th, 2019, at this same</p> <p>12 building, located at 220 French Landing,</p> <p>13 Nashville, Tennessee.</p> <p>14 Do I have a motion for adjournment?</p> <p>15 MR. HALE: So moved.</p> <p>16 MS. O'CONNOR: I second.</p> <p>17 CHAIRMAN FOX: We've got our motion</p> <p>18 and a second. Thank you--all very much. That</p> <p>19 concludes the meeting. Thank you--all for being</p> <p>20 here.</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: right;">END OF THE PROCEEDINGS.</p>

1 C E R T I F I C A T E

2 STATE OF TENNESSEE )

3 COUNTY OF WILLIAMSON )

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

6 That the within is a true and accurate  
7 transcript of the proceedings taken before the  
8 Elevator and Amusement Device Safety Board and the  
9 Chief Inspector or the Chief Inspector's Designee,  
10 Tennessee Department of Labor and Workforce  
11 Development, Division of Workplace Regulations and  
12 Compliance, Elevator and Amusement Device Unit, on  
13 the 24th day of September, 2019.

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 19th day of October, 2019.

21  
22  
23  
24  
25



*Cassandra M. Beiling*

Cassandra M. Beiling, LCR# 4371  
Notary Public State at Large  
My commission expires: 3/15/2020

<hr/> <b>\$</b> <hr/>	<b>2019</b> 4:3 85:11	<hr/> <b>7</b> <hr/>	<b>accidents</b> 8:10 11:20 12:1,10,12,14,24 13:1, 3,23 29:13 33:6
<b>\$150</b> 31:17	<b>21</b> 23:1 37:13	<b>7</b> 9:8	<b>accomplishes</b> 60:22 75:5
<hr/> <b>0</b> <hr/>	<b>220</b> 85:12	<hr/> <b>8</b> <hr/>	<b>accomplishing</b> 16:15
<b>03-04-23</b> 30:7	<b>24</b> 4:3 38:8	<b>8</b> 17:10	<b>accredited</b> 57:22
<b>0800-03</b> 27:12	<b>24-hour</b> 37:19	<b>888</b> 43:9	<b>accredits</b> 57:21
<b>0800-03-04</b> 23:6	<b>26</b> 23:6 30:4 33:4,5	<b>8th</b> 9:21	<b>ACCT</b> 28:25 48:17 49:10 50:8,19 53:13 56:10,24 57:20 58:2 65:2 72:2
<b>0800-03-04-.23</b> 33:5	<b>28</b> 20:18	<hr/> <b>9</b> <hr/>	<b>ACME</b> 29:7 59:1
<hr/> <b>1</b> <hr/>	<hr/> <b>3</b> <hr/>	<b>90</b> 24:16	<b>action</b> 13:19 30:14
<b>1</b> 30:7 33:6	<b>3</b> 22:12	<b>99</b> 56:7 62:3	<b>activity</b> 72:13
<b>1,193</b> 11:14	<b>3,582</b> 11:13	<b>9:00</b> 85:10	<b>actual</b> 17:25 18:13
<b>10</b> 81:19	<b>30</b> 22:17 57:7 65:19 75:14	<hr/> <b>A</b> <hr/>	<b>add</b> 54:9
<b>10</b> 81:19	<b>300</b> 75:23	<b>A-OKAY</b> 79:24	<b>added</b> 23:8
<b>113</b> 10:17	<b>30th</b> 10:7	<b>A.g.'s</b> 23:23 24:19	<b>additional</b> 20:18 66:19
<b>11th</b> 14:8	<b>36</b> 10:23	<b>a.m.</b> 85:10	<b>additions</b> 51:25
<b>123</b> 10:11	<b>392</b> 8:9	<b>A17-1</b> 18:2,9 20:11	<b>address</b> 41:21 43:5,9 78:20
<b>132</b> 8:9	<hr/> <b>4</b> <hr/>	<b>A17-2</b> 20:22 21:1	<b>addressed</b> 51:13 80:18
<b>134</b> 10:19	<b>4</b> 6:24	<b>A17-6</b> 20:25	<b>adjournment</b> 85:14
<b>14</b> 22:14	<b>4,247</b> 11:11	<b>A17-7</b> 18:6,8	<b>administration's</b> 44:1
<b>16</b> 77:11,19	<b>40</b> 12:12 65:19 75:14	<b>A18-8</b> 21:3	<b>admission</b> 37:19
<b>16-'17</b> 12:7	<b>408</b> 10:9	<b>AA1</b> 6:9	<b>adopt</b> 6:25 21:14
<b>17-'18</b> 10:9,22	<b>42</b> 31:14	<b>able-bodied</b> 84:17	<b>adopted</b> 18:5 48:18 65:2 74:19
<b>18,551</b> 8:8	<b>44</b> 12:12	<b>absent</b> 25:19	<b>Adoption</b> 6:24
<b>18-'19</b> 10:6 11:11 12:12	<b>456</b> 10:8 76:1	<b>absolutely</b> 50:2 57:12 67:1 72:24 85:3	<b>advance</b> 51:19 73:4
<b>18.6</b> 11:12	<b>4th</b> 7:14 85:11	<b>abstains</b> 25:22	<b>advanced</b> 75:5
<b>19</b> 8:10 12:23	<hr/> <b>5</b> <hr/>	<b>accept</b> 22:4 53:13,17 78:23 79:5	<b>advantage</b> 67:6
<hr/> <b>2</b> <hr/>	<b>5</b> 18:12	<b>acceptable</b> 31:6 78:4	<b>adventure</b> 43:9,13 49:20 61:15 71:22
<b>20</b> 12:23 37:7 73:6	<b>500</b> 10:13 11:5	<b>acceptance</b> 54:14,15	<b>adventure-type</b> 12:18
<b>20-plus</b> 57:11	<hr/> <b>6</b> <hr/>	<b>accepts</b> 78:4	<b>advocating</b> 45:22 54:11 55:14 56:9,14
<b>200</b> 75:23 76:17	<b>6</b> 8:5	<b>accident</b> 11:21,22 12:5 13:11,18 14:3 30:19 31:6 32:7,13,20,25 33:11,14 38:19,24 41:7	<b>aerial</b> 12:18 21:4 43:13 44:22
<b>2010</b> 22:18	<b>60-kid</b> 39:20		
<b>2014</b> 21:3	<b>68-121-101</b> 37:6		
<b>2016</b> 18:2			
<b>2017</b> 20:22,25 21:3			



<b>affiliated</b> 60:25 61:3	<b>anchors</b> 62:14	<b>Association</b> 14:9	35:2,10,19 36:1,5,10, 15,24 37:6 38:11,16 39:4,24 40:11 41:12 42:8,10 52:22 56:22 57:3 78:1 79:22 80:4,9 82:22 83:4,7,12
<b>affirmative</b> 7:9,25	<b>and/or</b> 26:6 38:2 41:22	<b>assuming</b> 44:22	<b>barrel</b> 70:13,14
<b>afford</b> 77:18	<b>Andrews</b> 82:3,13	<b>assurance</b> 20:15	<b>base</b> 31:24 76:9
<b>afternoon</b> 21:12	<b>Anita</b> 6:7	<b>ASTM</b> 22:23 28:24 29:16 30:8 31:20,22 32:6 56:24 58:3 81:5, 20,25 82:25 83:15	<b>based</b> 47:21
<b>agenda</b> 6:25 7:1 35:22 81:23 85:1	<b>ankle</b> 13:10 38:4 39:10 40:18	<b>attendees</b> 6:20	<b>basically</b> 18:3,16 32:20 43:23 45:10 54:4,6,19 66:7
<b>agree</b> 34:4 35:6 70:21 78:6 79:14	<b>announcement</b> 84:20 85:7	<b>attorney</b> 21:18,23 24:7 83:8	<b>basis</b> 17:1 39:1 62:20
<b>Agreed</b> 67:20	<b>Announcements</b> 6:18	<b>attraction</b> 61:23 72:3	<b>bat</b> 25:18
<b>agrees</b> 79:3	<b>annual</b> 11:18 31:17 56:12,18 60:24 61:9 62:20 75:12 78:4,23 79:5,25	<b>attributed</b> 12:10	<b>beginning</b> 12:6 78:2
<b>ahead</b> 54:1	<b>annually</b> 52:16 64:14	<b>attributes</b> 10:21	<b>belay</b> 50:10
<b>AHJ</b> 60:11	<b>ANSI</b> 21:3	<b>August</b> 35:14	<b>believed</b> 36:6
<b>AHJS</b> 64:24	<b>anymore</b> 48:15	<b>Augustine</b> 77:14	<b>biannual</b> 77:14
<b>Alaska</b> 49:6	<b>apples-to-apples</b> 12:3	<b>automatic</b> 38:1	<b>bias</b> 61:7
<b>Aldridge</b> 6:9	<b>applicable</b> 31:25 49:15 83:19	<b>Aw</b> 46:4	<b>big</b> 72:17
<b>all-cap</b> 22:1	<b>application</b> 16:8	<b>aware</b> 21:24 23:16 41:3 76:18	<b>bigger</b> 47:25
<b>all-caps</b> 22:7 23:2	<b>applications</b> 47:25 48:1	<b>Awe</b> 56:9	<b>biggest</b> 15:24 18:14
<b>Allegiance</b> 4:9	<b>approach</b> 13:1 33:10 43:15 55:15 74:23	<b>awful</b> 75:25	<b>bit</b> 11:24 22:11,12 44:9
<b>allowed</b> 19:18 20:3 33:9	<b>approaching</b> 10:10	<b>aye</b> 7:8,24	<b>blank</b> 30:22
<b>allowing</b> 18:16	<b>approval</b> 21:11 81:16	<b>eyes</b> 25:20,21	<b>blurring</b> 64:16
<b>alluding</b> 31:5	<b>approve</b> 7:15 24:5	<hr/> <b>B</b> <hr/>	<b>board</b> 4:4,15,21,23,25 5:2,4,6,9 10:4 12:5 21:14 25:14,25 27:17 29:3 31:23 77:10 79:2,3 80:16,23 82:16 83:13 84:12 85:9
<b>alternative</b> 18:11,14	<b>approved</b> 78:14 83:5, 13	<b>B&amp;m</b> 71:2	<b>boarding</b> 38:22
<b>ambiguity</b> 41:11	<b>April</b> 9:14	<b>B77-1</b> 21:3	<b>Bobby</b> 38:3
<b>ambulance</b> 38:6,18 39:15,19	<b>area</b> 8:23 9:2 16:18	<b>back</b> 22:4 24:6 28:4,18 31:11 38:3 40:15 46:19 51:15,17 56:23 58:3 59:4,12 63:17 64:2 72:16 73:14 79:2,16,20 80:15,23 82:15	<b>body</b> 23:19
<b>ambulatory</b> 41:2	<b>areas</b> 9:3 49:12	<b>back-up</b> 74:4	<b>bolt</b> 47:14
<b>amend</b> 36:17	<b>arrange</b> 52:15	<b>bad</b> 25:4	<b>bolts</b> 74:3
<b>American</b> 22:19	<b>arranging</b> 52:16	<b>Bailey</b> 5:12 6:14 17:11, 18 21:7 22:11 24:24 25:3,12,17 26:7,22,24 27:3,12,16,21,24 28:11, 14 29:14,18,20 30:2,11, 21 31:2,8 32:19 33:5, 12,24 34:8,11,15,24	<b>book</b> 19:19 64:3
<b>amount</b> 72:11	<b>articulate</b> 36:5		<b>bottom</b> 70:12,13
<b>amusement</b> 4:4,17 6:10 9:8 14:22 15:17 23:4 26:20 27:4,17,20, 21 28:5,19,20,23 29:7 30:5 31:20 32:2,21 37:12,16 40:1 41:3,22 47:10,18,19 61:2 71:22 72:16,19 73:15 76:20 78:20 82:3 83:16 84:7, 24 85:9	<b>aspect</b> 72:6		<b>boxes</b> 44:17 74:24
<b>analogy</b> 63:8,11	<b>aspects</b> 29:2 49:17 74:8		<b>boy</b> 65:19 70:3
	<b>assist</b> 81:25		
	<b>assistant</b> 5:10 6:6		

<b>brand-new</b> 61:6	54:14 75:20	30:9,10 32:3,16 33:3, 19,20,23 34:3,18,25 35:8,24 36:3,14,19 37:22 38:14,17 40:7,23 41:8,15,19,24 42:4,8, 11,15,23 43:19,21 44:25 45:5,8 52:18 58:25 59:6,16,23 60:2, 6,12,15 61:11,14,18 62:22 70:21 71:1,5,10, 16 72:24 75:17 77:1,23 78:1 79:15 80:7,20,25 81:4,9,13,17,22 83:21, 24 84:16 85:3,5,17	<b>clip</b> 51:7
<b>breakdown</b> 49:3 82:25	<b>called</b> 31:12 54:19	<b>challenge</b> 45:21 46:25 48:9 57:13 76:14	<b>closed</b> 10:5
<b>bring</b> 29:15 30:15 37:1 79:2 80:15,23,25	<b>camp</b> 45:20 46:3 47:24 48:3 49:21 52:2 56:6,9 76:14	<b>challenges</b> 43:13 44:1	<b>closely</b> 49:8
<b>bringing</b> 30:6,7	<b>campers</b> 62:10 74:16	<b>change</b> 22:5 34:13,22, 23 36:7 48:22 52:21 67:17 84:3	<b>coaster</b> 13:25 71:3
<b>brings</b> 84:19	<b>capability</b> 76:5 84:12	<b>changed</b> 22:25 23:4 32:11 38:10 54:25 55:9	<b>coasters</b> 12:15 47:11
<b>broken</b> 49:18	<b>capitalized</b> 22:6 23:5	<b>changing</b> 34:19 38:15	<b>code</b> 18:3,4,6 19:7 20:23,24,25 22:14
<b>brought</b> 81:21	<b>caps</b> 22:2,3,4,7	<b>chart</b> 12:2,20	<b>coffee</b> 29:18
<b>build</b> 46:5 47:12 49:20 54:8 55:1 56:8,19 57:8 58:8 61:14 65:18 69:23 73:22 78:7	<b>capture</b> 11:3	<b>Chattanooga</b> 45:20 46:4	<b>colleagues</b> 49:23
<b>builder</b> 52:7 73:1	<b>car</b> 46:20	<b>Chevrolet</b> 46:15	<b>Colorado</b> 44:17 49:4, 14,19 51:22 60:21 74:19
<b>builders</b> 52:12 73:25 74:17	<b>care</b> 15:9 37:10,20 47:20 48:2 49:16 50:16 70:19	<b>chief</b> 4:20 6:6	<b>comfortable</b> 67:4
<b>building</b> 6:21,23 45:21 58:16 59:7 85:12	<b>carnival</b> 14:14 77:15	<b>circle</b> 59:12 82:15	<b>comma</b> 22:16
<b>builds</b> 45:15 59:2 64:17	<b>carnivals</b> 15:19,21 47:17	<b>cite</b> 31:20,24	<b>comment</b> 62:24 83:22
<b>built</b> 46:24 47:4 51:1,4, 13 53:3,9 56:7 57:4 58:24 65:7,12 78:13	<b>carries</b> 42:24	<b>clarification</b> 29:3 44:14,15,16	<b>comments</b> 52:18 62:23
<b>bullet</b> 82:5	<b>case-by-case</b> 17:1 39:1	<b>clarifications</b> 44:5	<b>commercial</b> 47:25 48:1 76:18
<b>bulletin</b> 79:19	<b>cases</b> 62:3	<b>classified</b> 29:10	<b>commissioner</b> 5:11 23:8,22 24:8 35:3
<b>bumped</b> 40:3	<b>catches</b> 64:1	<b>classified</b> 12:16	<b>commissioner's</b> 23:9, 12
<b>burden</b> 30:17	<b>categories</b> 54:7	<b>classify</b> 40:21	<b>commissioning</b> 58:6, 10 59:12 65:23 67:15
<b>burdening</b> 30:18	<b>category</b> 18:12 54:19	<b>Clay</b> 14:7	<b>committee</b> 17:10,17, 21 21:9 28:21 30:5 34:5 56:23 83:15
<b>burdensome</b> 75:4	<b>caveat</b> 19:18	<b>clean</b> 5:19	<b>committee's</b> 33:8
<b>bus</b> 39:21	<b>centers</b> 72:21	<b>clear</b> 19:16 36:21	<b>common</b> 40:24 41:6
<b>business</b> 11:4 14:17 17:9 43:3 59:24 60:16 66:6 67:6 69:2	<b>Central</b> 85:10	<b>client</b> 46:4 50:16 70:19	<b>commonsense</b> 12:25 33:10
<b>busy</b> 8:14,15	<b>certificate</b> 60:24	<b>client's</b> 50:20	<b>communicate</b> 51:15 82:15
<b>button</b> 72:19	<b>certification</b> 48:18 60:21 65:2 70:17	<b>clients</b> 48:8 52:13 56:17 57:9 65:20	<b>companies</b> 10:24 11:3, 6,9 14:22 18:22 57:21 66:13 76:1
<b>button-pushing</b> 73:14	<b>certified</b> 45:17 46:8 53:13 55:25 56:10,16 65:10,14 70:15		<b>company</b> 14:14,25 16:25 29:8,9 41:3 45:12,14,15 46:6,7 47:3 49:23 51:3,4,5 54:13 57:21 58:13,15 59:1,2, 19 64:17,21,24 65:7,13,
<b>C</b>	<b>chair</b> 26:10 42:1 49:9		
<b>cable</b> 50:10 62:13 68:1, 7	<b>Chairman</b> 4:2,11 5:2 6:13 7:4,7,10,13,19,22 8:1,4,11,13,16,20 9:2,7 15:18 16:17 17:4,6,9,14 18:24 19:5,9,15 20:9 21:6 22:9 25:1,6,15,24 26:9,12,15,21,23 27:6, 14,18,23 28:2,17 29:23		
<b>calendar</b> 11:23			
<b>call</b> 4:3 26:2,4 51:2,3			

18 66:18 67:9	<b>continued</b> 48:23	<b>cut</b> 65:25	<b>depend</b> 24:20
<b>compare</b> 9:5	<b>continues</b> 64:16		<b>depending</b> 24:18
<b>comparison</b> 12:3 46:14	<b>contradict</b> 34:7	<hr/> <b>D</b> <hr/>	<b>depends</b> 16:24,25
<b>complaint</b> 77:7	<b>control</b> 18:15,18 19:20 20:14	<b>Daddy</b> 41:4	<b>describing</b> 63:22 73:8
<b>complete</b> 5:17 19:19	<b>conversation</b> 18:9 43:12 49:11 82:9,11	<b>Dan</b> 5:12 34:6 36:20 82:18	<b>design</b> 31:13 46:5 47:1 72:16 74:5,7
<b>completed</b> 8:8	<b>converted</b> 11:22 12:1	<b>data</b> 76:9	<b>designed</b> 46:24 47:3 53:3,9 63:2 66:15 73:19
<b>completely</b> 61:7 69:5,6	<b>convince</b> 35:2	<b>date</b> 8:8 24:16 35:8 48:12	<b>designee</b> 23:8,9,12
<b>compliance</b> 5:25 6:2 9:12,20 10:20 14:20 49:25 50:18	<b>Cool</b> 81:2	<b>dates</b> 11:25	<b>designer</b> 72:25
<b>compliant</b> 15:10 55:18 57:25	<b>coordination</b> 61:22	<b>David</b> 4:25 15:25 31:5	<b>designers</b> 52:12 73:24
<b>complicated</b> 31:15 73:5	<b>copied</b> 82:4	<b>day</b> 29:14 84:20	<b>designing</b> 58:15
<b>complications</b> 52:15	<b>copy</b> 37:1	<b>Daylight</b> 85:10	<b>designs</b> 59:2
<b>comply</b> 32:5	<b>correct</b> 17:24 19:4 30:9 53:5,11,15,21,24 54:6 55:8,13 57:2 60:1,5 63:5 70:25 71:4 79:21 80:3	<b>days</b> 24:16	<b>detailed</b> 13:12 40:16
<b>complying</b> 44:10	<b>corrective</b> 13:19	<b>deaf</b> 6:16	<b>determination</b> 13:15
<b>computer</b> 19:11,12	<b>correlation</b> 11:15	<b>deal</b> 76:17	<b>determinations</b> 65:5
<b>concept</b> 48:22 70:3	<b>cost</b> 77:5	<b>dealership</b> 46:19 63:8, 9	<b>determining</b> 41:6
<b>concerned</b> 64:24	<b>counsel</b> 5:13	<b>dealt</b> 49:13	<b>developed</b> 17:18
<b>concerns</b> 74:25	<b>country</b> 71:6	<b>death</b> 37:17	<b>device</b> 4:4,18 6:10 9:8 12:18 13:5,8 14:22 15:17 19:24 23:4 26:20 27:4,17,21 28:5,19,21, 23 29:6,7 30:5 31:12 32:2,22,24 33:13,16,25 34:1 37:12,16 39:3,6 40:1,15 41:3 47:18,19 50:9 54:20 55:20 58:11 59:13,21 61:2 72:19 73:15 76:21 78:20 82:3 85:9
<b>concludes</b> 85:19	<b>county</b> 14:8,10,23 15:25 16:5 75:18	<b>December</b> 81:18 85:11	<b>device's</b> 48:23
<b>conditions</b> 67:19 68:11	<b>couple</b> 15:5,6 31:9 45:13 82:5	<b>decide</b> 78:22	<b>device-related</b> 83:16
<b>conduct</b> 23:10	<b>courses</b> 46:25 52:12, 14 57:13 65:17	<b>decided</b> 18:6 19:23 31:23	<b>devices</b> 10:4 11:8,10, 11,13,14,16,17 15:2,4,6 31:21 40:22 47:21 61:21 67:17,23 68:7 75:11 84:7,24
<b>conflict</b> 52:4 54:3 63:7	<b>cover</b> 39:9	<b>deem</b> 13:9	<b>different-size</b> 69:2
<b>conflicted</b> 79:7	<b>covered</b> 41:16	<b>deemed</b> 54:3	<b>difficult</b> 46:10
<b>confusing</b> 11:24 41:18 44:6 51:18,20 59:19	<b>covers</b> 33:13 44:20 47:14	<b>deeming</b> 13:2	<b>difficulty</b> 44:10 69:11
<b>conjunction</b> 61:21	<b>creates</b> 52:4	<b>defect</b> 13:7 40:19	<b>diligently</b> 84:17
<b>considered</b> 13:15	<b>creating</b> 69:10 70:2	<b>defer</b> 29:19	<b>direct</b> 6:21 11:15
<b>considers</b> 78:10	<b>criteria</b> 16:7 38:19	<b>deferred</b> 29:14	
<b>consistent</b> 22:24 23:13 44:18 46:1 49:15	<b>cross-talk</b> 49:10	<b>deficiency</b> 51:12	
<b>constructed</b> 15:7	<b>Crossville</b> 49:21	<b>defined</b> 58:9	
<b>construction</b> 51:24 61:6	<b>culture</b> 57:9	<b>definition</b> 22:3 34:17, 21 36:22 38:12 40:5	
<b>continue</b> 14:23 50:14, 15 52:13 56:17 75:8	<b>current</b> 28:24 73:4	<b>definitions</b> 37:4	
		<b>Delta</b> 16:12	
		<b>department</b> 35:4 78:4, 10 79:4	

<b>disagree</b> 79:15	<b>effect</b> 24:16	<b>equipment</b> 19:24 20:1 47:2	<b>facility</b> 37:10 45:3,18, 19 46:9
<b>disaster</b> 6:19	<b>effective</b> 24:21	<b>equivalent</b> 77:10	<b>fact</b> 15:3 16:3 82:18
<b>discretion</b> 40:20 41:6	<b>elbow</b> 13:11	<b>Erica</b> 6:9	<b>fair</b> 14:6,8,9,10 15:14, 25 16:12 19:3 45:5
<b>discuss</b> 27:19 28:5 81:10	<b>electronic</b> 18:13,17,20, 23	<b>escalating</b> 69:10	<b>fairs</b> 14:19,21,23 15:22, 24 16:18
<b>discussed</b> 30:3,6 45:1	<b>electronically</b> 20:1,5,7	<b>escalator</b> 68:19	<b>falls</b> 40:22
<b>discussing</b> 27:7 29:1 45:18 60:23	<b>element</b> 54:10	<b>escalators</b> 67:13 76:25	<b>familiar</b> 26:1
<b>discussion</b> 7:5,20 26:16 29:12 30:23 42:6 52:19 56:23 81:5,20	<b>elevator</b> 4:4,20 5:21,23 6:6,7,12 8:5 17:10,16 18:3 19:10 22:14 26:19 27:3,7,16,19 41:22 59:1,3,8,24 60:16 68:16 81:12 85:8	<b>essentially</b> 45:2	<b>Farmer</b> 8:17
<b>discussions</b> 29:4 30:25	<b>elevators</b> 8:24 20:24 67:12 69:1 71:14 76:25 84:5,24	<b>estimated</b> 76:10	<b>fast</b> 8:24 14:6
<b>disfigurement</b> 37:18	<b>eliminated</b> 31:10,11	<b>ethical</b> 56:25 57:5	<b>fasteners</b> 61:20
<b>dismemberment</b> 37:17	<b>eliminates</b> 52:9	<b>evaluating</b> 38:25	<b>fatality</b> 32:22 33:16
<b>disqualify</b> 78:25	<b>email</b> 20:5 24:10 82:3	<b>evaluation</b> 40:14	<b>fatigue</b> 67:14 68:12
<b>disqualifying</b> 80:12	<b>emergency</b> 6:19 39:18	<b>event</b> 6:18 80:12,13	<b>fault</b> 28:2,3 40:19
<b>division</b> 24:11 83:25	<b>employ</b> 52:2 66:13	<b>eventually</b> 84:14	<b>favor</b> 7:8,23
<b>documentation</b> 29:7 62:17	<b>employee</b> 14:1 54:13 61:10	<b>examples</b> 78:11 79:8	<b>feature</b> 16:22
<b>documents</b> 47:8	<b>employees</b> 47:20 65:25	<b>exception</b> 25:15	<b>fee</b> 77:17 81:14
<b>Dodge</b> 46:15	<b>employment</b> 60:25 61:3	<b>exceptions</b> 11:1	<b>feed</b> 31:12
<b>Don</b> 6:3 43:8 53:2 63:20 81:23	<b>end</b> 6:22 10:5,10 11:4 29:13 30:19 35:14 48:7 51:23 58:17 85:21	<b>exchanges</b> 18:1	<b>feedback</b> 24:1 82:20
<b>drawing</b> 30:22	<b>ended</b> 10:6,17 12:11	<b>exciting</b> 84:20 85:6	<b>feeds</b> 31:12
<b>Drive</b> 43:9	<b>engineer</b> 59:25 60:4,6, 9	<b>excuse</b> 27:19	<b>feel</b> 49:15 74:18,22
<b>dropped</b> 84:15	<b>engineered</b> 72:20	<b>exit</b> 6:21	<b>fees</b> 81:12
<b>Dunlap</b> 43:10	<b>engineers</b> 22:16,19	<b>expect</b> 63:18	<b>feet</b> 34:20
<b>dwindle</b> 70:5,10	<b>ensure</b> 51:24 52:1	<b>expensive</b> 51:20	<b>fell</b> 38:23
<hr/>	<b>entertain</b> 6:25 7:15 41:20,24	<b>experience</b> 71:18	<b>felt</b> 20:13 30:16
<b>E</b>	<b>entire</b> 39:20 71:7	<b>explanation</b> 12:21 40:17	<b>fewer</b> 70:11 71:25
<hr/>	<b>entirety</b> 21:1,5	<b>explanations</b> 13:13	<b>field</b> 45:23 46:7 51:1 77:19 79:9
<b>earlier</b> 39:7	<b>equated</b> 64:22	<b>express</b> 69:8 73:3 74:9	<b>field-qualified</b> 56:16
<b>early</b> 9:16 14:10 35:14		<b>expressed</b> 45:11	<b>figure</b> 60:17 71:24
<b>East</b> 9:13,20,22 13:25		<b>extreme</b> 80:5,6	<b>figured</b> 20:16
<b>eastern</b> 45:16 65:21		<b>extremely</b> 44:6 46:10	<b>file</b> 24:14 51:12
<b>edit</b> 63:12		<b>eye</b> 70:4,16,18	<b>filed</b> 24:12,17
<b>editor</b> 63:13,24		<b>eyes</b> 50:2,5 51:25 55:18 56:20 71:11	<b>final</b> 12:20 17:19 21:20 23:16 28:6
<b>edits</b> 64:1		<hr/>	<b>finally</b> 14:5
		<b>F</b>	<b>find</b> 24:2,4 70:23
		<b>F-24</b> 81:6,20 83:15	

<p><b>fine</b> 42:10 43:2 80:17 84:5,6</p> <p><b>fingertips</b> 76:10</p> <p><b>first-time</b> 10:18,24 14:13</p> <p><b>fiscal</b> 10:5,6,8,13,17, 22,25 11:5,11,12,25 12:2,6,7,11,23 13:23</p> <p><b>fixed</b> 67:8 77:15</p> <p><b>flag</b> 73:11</p> <p><b>Florida</b> 77:9,10</p> <p><b>Florida's</b> 16:13</p> <p><b>folks</b> 72:7</p> <p><b>Ford</b> 46:19 63:8,9</p> <p><b>forever</b> 69:24 72:12</p> <p><b>form</b> 21:16 22:10 23:21 25:19</p> <p><b>forward</b> 41:25 42:2 85:1</p> <p><b>found</b> 13:8</p> <p><b>Fox</b> 4:2,11 5:2 6:13 7:4, 7,10,13,19,22 8:1,4,11, 13,16,20 9:2,7 15:18 16:17 17:4,6,9,14 18:24 19:5,9,15 20:9 21:6 22:9 25:1,6,15,24 26:9, 12,15,21,23 27:6,14,18, 23 28:2,17 29:23 30:10 32:3,16 33:3,20,23 34:3,18,25 35:8,24 36:3,14,19 37:22 38:14, 17 40:7,23 41:8,15,19, 24 42:4,8,11,15,23 43:19,21 44:25 45:5,8 52:18 58:25 59:6,16,23 60:2,6,12,15 61:11,14, 18 62:22 70:21 71:1,5, 10,16 75:17 77:1,23 79:15 80:7,20,25 81:4, 9,13,17 83:21,24 84:16 85:3,5,17</p> <p><b>Franklin</b> 14:10</p> <p><b>frankly</b> 6:16</p> <p><b>Fred</b> 9:16</p> <p><b>French</b> 85:12</p>	<p><b>fresh</b> 16:7</p> <p><b>Friday</b> 21:11,12</p> <p><b>front</b> 82:16</p> <p><b>full-load</b> 18:13</p> <p><b>full-time</b> 77:11,19</p> <p><b>function</b> 63:23</p> <p><b>furious</b> 14:7</p> <p><b>furthest</b> 56:13</p> <p><b>future</b> 84:10</p> <hr/> <p style="text-align: center;"><b>G</b></p> <hr/> <p><b>game</b> 71:13</p> <p><b>Gaston</b> 9:16</p> <p><b>gates</b> 72:21</p> <p><b>gave</b> 78:12 79:9</p> <p><b>gear</b> 54:11 73:17</p> <p><b>general</b> 24:7 60:21</p> <p><b>general's</b> 21:19,23 83:8</p> <p><b>generate</b> 66:19</p> <p><b>generically</b> 31:19</p> <p><b>gentleman</b> 59:3 81:24 82:24</p> <p><b>gigantic</b> 47:13</p> <p><b>gist</b> 32:1</p> <p><b>give</b> 20:14 36:21 43:4 56:1 61:18 66:16 82:25</p> <p><b>goal</b> 10:13 11:2,5 71:7, 20</p> <p><b>good</b> 4:2 9:22 17:7 25:2,4 28:7 38:10 41:9, 12 42:9 44:21 49:16</p> <p><b>government</b> 24:24 49:9</p> <p><b>Governor</b> 35:5</p> <p><b>Governor's</b> 21:8,12 81:16 83:5</p> <p><b>governs</b> 83:15</p> <p><b>Grandma</b> 41:4</p>	<p><b>Grandpa</b> 41:4</p> <p><b>grass</b> 62:12 65:25</p> <p><b>great</b> 14:20 15:8 16:21, 22 59:2 81:2</p> <p><b>greatly</b> 66:7</p> <p><b>grew</b> 57:9</p> <p><b>ground</b> 9:21 15:4 16:10 65:1,4</p> <p><b>group</b> 38:5 39:17,20</p> <p><b>growing</b> 8:18 9:1,4</p> <p><b>guess</b> 25:19 36:4 73:2 74:13 76:10 78:3 82:11</p> <p><b>guessing</b> 76:13</p> <p><b>guests</b> 71:18</p> <p><b>guide</b> 20:22,23 21:2</p> <p><b>Guild</b> 43:9 49:20</p> <p><b>guy</b> 62:11,12</p> <p><b>guys</b> 15:8 43:16 44:4, 15 47:17 49:1 65:2 82:14</p> <hr/> <p style="text-align: center;"><b>H</b></p> <hr/> <p><b>Hale</b> 4:25 7:3 28:9,20 29:25 30:3,13 32:10,18 33:7 36:4 39:13 40:2,9 42:19 52:20 85:15</p> <p><b>hammered</b> 80:10</p> <p><b>hand</b> 19:11 63:2</p> <p><b>handout</b> 10:3 11:7</p> <p><b>happen</b> 17:3 20:19 45:17 51:11 66:25 67:5 69:12 84:18</p> <p><b>happened</b> 32:5 38:21 46:2</p> <p><b>hard</b> 30:1 72:7 74:9</p> <p><b>harder</b> 74:16,17</p> <p><b>Hardy</b> 4:17 9:9,10 10:2 14:5 15:23 16:23 17:5,8 26:17 27:1 30:24 31:3,9 33:2 34:4,9,14 37:1 38:25 40:13,25 43:24 53:1,2,6,9,12,16,20,22,</p>	<p>25 54:2 55:21 63:4 75:13,14,24 76:4,22 80:22 81:22 82:17,24 83:6,10,14 84:6,22 85:4</p> <p><b>harness</b> 62:13</p> <p><b>hats</b> 45:13</p> <p><b>hazard</b> 74:6</p> <p><b>he'll</b> 25:18</p> <p><b>head</b> 39:19,22 40:1,3,5</p> <p><b>heading</b> 22:2</p> <p><b>hear</b> 6:15 17:14 43:6</p> <p><b>heard</b> 25:9</p> <p><b>hearing</b> 7:7,22 24:15</p> <p><b>height</b> 31:14 62:8</p> <p><b>heights</b> 31:13</p> <p><b>held</b> 29:12 85:10</p> <p><b>heretofore</b> 38:18</p> <p><b>Herrod</b> 5:10 35:17 81:14,15 84:2</p> <p><b>hesitant</b> 34:20</p> <p><b>hesitation</b> 63:15</p> <p><b>hey</b> 57:15 73:11 80:16</p> <p><b>High</b> 43:9</p> <p><b>highlights</b> 17:19 20:21</p> <p><b>hire</b> 9:17 20:18 63:13</p> <p><b>historically</b> 44:11 45:10 46:2 48:8,14,21 57:7,19,20 58:12 62:17, 21 64:23 73:8</p> <p><b>history</b> 72:8 73:13</p> <p><b>hit</b> 9:21</p> <p><b>hitchhike</b> 6:14</p> <p><b>hold</b> 81:18</p> <p><b>honestly</b> 72:10 73:5</p> <p><b>honorable</b> 66:11</p> <p><b>hoping</b> 21:13</p> <p><b>hospitalization</b> 37:20</p> <p><b>hours</b> 38:8</p> <p><b>house</b> 48:6</p>
---	---	--	---

<b>HR</b> 9:15	7,10 74:10 75:6	21:2 56:16 65:10 66:12, 14 68:25 69:15 74:17 76:21 77:12 78:13	<b>issued</b> 10:7,9,11,16,18, 23
<b>huge</b> 72:22	<b>information</b> 20:5 82:14	<b>inspects</b> 51:4	<b>issues</b> 10:20 14:21 15:10 72:14 80:23
<b>hundred</b> 65:20 75:23, 25	<b>initial</b> 54:14,20 59:10 64:9 67:14	<b>install</b> 47:13	<b>issuing</b> 10:13
<b>hundreds</b> 75:15,20	<b>initially</b> 55:21,22 63:16, 17	<b>installation</b> 49:19 58:14	<b>Item</b> 6:24 8:5 9:8 17:10 81:19
<hr/> <b>I</b> <hr/>	<b>injuries</b> 31:1	<b>installations</b> 8:9	<b>items</b> 81:6
<b>idea</b> 69:9 70:2 75:10	<b>injury</b> 32:4,23 33:17,25 34:10 36:22 37:10,14, 18	<b>installer</b> 48:10	<hr/> <b>J</b> <hr/>
<b>ifs</b> 66:24	<b>inpatient</b> 37:19	<b>instance</b> 30:20 32:15	<b>Jackson</b> 6:5
<b>immediately</b> 37:9,15	<b>inside</b> 67:13	<b>instruction</b> 19:21	<b>James</b> 25:16
<b>immersed</b> 72:8	<b>inspect</b> 16:13 20:24 45:3,24 50:20 51:17 52:8 57:8 59:8 65:9,11 66:8 69:18,20,23,25 71:2 72:11 73:12 77:13 78:7,16	<b>instructions/ guidelines</b> 47:22	<b>Jennifer</b> 4:15 42:12
<b>impartial</b> 71:12	<b>inspected</b> 15:2,7 46:17 77:16	<b>insult</b> 43:17	<b>Jesus</b> 69:24
<b>impinges</b> 48:20	<b>inspecting</b> 47:7 52:13 57:3 65:1 72:9 73:16	<b>insurance</b> 29:5,9	<b>JO</b> 76:9 84:4,24
<b>important</b> 59:17 72:15	<b>inspection</b> 11:18 23:10 46:17,18 48:23 49:22,24 51:9,11 52:3, 16,17 53:20 54:15,17, 20 55:2,4 56:2,11 58:5, 6,10,19 59:11 61:9 63:23,24 64:19 66:17, 18 69:19,22 75:12 77:14 78:5,9,23 79:5,25 80:1	<b>insured</b> 29:9	<b>job</b> 9:22 14:20 15:8
<b>impression</b> 82:6	<b>inspections</b> 8:8 11:17 16:4,6 23:7 43:14 46:11 48:10 49:18 56:18 61:8 65:23 69:12 74:11	<b>insuring</b> 15:1	<b>John</b> 5:24 9:18,19,25
<b>improved</b> 33:9	<b>inspector</b> 6:4,6 16:20 45:17,24 46:7,8 48:18 50:10 51:2,8,16 55:25 58:9 60:21,25 61:3,9 63:17 64:9 65:2,14 70:23 72:2,17 74:1 78:5,10,24 79:6	<b>integral</b> 58:15	<b>joined</b> 9:19
<b>improvements</b> 84:9	<b>inspector's</b> 20:22	<b>intelligence</b> 43:18	<b>Jordan</b> 45:20
<b>in-house</b> 47:19 48:1 56:11	<b>inspectors</b> 15:20 16:2 18:21 20:2,4,13,19,24	<b>intent</b> 14:12 33:8 37:22	<b>July</b> 9:17,21 22:17 35:12
<b>inaccurate</b> 45:7		<b>interest</b> 52:5 54:4 63:3, 7	<b>jump</b> 34:20
<b>inches</b> 31:14		<b>interject</b> 26:17	<b>June</b> 7:14 10:7 14:8 35:12
<b>incident</b> 13:14,22 32:4, 23 33:17 34:10,12,21 36:13,16,23 37:7,8 38:13 39:16,25		<b>internally</b> 16:19 58:20	<b>June-july</b> 35:23
<b>incidents</b> 12:1 13:3,4, 21 15:6 31:2,3		<b>interplay</b> 47:1	<b>Jurisdiction</b> 83:25 85:2
<b>including</b> 76:13,16		<b>interpretation</b> 39:8 44:2 48:20 55:15	<b>justification</b> 12:21
<b>inconsistency</b> 44:9		<b>interpreted</b> 39:5 44:12 46:3,6 48:14 50:25 55:4 75:2	<hr/> <b>K</b> <hr/>
<b>inconsistent</b> 46:11		<b>intimately</b> 47:3	<b>keeping</b> 69:11
<b>incorporating</b> 74:21		<b>introduction</b> 9:11	<b>Kelly</b> 5:8
<b>increase</b> 11:12 12:21		<b>introductions</b> 4:12	<b>Kevin</b> 5:20 6:1 16:11
<b>increasing</b> 74:15		<b>invisible</b> 57:10	<b>kind</b> 10:21 11:8 12:3 25:25 31:14 43:11 44:3, 14,16,21 45:11,13 46:11,14 48:6,24,25 49:1,3 50:12 52:9 54:18 57:10 58:16,22 62:5,11 72:7 78:16 79:1,10 80:10,13
<b>individual</b> 29:6		<b>involve</b> 12:15	
<b>indoor</b> 12:17		<b>involved</b> 9:24 12:17,18 14:1 44:3 57:1	
<b>industries</b> 46:13 59:15		<b>involving</b> 12:14 13:24	
<b>industry</b> 44:7,19 45:23 46:22 47:24 48:7 50:18 57:7 62:21 68:22 73:6,		<b>issue</b> 41:17 51:19 52:23 54:4 78:3	

<p><b>kinds</b> 35:21 47:8 72:22 78:17,18</p> <p><b>Klutts</b> 6:1</p> <p><b>knock</b> 15:12</p> <p><b>knowledge</b> 47:6 48:6 62:5 68:22 83:10</p> <p><b>krills</b> 38:4</p> <hr/> <p style="text-align: center;"><b>L</b></p> <hr/> <p><b>lacking</b> 10:19</p> <p><b>lady</b> 43:6</p> <p><b>Landing</b> 85:12</p> <p><b>language</b> 34:12 60:22</p> <p><b>Laporte</b> 4:6,21 17:11, 13,16 19:4,6,14,17 20:10 26:14 28:15 41:14 42:3,16,17 58:25 59:7 65:22 66:5,10,24 67:2,21,25 68:3,6,9,12, 15,18,21,24 69:4 75:10 76:20,23 77:6,20 81:11</p> <p><b>large</b> 39:17</p> <p><b>Larry</b> 5:6</p> <p><b>late</b> 9:14 35:24</p> <p><b>law</b> 11:18 15:11 16:13 30:25 34:7 36:8,13 38:9 39:1 41:1</p> <p><b>Lawrence</b> 5:22</p> <p><b>left</b> 30:13 79:9 82:6</p> <p><b>legal</b> 5:12 58:19</p> <p><b>legislative</b> 34:12 35:3, 6,11 36:2,12 41:10</p> <p><b>legislature</b> 34:23 35:7 36:9</p> <p><b>letter</b> 22:6 23:5 43:16, 18,22 44:12,23 45:12</p> <p><b>letting</b> 14:14 67:4</p> <p><b>Lewis</b> 4:23</p> <p><b>liability</b> 67:7 72:12</p> <p><b>licensed</b> 37:9,20</p> <p><b>lifts</b> 21:3</p>	<p><b>lights</b> 72:21</p> <p><b>limitation</b> 48:19</p> <p><b>limited</b> 69:14</p> <p><b>lines</b> 23:11 32:9</p> <p><b>link</b> 51:7</p> <p><b>list</b> 75:21</p> <p><b>listed</b> 14:9 31:21</p> <p><b>literally</b> 65:12 77:12</p> <p><b>live</b> 34:16</p> <p><b>load</b> 39:20</p> <p><b>local</b> 57:14</p> <p><b>located</b> 85:12</p> <p><b>location</b> 60:10,11</p> <p><b>lofty</b> 69:9</p> <p><b>logbooks</b> 19:21</p> <p><b>long</b> 19:12 23:24 24:13, 18,19,20 43:25 50:6 56:3,5 73:10,13 74:21 79:18</p> <p><b>longer</b> 22:7 29:24,25</p> <p><b>longest</b> 29:11</p> <p><b>looked</b> 12:5 50:22 55:16,17 64:23</p> <p><b>Lookout</b> 53:3,22</p> <p><b>loosening</b> 55:14</p> <p><b>lose</b> 9:13</p> <p><b>lost</b> 9:12,14</p> <p><b>lot</b> 17:20 18:15 41:5 49:10 50:3 51:22 62:7 66:21,24 67:12,13 75:25 77:2 84:17</p> <p><b>loudly</b> 6:15 43:5</p> <p><b>lower</b> 10:22</p> <hr/> <p style="text-align: center;"><b>M</b></p> <hr/> <p><b>made</b> 11:23 17:22 19:20 20:13 23:9,15 55:25</p> <p><b>main</b> 18:2</p>	<p><b>maintain</b> 19:25 50:15 62:10</p> <p><b>maintained</b> 19:7</p> <p><b>maintaining</b> 47:16,21 50:18 52:14</p> <p><b>maintenance</b> 18:15,18 19:20 20:14 32:21 33:15 48:11 61:25 62:2, 18 66:1 67:10</p> <p><b>major</b> 18:1 20:10 50:6, 7,12 54:9,20 55:23,24 58:8,14 60:3 67:16</p> <p><b>majority</b> 11:3 28:22 48:3 68:5</p> <p><b>make</b> 5:16 9:11,16 13:14 21:24 22:23 23:15,21 26:10 33:10 36:8 42:2 46:14 48:11 50:1 51:14 54:8,18 57:23 58:22 60:18 62:14 65:5 67:21 70:19 72:1 84:9,18</p> <p><b>makes</b> 44:18 47:9 50:3 51:19,22 73:5</p> <p><b>making</b> 9:24 14:24 15:10 28:22 50:17 62:19 69:11,12,13 74:16</p> <p><b>malfunction</b> 17:3 32:16 38:20</p> <p><b>manager</b> 4:18</p> <p><b>mandate</b> 47:5</p> <p><b>mandating</b> 16:19</p> <p><b>manner</b> 30:18</p> <p><b>manual</b> 19:1,19 47:13 61:19,25 62:2 72:17 73:17</p> <p><b>manufactured</b> 46:20</p> <p><b>manufacturer</b> 19:23 61:5 73:21</p> <p><b>manufacturers</b> 47:12 52:12 73:24</p> <p><b>manufactures'</b> 47:22</p> <p><b>matches</b> 31:17</p>	<p><b>math</b> 20:16</p> <p><b>matter</b> 16:3 24:2</p> <p><b>Mcpherson</b> 4:19 8:6,7, 12,15,19,22 9:5</p> <p><b>meaning</b> 13:6</p> <p><b>means</b> 18:11 21:1 37:7, 14 45:2 58:6</p> <p><b>meant</b> 63:13</p> <p><b>mechanical</b> 22:19 47:18 67:17,23 68:7</p> <p><b>mechanics</b> 47:20</p> <p><b>mechanisms</b> 72:20</p> <p><b>medical</b> 37:10,21</p> <p><b>meet</b> 16:7 20:24</p> <p><b>meeting</b> 4:3 5:15 7:14 10:4 21:9 30:4 31:23 34:5 80:24 82:7 84:13, 21 85:7,8,9,19</p> <p><b>meetings</b> 12:5 18:21 56:24</p> <p><b>meets</b> 38:12 55:19 79:18</p> <p><b>member</b> 4:22,24 5:1,3, 5,7,9</p> <p><b>members</b> 25:14</p> <p><b>Memphis</b> 16:12</p> <p><b>mention</b> 11:21</p> <p><b>mentioned</b> 77:9 84:11</p> <p><b>met</b> 17:17 28:21</p> <p><b>metal</b> 67:14 68:1,7,12</p> <p><b>Mike</b> 4:17,19</p> <p><b>milieu</b> 49:2</p> <p><b>mind</b> 13:20 64:16 67:23</p> <p><b>mindset</b> 69:7</p> <p><b>minor</b> 14:18 21:23</p> <p><b>minute</b> 10:4</p> <p><b>minutes</b> 7:14</p> <p><b>Mitch</b> 5:4</p> <p><b>model</b> 44:16 45:25</p>
---	--	--	---

<p><b>modern</b> 19:22</p> <p><b>modification</b> 50:13 54:9,21 58:8 60:3 61:2 67:17</p> <p><b>modifications</b> 50:6,7 55:25 60:7</p> <p><b>modify</b> 60:18</p> <p><b>moment</b> 5:14 29:19</p> <p><b>Momma</b> 41:4</p> <p><b>money</b> 72:1</p> <p><b>months</b> 16:8 83:19</p> <p><b>Moore</b> 5:6 7:18 32:8 36:20 37:3 42:21</p> <p><b>Moorer</b> 4:23 42:18</p> <p><b>moot</b> 83:1</p> <p><b>morning</b> 4:2</p> <p><b>motion</b> 6:25 7:4,8,15, 19,23 25:9 26:11,13 28:10,13 41:25 42:4,24 85:14,17</p> <p><b>mountain</b> 12:15 13:25 53:4</p> <p><b>Mountain's</b> 53:22</p> <p><b>mounted</b> 19:24</p> <p><b>move</b> 16:14 18:2 20:21 24:23,25 77:16 82:20</p> <p><b>moved</b> 7:2,17 85:15</p> <p><b>moving</b> 20:25 83:24</p> <p><b>mows</b> 62:12</p> <p><b>Murphy</b> 4:12,15 42:14 43:25</p> <hr/> <p style="text-align: center;"><b>N</b></p> <hr/> <p><b>Nashville</b> 8:17 9:6 85:13</p> <p><b>natural</b> 6:19</p> <p><b>necessarily</b> 39:16 44:7 60:10 63:19 64:18 70:17 74:18</p> <p><b>needed</b> 14:16 23:13</p> <p><b>needing</b> 75:12</p>	<p><b>no-brainer</b> 67:15</p> <p><b>nonreportable</b> 13:4,16</p> <p><b>normal</b> 67:18</p> <p><b>Northeast</b> 65:11</p> <p><b>note</b> 25:18</p> <p><b>nuances</b> 74:11</p> <p><b>number</b> 6:24 8:5 9:8 10:3,7,22 11:8 15:9 17:10 43:5 69:14 76:5 81:19</p> <p><b>numbers</b> 10:15</p> <hr/> <p style="text-align: center;"><b>O</b></p> <hr/> <p><b>O'CONNOR</b> 5:8 26:10 28:8,12 42:1,22 56:3 62:24 63:6 64:4,8,13 76:8 80:6 85:16</p> <p><b>objection</b> 24:14</p> <p><b>objectively</b> 65:15</p> <p><b>observation</b> 37:21</p> <p><b>obsolete</b> 31:22</p> <p><b>obstacles</b> 14:18</p> <p><b>obtain</b> 20:4</p> <p><b>occurred</b> 40:18</p> <p><b>occurring</b> 37:16</p> <p><b>October</b> 14:11</p> <p><b>off-site</b> 37:9</p> <p><b>office</b> 6:8 21:8,12,19,23 23:24 24:11,17,19 57:15 81:16 83:5,9</p> <p><b>officer</b> 5:25 6:2 9:12,20</p> <p><b>officers</b> 10:20 14:20</p> <p><b>on-site</b> 16:2,21 17:2 18:20 19:7 20:7</p> <p><b>online</b> 83:25 84:11 85:2</p> <p><b>Open</b> 81:5,19</p> <p><b>opening</b> 29:22</p> <p><b>operate</b> 73:12,23</p> <p><b>operated</b> 57:8,11 73:8</p>	<p><b>operating</b> 10:9,12,18, 23 14:25</p> <p><b>operation</b> 13:5 32:14, 21 33:15 37:11 39:2 40:15 50:9 59:13 84:5</p> <p><b>operational</b> 29:2</p> <p><b>operations</b> 47:2 72:18 73:17 76:18</p> <p><b>operator</b> 37:15 61:1,4 72:25</p> <p><b>operators</b> 14:15 52:2</p> <p><b>opposed</b> 7:10 8:1</p> <p><b>oral</b> 31:6</p> <p><b>order</b> 4:5</p> <p><b>ordinance</b> 26:1,3</p> <p><b>organization</b> 24:13</p> <p><b>originals</b> 23:23 24:6,9</p> <p><b>outdoors</b> 67:13</p> <p><b>outlined</b> 44:12</p> <p><b>outright</b> 49:24</p> <p><b>overcome</b> 14:19</p> <p><b>overlooked</b> 37:4</p> <p><b>overnight</b> 37:24 38:8</p> <p><b>owned</b> 13:5</p> <p><b>owner</b> 19:10 37:15 45:14,15 52:6 56:6 61:10,19 70:18</p> <p><b>owners</b> 14:15 47:24 48:3 52:2 65:24</p> <p><b>ownership</b> 45:19</p> <p><b>owns</b> 29:8 47:18</p> <hr/> <p style="text-align: center;"><b>P</b></p> <hr/> <p><b>package</b> 35:4,6</p> <p><b>packet</b> 7:14</p> <p><b>painful</b> 42:25</p> <p><b>panel</b> 49:9</p> <p><b>paragraph</b> 22:14 33:6 37:7,13</p>	<p><b>parallel</b> 59:14</p> <p><b>park</b> 13:21 57:4 61:15 66:14</p> <p><b>park-type</b> 13:3</p> <p><b>parks</b> 6:22 12:8,13,14, 22 13:9 40:16 75:11</p> <p><b>part</b> 6:13 22:10 29:21 32:12 36:13 37:25 39:13,22 48:7 49:23 56:24 58:15 65:1 70:4 79:16 82:7 85:6</p> <p><b>party</b> 44:2 48:13,16 54:12 55:16 59:11 61:7 67:16 69:10 71:25 78:7</p> <p><b>passed</b> 35:11</p> <p><b>passengers</b> 31:13</p> <p><b>past</b> 12:11 50:25</p> <p><b>patron</b> 14:1</p> <p><b>patron's</b> 37:14</p> <p><b>Paul</b> 6:11</p> <p><b>payment</b> 84:12</p> <p><b>peers</b> 57:23</p> <p><b>people</b> 24:13,14 44:6,7 46:22,23 47:6 48:1,4 49:12 56:8 62:4,11 64:23 65:3,8 66:19 67:5 70:5,6,11 71:19 72:5 76:17 77:19 84:17</p> <p><b>people's</b> 72:10</p> <p><b>percent</b> 11:12 56:7 62:3</p> <p><b>performance-based</b> 18:6</p> <p><b>permanently</b> 9:13</p> <p><b>permit</b> 11:6,9 14:25 15:3 16:8 31:18 48:4,23 54:17 55:20 56:2,12 57:15</p> <p><b>permits</b> 10:7,9,12,13, 16,18,23,24</p> <p><b>permitted</b> 52:1 54:16 76:1</p> <p><b>permitting</b> 8:25 12:8</p>
--	--	--	--



<b>perpetuated</b> 48:24	<b>positive</b> 66:17	<b>provide</b> 19:1 33:8 71:18	<b>radically</b> 59:15 73:25
<b>person</b> 26:8 37:8,23 58:7 59:21 64:18,22,25 66:11 70:19 71:21 78:15	<b>possibility</b> 67:4	<b>provision</b> 20:8	<b>rain</b> 68:10
<b>person's</b> 21:17	<b>possibly</b> 70:23	<b>public</b> 24:15 44:18 51:19 74:15	<b>rapid</b> 51:6
<b>personal</b> 34:10 37:14	<b>potential</b> 74:6	<b>publications</b> 24:12	<b>rapidly</b> 9:4
<b>personnel</b> 6:20 10:20 84:3	<b>preliminary</b> 54:16	<b>published</b> 22:18	<b>rate</b> 8:21
<b>persons</b> 37:8	<b>Premier</b> 6:11	<b>publisher</b> 64:6	<b>reach</b> 18:22 70:11
<b>phone</b> 22:13 43:5	<b>prepare</b> 21:18	<b>pull</b> 76:9	<b>read</b> 31:16 37:3 43:17, 21 44:23
<b>photo</b> 40:17	<b>prepared</b> 22:18 84:4	<b>pushing</b> 72:19	<b>readily</b> 20:2
<b>photos</b> 13:13	<b>present</b> 11:23 35:7	<b>put</b> 19:23 35:3,6,13 39:19,22 40:5 44:23 51:11 60:20 68:21 72:11 79:20	<b>reading</b> 43:18
<b>physical</b> 32:22 33:17 36:22 37:13	<b>presented</b> 7:1,16 74:19	<b>puts</b> 10:12 59:6	<b>reads</b> 32:24 49:4
<b>physically</b> 15:21 19:2	<b>pressure</b> 66:16	<b>putting</b> 46:1	<b>ready</b> 21:13,22 77:25
<b>physician</b> 37:21	<b>pretty</b> 39:7 49:8		<b>reality</b> 46:21
<b>picked</b> 82:8	<b>prevail</b> 40:24	<hr/> <b>Q</b> <hr/>	<b>reason</b> 32:11 34:19 63:12
<b>picking</b> 43:11	<b>previous</b> 10:18 11:12		<b>reasonable</b> 39:8
<b>picture</b> 51:16	<b>previously</b> 18:5		<b>reasons</b> 67:6
<b>piece</b> 19:24 46:10 52:5, 10 72:16,18,22 73:14 74:6,21	<b>primary</b> 74:24		<b>recall</b> 82:2
<b>place</b> 6:20 13:14 45:20 77:13	<b>principles</b> 57:5	<b>qualifications</b> 59:20 64:25	<b>recap</b> 18:1
<b>players</b> 14:13	<b>prior</b> 10:5 44:1 48:21	<b>qualified</b> 48:16 53:17 54:12 56:15 58:6,8,9 59:20 65:4,25 66:14 78:5,9,23 79:5,6	<b>receive</b> 18:23
<b>pledge</b> 4:7,9	<b>problem</b> 50:24	<b>quality</b> 70:7	<b>recently</b> 84:3
<b>podium</b> 43:4	<b>problems</b> 49:14	<b>quarter</b> 10:11	<b>recited</b> 4:10
<b>point</b> 17:23 41:18 43:9 67:24 70:22 72:23 82:18 83:1	<b>procedural</b> 29:1	<b>question</b> 5:17,18 8:17 19:16 36:5 41:20 44:25 49:13 61:12 79:4 80:15	<b>recognize</b> 74:4
<b>pointed</b> 34:6	<b>proceed</b> 44:24	<b>questionable</b> 78:17	<b>recommendation</b> 81:1
<b>pointing</b> 17:23	<b>PROCEEDINGS</b> 85:21	<b>questions</b> 14:2 15:16 49:7 62:22	<b>recommended</b> 30:15
<b>points</b> 82:5	<b>process</b> 23:18 57:22 65:3 79:20 82:20	<b>quick</b> 9:24 20:16	<b>recommending</b> 36:7 44:13
<b>policy</b> 52:23 78:3 79:1	<b>processes</b> 64:5		<b>record</b> 5:19 10:7 21:15, 16 23:20 25:23 28:4
<b>pool</b> 70:10	<b>professional</b> 75:6	<hr/> <b>R</b> <hr/>	<b>recorded</b> 25:18
<b>poor</b> 46:4 56:10 63:11	<b>program</b> 18:15,18 19:20,25 20:14 77:18	<b>radar</b> 35:22 57:12 84:13	<b>recorder</b> 42:13
<b>Pope</b> 25:16	<b>prohibitive</b> 77:5	<b>Rader</b> 5:4 7:2,17 17:7 24:22 27:9 41:13 42:20 52:25 54:23,25 55:6,9, 11 65:17 79:14 80:21	<b>recordkeeping</b> 18:19
<b>portion</b> 27:7,20 28:5 84:25	<b>project</b> 49:21		<b>records</b> 18:23 19:7
	<b>proper</b> 69:12 84:23,25		<b>red</b> 32:9
	<b>properly</b> 20:16		<b>redline</b> 17:19,25 21:10, 20 23:16,23 24:9 30:4
	<b>property</b> 15:21 19:2		<b>reedit</b> 64:3
	<b>proposals</b> 83:18		
	<b>proposed</b> 21:16 23:20		

<b>refer</b> 10:2	<b>reportable</b> 12:24 13:1, 11,16,18,22 30:19 32:25 33:11,14 34:1 38:23 40:21 41:7	<b>rewrote</b> 18:15	<b>scenario</b> 55:7 59:8,14 70:1 73:4
<b>reference</b> 17:20,24 18:8 29:12 36:21	<b>reported</b> 37:15 41:5	<b>Rhodes</b> 6:7	<b>scenarios</b> 78:18,21
<b>references</b> 22:23 23:11	<b>reporting</b> 29:13 30:16 32:6 33:6 38:19	<b>ride</b> 30:19 32:5,14,15, 17 38:2,20,21,22 39:10, 12 40:3,6 61:22 71:13, 22 72:17 77:11	<b>scheduled</b> 85:8
<b>register</b> 11:10	<b>reports</b> 11:25 14:3	<b>rides</b> 17:3 77:15 79:18	<b>Schindler</b> 5:20,23
<b>registered</b> 11:10,13, 14,16	<b>representing</b> 24:14	<b>rigid</b> 48:22 57:22	<b>Schmid</b> 6:11
<b>regularly</b> 85:8	<b>requesting</b> 24:15	<b>road</b> 83:20	<b>school</b> 38:5 39:20,21
<b>regulated</b> 57:13 73:9	<b>require</b> 50:19 52:7	<b>Robbie</b> 5:2 32:9	<b>scope</b> 22:3
<b>regulation</b> 44:21	<b>required</b> 18:12 52:17	<b>roll</b> 26:2,4	<b>scrape</b> 70:13
<b>regulatory</b> 49:11	<b>requirement</b> 18:16 20:11 30:16 58:4,5,18, 19	<b>roll-call</b> 25:10 42:9	<b>scraping</b> 70:12
<b>reinspected</b> 79:20	<b>requirements</b> 55:19 60:22	<b>roller</b> 47:11 68:13	<b>scrupulous</b> 66:11
<b>reinspection</b> 38:2 40:8,10	<b>requires</b> 37:19 52:20 54:10 60:11	<b>rolling</b> 68:13	<b>season</b> 14:6 15:14
<b>Reithoffer</b> 16:4	<b>requiring</b> 13:12	<b>room</b> 39:18 45:14	<b>secretary</b> 4:16 24:11, 17
<b>relaced</b> 48:16	<b>reset</b> 62:13	<b>rope</b> 51:7	<b>Section</b> 30:7
<b>related</b> 12:13 13:8 32:24 33:14,25 34:1 39:6,12 43:12 62:7	<b>resolve</b> 79:11	<b>Rosa</b> 6:22	<b>sections</b> 17:21 19:21 28:23
<b>relations</b> 49:9	<b>resolves</b> 71:8	<b>Roy</b> 25:16	<b>security</b> 6:19
<b>relationship</b> 61:1,4 70:7	<b>response</b> 7:6,9,12,21, 25 8:3 14:4 41:23 42:7 66:9 83:23	<b>rule</b> 21:16 22:2 23:6,21 32:6,20 52:21 82:7 83:17	<b>self-regulated</b> 73:10
<b>relationships</b> 50:16	<b>responsible</b> 67:9	<b>rules</b> 17:21 21:8,14 22:24 24:15 26:24 27:4, 5,13,17 31:7,16,18 33:13 34:2,5,7,22 36:17,18 39:7 82:1,10 83:2	<b>self-sustaining</b> 77:21
<b>relays</b> 72:21	<b>rest</b> 57:10	<b>run</b> 15:20 29:18	<b>sells</b> 59:3
<b>relied</b> 48:9	<b>result</b> 13:4 32:13 37:11 39:2 40:1,14 66:17	<b>running</b> 9:21	<b>send</b> 21:18,22 24:6 41:25 42:2 51:16 56:10, 12 69:25
<b>remember</b> 30:23 56:22	<b>results</b> 32:22 33:16 37:16	<b>rusty</b> 50:9 51:6,7	<b>sense</b> 40:24 41:6 50:3 51:22 54:18 64:12 67:21 77:4
<b>remind</b> 5:14	<b>returns</b> 29:19		<b>separate</b> 26:20,21,23
<b>remodels</b> 8:9	<b>revenue</b> 72:4	<b>S</b>	<b>September</b> 4:3 35:15, 18
<b>remove</b> 84:24,25	<b>revenue-driving</b> 66:20	<b>safe</b> 6:20 15:14 63:3	<b>serve</b> 52:13
<b>removed</b> 18:8,11	<b>review</b> 43:17 81:16	<b>safety</b> 4:4 5:24 6:1 9:12,20 14:19 16:22 22:14 27:17 44:18 46:18 51:19 71:8,21 72:20,23,24 73:4,13 74:15 75:6 85:9	<b>session</b> 35:11 36:2,12 41:10
<b>repair</b> 50:13 51:5 62:2 66:2 69:12,17 78:12,15, 24 79:17,23 80:1	<b>reviewed</b> 57:23	<b>Sally</b> 38:3 39:22 40:3	<b>set</b> 16:5 27:4,13 50:2,5 51:25 55:18 56:20 71:11
<b>repairs</b> 51:14 52:17 56:18	<b>revises</b> 83:16	<b>sat</b> 79:12	<b>sets</b> 62:7
<b>replaced</b> 50:11	<b>revision</b> 82:1,20 83:3		<b>Sevier</b> 75:18
<b>report</b> 8:6,10 9:9 11:21, 22 17:7 29:21 30:6 31:6 51:11 56:12	<b>revisions</b> 32:1		<b>sharp</b> 74:23
			<b>sheet</b> 10:16 12:16 31:11

<b>shorten</b> 83:18	<b>snow</b> 68:10	<b>starts</b> 14:10	<b>struggling</b> 62:25 66:6 71:23
<b>shot</b> 82:10	<b>so-called</b> 19:1	<b>state</b> 6:3 9:3,4 11:4 14:17 18:1,5,19 20:17 43:14 46:16 48:4 53:13, 16 68:25 73:11 75:12 76:22,24 77:10	<b>stub</b> 30:18
<b>showed</b> 15:6	<b>Society</b> 22:19	<b>State's</b> 24:11,17	<b>stuck</b> 38:9
<b>showing</b> 64:22	<b>somebody's</b> 35:22	<b>stated</b> 32:8	<b>stuff</b> 24:2 44:2 65:11,14 70:6 72:10 73:16
<b>shown</b> 14:3	<b>sort</b> 26:3 58:20 62:15	<b>statement</b> 45:5,7	<b>stumbling</b> 39:11
<b>shows</b> 23:2	<b>sorts</b> 49:25 62:9 73:18	<b>states</b> 16:6 45:16 57:13 74:22 77:24	<b>subject</b> 68:9
<b>Shucks</b> 46:4 56:9	<b>sorts</b> 49:25 62:9 73:18	<b>stating</b> 61:19	<b>submission</b> 29:4
<b>shutdown</b> 30:20 38:2	<b>Sounds</b> 8:13 81:2	<b>statute</b> 22:22 34:16 36:16,25 39:9 48:15,19	<b>submit</b> 23:22 24:8 51:9
<b>shuts</b> 40:6	<b>sources</b> 18:22	<b>stay</b> 19:22 37:23	<b>submitted</b> 21:8 83:3,8
<b>side</b> 6:22 72:23	<b>speak</b> 6:14 43:5	<b>stayed</b> 22:20	<b>Subsequent</b> 61:8
<b>sign</b> 7:11 8:2 23:25 59:8 60:4,7	<b>special</b> 82:7	<b>staying</b> 48:12	<b>subsequently</b> 50:4 64:10,11 78:14
<b>signed</b> 24:6,7	<b>specific</b> 33:3 38:22	<b>steps</b> 32:15 34:25 38:4	<b>subsidiary</b> 61:1
<b>significant</b> 31:10 37:17,18	<b>specifically</b> 13:13 31:21 40:17	<b>stich</b> 39:19	<b>substance</b> 22:10
<b>signs</b> 23:3	<b>specifications</b> 47:15	<b>sticking</b> 41:17	<b>successful</b> 15:13
<b>simple</b> 50:13	<b>specifies</b> 11:19	<b>stitch</b> 39:22,25 40:5	<b>sudden</b> 82:9
<b>simplify</b> 53:2	<b>spend</b> 72:11	<b>Stock</b> 6:3 33:19,21,22 41:15,16 43:3,8,20,23 45:4,6,9 52:24 53:5,8, 11,15,19,21,24 54:1,6, 24 55:3,8,10,13,22 56:5 57:2,6 59:5,10,18 60:1, 5,8,14,19 61:13,17,24 63:5,21 64:7,11,15 65:19 66:3,9,22 67:1, 20,22 68:2,4,8,11,14, 17,20,23 69:3,5 70:25 71:4,9,15,23 72:4 75:13,15,19 76:3,7,12 77:8,22 79:21 80:3,22 81:2,7,8 82:2	<b>suffix</b> 31:24
<b>simply</b> 46:20 72:2 74:14 77:4	<b>spent</b> 28:21,25	<b>stop</b> 54:23	<b>summarized</b> 51:23
<b>single</b> 27:13 37:7 47:14 64:2 76:15 77:13,16,17	<b>spikes</b> 12:22	<b>struck</b> 22:15,17,20 31:5,7	<b>supervisor</b> 6:8
<b>sir</b> 4:8 8:7 17:5 40:25 61:13	<b>spiraling</b> 44:10	<b>structure</b> 47:4 55:24 74:3 76:15	<b>supply</b> 62:16
<b>sit</b> 23:25 77:9	<b>spoke</b> 22:12,22	<b>structures</b> 45:16 46:23 47:7	<b>support</b> 14:16 60:9
<b>site</b> 65:9	<b>spot</b> 23:7,10	<b>struggle</b> 63:10	<b>supportive</b> 63:1
<b>sitting</b> 4:13 59:3	<b>spot-check</b> 14:23		<b>supposed</b> 44:8 57:25 62:19 70:20
<b>situation</b> 49:5,6 62:4	<b>square</b> 28:18		<b>surpassed</b> 10:8
<b>situations</b> 80:17	<b>St</b> 77:14		<b>surprised</b> 76:19
<b>size</b> 16:25	<b>staff</b> 29:15		<b>suspension</b> 20:25
<b>skill</b> 62:6,7	<b>stairs</b> 57:17		<b>switch</b> 15:11
<b>skills</b> 48:5	<b>stamp</b> 60:13,17 70:14		<b>switching</b> 51:6
<b>skin</b> 71:12	<b>stamped</b> 60:10,11		<b>system</b> 60:18
<b>skip</b> 81:14	<b>stand</b> 9:18		<b>systems</b> 73:25
<b>skydiving</b> 12:17	<b>standard</b> 29:16 30:8 32:6 48:17 50:8,19 55:19		
<b>slow</b> 24:23	<b>standards</b> 28:24,25 31:20 36:21 48:12 49:25 56:25 57:1,5 58:1,2,10 83:1,17		<hr/> <b>T</b> <hr/>
<b>slowly</b> 24:25	<b>start</b> 5:18 35:21		<b>tablet</b> 19:24
<b>small</b> 19:17 66:2	<b>started</b> 4:7 12:8 14:7 73:11		<b>tag-team</b> 17:12

<b>takes</b> 21:14 24:19 49:16	23 48:2,3 49:25 56:19 59:19 62:9 64:1,20 65:6 67:19 72:22 73:18 74:11 78:17 84:8	<b>train</b> 13:24 57:8	<b>unanimous</b> 42:24
<b>taking</b> 12:25 15:9 63:9 70:19	<b>thinking</b> 76:12	<b>trainer</b> 48:10 73:1	<b>unbiased</b> 71:12
<b>talk</b> 5:16 44:3 84:4	<b>third-party</b> 15:20 16:1, 20 48:22 49:24 50:2,5 52:15 53:18 55:2 56:20 58:4,19 63:17,23,24 64:9 70:3 78:13	<b>training</b> 47:1 54:10 73:16	<b>unconflicted</b> 78:10
<b>talked</b> 12:4,9 13:2 32:12 77:4 82:19	<b>Thomas</b> 6:5	<b>trains</b> 47:4	<b>undergone</b> 11:18
<b>talking</b> 27:25 38:14 43:24 45:25 54:5 57:16 59:18 65:23 67:23,25 82:22	<b>thought</b> 23:12 27:6,10 29:22 34:19 79:13	<b>trampoline</b> 12:8,13,14, 22 13:3,7,9,21 40:16, 18,19	<b>understand</b> 18:24 25:8 50:24 52:22 57:4,18 59:21,23 63:15,21 67:24 69:4,5,7 72:15 74:2,7,10
<b>talks</b> 29:24	<b>throw</b> 62:12	<b>trampolines</b> 21:4	<b>understanding</b> 33:9 73:18
<b>Tarpley</b> 5:24 9:19 10:1	<b>Tia</b> 35:19	<b>transcribed</b> 5:15	<b>understood</b> 68:8,23 69:1
<b>Taylor</b> 5:22	<b>ticks</b> 44:17 74:24	<b>transition</b> 77:2	<b>unique</b> 62:3
<b>TCA</b> 37:6	<b>Tilt-a-whirl</b> 29:8 62:1 73:19,20	<b>translate</b> 72:7	<b>unit</b> 4:18 6:10 9:14,19 12:22,25 18:18 19:2 33:8 40:20 44:15 76:21 78:20,21 79:13 80:11 81:12 82:4
<b>team</b> 45:21 58:21	<b>Tilt-a-whirls</b> 47:11	<b>transport</b> 13:10 41:1,3, 17	<b>Unit's</b> 8:6 9:9
<b>tear</b> 67:18	<b>time</b> 13:2 14:13 16:3,14 18:8 28:22 29:1 31:22 36:12 41:18 43:25 48:17 59:9 65:11 67:14, 18 71:10 74:21 75:20 77:16,17 79:24 81:10, 24 85:10	<b>transported</b> 37:9 38:1, 6,18 39:15 40:4	<b>United</b> 45:16
<b>ten</b> 24:13,14	<b>times</b> 19:3 24:3	<b>traveling</b> 14:14 15:19	<b>universally</b> 49:15
<b>Tennessee</b> 9:13,20,23 13:25 14:9 16:9 43:10 44:22 75:13,22 85:13	<b>titles</b> 22:2	<b>treating</b> 80:17	<b>unnecessary</b> 51:18
<b>tensiometer</b> 62:9	<b>today</b> 21:14 38:9 77:3 79:12	<b>treatment</b> 37:10	<b>unprecedented</b> 8:21
<b>tensions</b> 62:14	<b>toe</b> 30:18	<b>true</b> 63:4 68:2	<b>update</b> 17:10 83:25 84:1
<b>term</b> 31:19 36:8 48:15 70:12	<b>told</b> 27:25	<b>trust</b> 70:6,16	<b>updates</b> 84:25 85:2
<b>terminology</b> 11:9 82:1	<b>Tom</b> 5:10	<b>tunnel</b> 58:23	<b>users</b> 48:8
<b>terms</b> 44:18 75:5	<b>tools</b> 48:5 62:8	<b>turn</b> 4:14 15:2,3	
<b>test</b> 18:13	<b>top</b> 74:20	<b>turnaround</b> 9:24	<b>V</b>
<b>testing</b> 18:11,12 20:12, 15,17	<b>torque</b> 47:15	<b>turned</b> 13:10 15:11 40:18	<b>valid</b> 14:25
<b>text</b> 20:5	<b>totally</b> 30:22	<b>twist</b> 67:6	<b>vary</b> 74:11
<b>theoretically</b> 57:24	<b>track</b> 10:12	<b>twisting</b> 39:9	<b>vast</b> 48:2 68:4
<b>theory</b> 69:8	<b>trackless</b> 13:24	<b>type</b> 19:23 47:14 61:19, 20,21	<b>vehicle</b> 46:15,16
<b>thing</b> 11:20 14:6 15:1 16:15,21 18:14 20:11 25:2 31:4 41:18 46:17 47:9,16 51:18 58:16 62:15 64:18 66:20 70:4 73:18 74:5 79:10 80:13 82:4,7 84:20,23	<b>traditional</b> 47:10 72:16,19 73:15	<b>types</b> 29:10	<b>vender</b> 50:20 54:13 57:22
<b>things</b> 14:24 19:22 24:3,19 29:2,10 31:10 35:21 44:5 47:8,12,15,	<b>traffic</b> 49:10	<b>typically</b> 44:19 46:12 47:19	<b>venders</b> 50:15 56:15 57:20 75:21
		<b>U</b>	<b>vendor</b> 48:9 51:14
		<b>U.S.</b> 65:21	<b>ventures</b> 44:22
		<b>Uh-huh</b> 68:4,14	<b>verbal</b> 7:6,12,21 8:3
		<b>ultimate</b> 71:20	
		<b>un-redlined</b> 22:21	

14:4 41:23 42:7 66:9 83:23	<b>wire</b> 51:7 61:19	78:25
<b>verbiage</b> 29:15 37:24 38:7	<b>withdraw</b> 28:10,12,15	<b>year's</b> 56:2 59:13
<b>verify</b> 49:24 65:3	<b>witnessed</b> 20:12	<b>years</b> 19:8 31:25 57:7, 11 73:6,9 75:2 83:20
<b>version</b> 17:19 18:17 20:22 21:3,10,21 23:17, 23 24:9,10 30:5	<b>wonderful</b> 69:9	<b>yesterday</b> 21:22 22:13, 22
<b>versus</b> 22:10	<b>wood</b> 15:13	<b>York</b> 5:20
<b>Vic</b> 4:21 22:12	<b>word</b> 22:5,15 23:8	<b>you-all</b> 15:18 28:6 85:18,19
<b>view</b> 19:12	<b>Word-format</b> 24:10	
<b>violated</b> 57:4	<b>wording</b> 29:12 33:9 60:20	<hr/> <b>Z</b> <hr/>
<b>vision</b> 58:23	<b>words</b> 22:18	<b>zip</b> 62:13 76:15
<b>visit</b> 14:12	<b>work</b> 15:15 17:1 26:5 29:15 30:1 43:2 49:2,8 56:4,6,17 60:18 62:5,6, 17 66:8,19 69:20,22 71:19 77:2 78:12,15,24 79:17,23 80:2,22	<b>zipline</b> 12:19 53:3,23 61:15 74:21
<b>voice</b> 26:2	<b>workday</b> 43:12	
<b>vote</b> 21:14 23:19,20 25:10,11 27:9,10,22,23 28:6 42:9	<b>worked</b> 48:7 62:21	
<b>voted</b> 21:17 26:4,8	<b>working</b> 14:21 36:6 62:8 84:5,6,7,17	
<b>votes</b> 25:22 26:6	<b>works</b> 26:4 44:19 51:22 58:14 59:1 73:16	
<hr/> <b>W</b> <hr/>	<b>world</b> 26:3 47:10 57:11 60:2,12 70:22 71:2,8 72:6	
<b>Wait</b> 33:20	<b>wrestled</b> 49:7,12	
<b>walking</b> 32:14 39:10	<b>writer</b> 63:11	
<b>walks</b> 38:4	<b>writes</b> 83:15	
<b>wanted</b> 19:25 21:24 22:23 23:15	<b>written</b> 18:17 19:1,19 30:17	
<b>wanting</b> 18:17	<b>wrong</b> 13:7,19	
<b>warrant</b> 72:5	<hr/> <b>X</b> <hr/>	
<b>Washington</b> 49:5	<b>XYZ</b> 29:9	
<b>waving</b> 73:11	<hr/> <b>Y</b> <hr/>	
<b>wear</b> 45:13 67:18	<b>year</b> 8:7 9:15 10:5,6,8, 14,17,19,22,25 11:5,11, 13,23,25 12:2,6,7,11,23 13:23 14:7 15:14 16:16 35:25 49:22 50:1,21 64:2 65:18 67:11 76:2,8	
<b>Wednesday</b> 85:11		
<b>well-rounded</b> 74:23		
<b>Wilson</b> 15:25 16:5,16		
<b>wind</b> 68:10		
<b>winded</b> 30:1		
<b>Wing</b> 71:2		