

**STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
BUREAU OF COMMERCIAL SERVICES – LICENSING DIVISION
2501 Woodlake Circle, Okemos, Michigan 48864-5955**

CARNIVAL-AMUSEMENT SAFETY BOARD

COMMITTEE OF THE WHOLE MEETING MINUTES

March 31, 2006, 10:00 a.m.

In accordance with the Open Meetings Act, 1976 PA 267, as amended, the Carnival-Amusement Safety Board met as a Committee of the Whole on March 31, 2006 at the Department of Labor & Economic Growth, Bureau of Commercial Services, Second Floor, Conference Room 1, 2501 Woodlake Circle, Okemos, Michigan 48864.

CALL TO ORDER

Due to the lack of a quorum, the Committee of the Whole meeting was called to order by Chairperson Kipling at 10:15 a.m.

Present:	Kurt G. Kipling	Chairperson
	Martin J. Heppler	Member
	Carrie E. Jones	Member
Absent:	Douglas P. Clark	Member
	David O'Neill	Member
	Douglas S. Schmidt	Member
Staff:	Jean M. Boven	Director of Licensing
	Archie Millben	Director of Enforcement
	Ann Millben	Licensing Administrator
	Michele Riddering	Assistant Licensing Administrator
	Amy A. Shell	Policy Analyst
	D. Mark Doman, PE	Inspection Manager
	Davy Pier	Inspector
	Gilbert Townsend	Inspector
	Tim Slattery	Inspector
	Kirby Pettyjohn	Inspector
Visitors:	E.J. Brown	Michigan Association of Fairs & Exhibitions

ADDITIONS TO OR DELETIONS FROM AGENDA

None.

APPROVAL OF MINUTES FROM MEETING HELD OCTOBER 28, 2005

MOTION: Mr. Heppler moved that the Committee of the Whole recommend approval of the minutes from the board meeting held on October 28, 2005. Ms. Jones seconded and the motion passed unanimously.

APPROVAL OF MINUTES FROM MEETING HELD OCTOBER 29, 2004

MOTION: Mr. Heppler moved that the Committee of the Whole recommend approval of the minutes from the board meeting held on October 29, 2004. Ms. Jones seconded and the motion passed unanimously.

PUBLIC COMMENT

Mr. Brown, from the Michigan Association of Fairs & Exhibitions (MAFE), distributed new brochures from the association to board members. He discussed all of the places that these brochures would be available to the public so as to promote more business for the industry.

Mr. Brown also thanked Mr. Doman and the Department's inspection staff for their attendance and presentations at the MAFE convention in January and looked forward to having them attend again next year. He noted that the presentation was very well received, informative and educational. He added that MAFE would soon have a link on their website to the Department's website. Ms. Millben noted that the Department's website already has a link to MAFE's website

STAFF REPORTS

Enforcement Division

Discussion of ASTM F24 Standards – 7th Edition

Mr. Doman explained, for the benefit of the new board members, how the ASTM Amusement Standards are developed and then adopted. He noted that there is an F-24 committee on amusement rides and devices, which is a consensus committee, and they meet continually to adopt standards. There are over 400 members, from the public, the industry and regulation. The 6th Edition had twelve standards, published in 1999 and adopted by Michigan in 2003. The 7th Edition was published in 2004, but has not yet been adopted by Michigan. Mr. Doman distributed a summary explaining the differences between the editions. He noted that if the standards are applied to devices as the staff is currently doing, there should not be much effect on operators of existing equipment. For those bringing a new device into the state, it will be easier to get it approved, as the 7th Edition requires manufacturers to have engineering standards similar to those that Michigan has already required since 1966.

The previous standard, 1159, which applied to all amusement devices, has been restructured to apply only to patron-directed devices. These devices would not need the same level of inspection as the new standard, 2291. This differentiation will assist the inspectors when presented with a new device.

Mr. Doman noted that the Board and the Department staff have been discussing which devices need to be regulated. Part of the concern with the new standard is that it specifically mentions devices that Michigan does not currently regulate, so that the question is whether Michigan will need to regulate them if the standard is adopted in rules. As Michigan does not currently have enough staff to inspect them, a new method of adequately inspecting them would need to be devised. He also noted that 50% of the standards in the 7th Edition are new, and that another 50% of reference standards are in committee but not written yet.

Mr. Heppler asked if it was possible to get a copy of the 7th Edition. Mr. Doman replied that he and Ms. Shell had been working on a cost and had determined that it would cost about \$87, available from ASTM. He noted that he and the inspectors each have a copy, but he is not permitted by ASTM to give them out. As a member of the committee that writes the standards, he has downloading capability, but it is very carefully monitored. He thought that he could provide an excerpt occasionally, but was not in a position to give the whole standard out.

Mr. Heppler considered that the Board members would need to be able to read the standard if they were asked to support it. He questioned which of the operators would be affected by the new standard and how they would be affected. He also asked whether the new standard covered simulators, as they were not included in the summary the board members received. Mr. Doman responded that simulators have already been covered by the existing Michigan definition since 1986. Mr. Doman reiterated that if a design already exists, the new standard will not affect new models with that design.

Ms. Millben stated that the Department staff had inquired about getting copies of the standard for staff and Board members and it was agreed to by ASTM for internal use at the Department. Mr. Doman did not recall whether it was ASTM or ANSI. Mr. Kipling asked whether it would be possible for Mr. Doman to spend some time with Mr. Heppler going over the standard, rather than asking a Board member to pay for it. Ms. Riddering pointed out that the Board had already made a resolution to adopt this standard. Mr. Doman stated that he was willing to work with Mr. Heppler and suggested that they meet after the Board meeting to acquaint Mr. Heppler with the new standard.

Inflatables

Mr. Doman distributed a summary of how the State of Pennsylvania regulates inflatable devices. He noted that Pennsylvania had recently held a safety seminar, which he attended. Michigan is not regulating inflatables currently, but there are also other classes of rides that Michigan does not regulate. He considered that Pennsylvania has a creative way to regulate all their rides. He suggested that Michigan investigate Pennsylvania's system as a guide to regulate the inflatable rides Michigan is not currently regulating.

Mr. Doman noted that at the seminar he learned not only the training offered but also about their program. His conclusion was that Michigan's inspectors do more inspecting with fewer resources than anywhere else. Pennsylvania has seven inspectors that work nine to ten months a year and do around 1,300 inspections. Michigan's four inspectors do around 1,100 carnival ride inspections and another 700 ski lift inspections.

Pennsylvania's program was started in 1984 with people who were involved in the founding of Michigan's program. The only difference between Michigan and Pennsylvania regarding the definition of "amusement ride" involves the wording "or within a defined area." Other than that the definitions read identically.

Another difference with Pennsylvania's program is that they regulate amusement attractions, which involve buildings or structures, and include haunted houses, fun houses and mazes.

Mr. Doman stated that one of the most important ideas that Michigan and Pennsylvania share is the Specially Commissioned Inspectors. In Michigan when the Department commissions them, contact information is collected, and the staff can appropriately identify who is signing that the daily inspection has been correctly performed. One of the critical pieces in Pennsylvania is that they have expanded on that program so that almost all of the inspections there are done by the Specially Commissioned Inspectors. Those inspectors who are employees of the State of Pennsylvania do additional inspections, similar to our annual inspections, but close to all of the inspections done in Pennsylvania are done by the people who own and operate the equipment. These are the people who see and use the devices every day. Michigan staff inspectors see the devices only periodically or annually.

Statistics have usually shown that only about 80% of the accidents are due to the patron. A recent study from Canada, from a study of the records of the National Association of Amusement Ride Officials, a national association of inspectors, showed that 68% were due to patron misbehavior and another 11% were a combination of patron and operator error. Their conclusion was that the operators were able to stop the majority of potential accidents and make the ride safe. About 5% of incidents involved mechanical failures.

Mr. Doman pointed out that even though mechanical failures were a small part of incidents, the mechanics of the devices are important and it requires expertise to understand all of the different and constantly changing devices. Another important factor is the operator's safety knowledge. Pennsylvania has a huge education program. The inspectors and amusement park groups put brochures everywhere regarding rider safety, including in schools. They also have cards and manuals to give to operators regarding the human side of safe operation of rides.

Mr. Kipling suggested that the Department might send schools some safety brochures and coloring books two weeks before a carnival arrives in their area. The Department collects an itinerary of all carnivals, so the staff knows where they are going to be. Mr. Doman noted that another group, OABA, has a video, which Pennsylvania sends to schools along with the coloring books. It promotes business and safety. He added that they also coach the operators on how to handle the riders, not just operation of the equipment.

Mr. Doman stated that Pennsylvania has three classes of rides. Class 1 includes inflatables, rock-climbing walls, bungees, etc. Mr. Kipling noted that when bungees came out, the insurance companies made it too expensive to operate them. He asked how Michigan's safety record compared to Pennsylvania's. Mr. Doman replied that Pennsylvania reported 150 injuries on 7,000 regulated devices. Michigan reported 40 per 1,000 devices, but Pennsylvania figures include many devices that Michigan does not regulate.

Mr. Doman noted that Pennsylvania's annual inspectors do find problems that the local inspectors, who work for the operators, don't find. Pennsylvania requires the operators' inspectors to file a report for each inspection, and there is a full-time Department staff person who tracks the 7,000 rides and 1,200 inspectors. He added that Mr. Slattery is working on a database of Michigan's rides. He concluded that if Michigan decides that we need to regulate more classes of devices, a method to inspect them must be found that does not add to the current workload of inspectors. If it were possible to shift the inspecting of some of the low risk rides, he would like to have our inspectors do less inspecting and more educating.

Mr. Doman stated that the inspectors have already started carnival ride inspections, as there was an early end to the ski season. He noted that a large group of equipment had been sold to a new company and must be inspected before operating in Michigan. The Department has approved travel expenses for inspectors to go to Cleveland to do the inspections, the equipment will all be located there for easy access and Cleveland is not far from Michigan.

Update on DC Drive Overspeed Incident; Skerbeck High Flyer

Mr. Doman discussed this amusement ride failure, which caused it to keep accelerating until it was out of control. The emergency stop worked eventually, but because of the speed the ride attained, it walked off of the track, injuring sixteen passengers. The DC Drive Overspeed motor was at fault. It was supposed to drive the ride and also tell the operator what it was doing. When the motor failed, it lost the ability to know whether it was operating correctly. He noted that this motor is also used by ski lifts, but those motors have an explicit provision to prevent this problem. They have independent speed monitoring in the form of encoders, tachometers and speed switches.

Those are not required in Michigan on a carnival ride or in the ASTM standards. He spoke to ASTM regarding this. An examination report was also written and approved by the Attorney General, who recommended that the Board consider rulemaking regarding this problem. Mr. Doman recommended that they work with ASTM to look into requiring something similar to the ANSI Aerial Tramway standards for ski lifts. Another avenue is an awareness program. At the Michigan Association of Fairs & Exhibitions meeting, the Department staff had a seminar where they discussed this problem. Many people knew about the incident and were looking for guidance as to what to do. He noted that one of the methods involves hiring an engineer, but some of the manufacturers hesitate to do that.

Mr. Doman stated that the Department staff had identified about 100 rides that have a DC Drive and sent a letter to the operators regarding the problem. Some of the drives aren't a problem, but others need an encoder. The staff will contact each of them and discuss those which are going to be problems, what the consequences would be and what to do to prevent them. He suggested that the Board consider whether to begin the process to change the rules to require independent monitoring of the DC Drive motors.

Turbo Force

Mr. Doman recounted a problem that had come up very recently. The ride has an arm 130 feet long, which pivots in the middle. It rotates so that the car with four people in it goes 60 mph. It is braced with steel rods but one of the rods came loose just before the Michigan State Fair. Because of the timing, no one was injured. Only seven of these devices exist. The one in Michigan failed. One in North Dakota took a person's arm off, and six months later another one came apart in Florida. The lawsuits in these cases have been settled.

Mr. Doman has been contacted by the North American representative of this company and they are going to provide the engineering for the device according to Michigan law and rules. Mr. Kipling asked if we could ban them from Michigan because of their bad track record. Mr. Doman replied that the Department will give it a very thorough engineering analysis. The manufacturer explained the Florida accident as faulty installation. The manufacturer has redesigned the device and given it entirely new rods, claiming that it is now safe. They are operating in other states now without incident. Michigan requires an American professional engineer to sign-off on it and so far that hasn't happened. The company does not have an American professional engineer on staff. The engineer they normally have do the analysis refuses to do this one.

Mr. Slattery clarified that the device was not allowed to operate in the State of Michigan currently. He added that he was on site in North Dakota when that accident happened. He commented that it was the worst accident he has seen in his career. The 50-foot rod was swinging around 60 mph. The device was designed to have an overspeed test on it and that was when it failed. The operator was a seasoned, experienced operator doing what he should be doing. He knew the device and was very cautious with it, but it still failed and the man lost his arm. The manufacturer alleged that the device was improperly torqued, but the device had been operated for over four years. The owner changed all the steel and rods.

Mr. Pettyjohn noted that according to the law and rules the Director of the Department has the right to approve or disallow a device. Mr. Millben stated that if the Director were asked to approve any device, he would contact Mr. Millben regarding the Enforcement Division's assessment of its safety. Mr. Kipling expressed the Board's concern for the safety of the public with a device that has failed so many times and caused such horrific injuries. Mr. Slattery commented that three of the devices have come apart. The manufacturer is attempting to fix the problems and rehabilitate the device. He considered that a legal challenge would result if the Department should take a hard stand against allowing them in Michigan. He added that there are currently two in Illinois, two in Florida and one in North Dakota. Mr. Doman stated that the State of Florida hired an outside engineer to look at the device and the engineer had many questions for the manufacturer, but eventually the ride was allowed to operate in Florida. He suggested that perhaps the Department should hire an outside engineer to review it.

Mr. Heppler concluded that the device needs to be reviewed very carefully, including watching how it is performing in other states. Mr. Doman mentioned that the Department needs to look at the requirements, which have not yet been provided by the manufacturer. Mr. Slattery noted that the inspectors often see welds and failures that result from small cracks, but that wasn't what happened with this device. It failed unexpectedly all at once, with no warning, at a critical joint. That is something that the inspectors rarely see happen.

Mr. Doman responded that the joint that failed during the incident has been replaced by the manufacturer with a more reliable connection that is now engineered to very exacting European standards. His concern was that engineers had looked at it before it failed and considered it safe then also. Mr. Townsend added that he had looked at the device when it was new, and the manufacturer changed two rods shortly after it arrived in Michigan. It had a cable on it, but the cable failed. They changed two rods and put the device back into service without mentioning the problem to anyone.

Go-Kart Update

Mr. Doman reminded Board members of a go-kart issue from previous meetings. He noted that there had been friction between two owners of a go-kart track, Sportway at Waterford. Mr. Beckman of Beckman Insurance was at the Pennsylvania conference presenting safety aspects of go-kart tracks. He related to Mr. Doman that the two owners have split up and the Sportway go-kart track was now owned by Mr. Macker, who will be installing the rail system.

Licensing Division

Rules Update

Ms. Shell discussed the draft of the rules with Board members. She explained that the draft rules follow the ASTM Standards. The draft rules reference the 7th Edition of the ASTM Standards. There are also several places where the change is the name of the Department from Consumer & Industry Services to Labor & Economic Growth. She noted that the cost of some of the publications is not confirmed yet, so those figures may change.

Ms. Shell noted that the staff must submit a request for rulemaking authority to the Government Affairs Office. That would be reviewed by the Office of Administrative Hearings and Rules to be sure that there is the legal authority to adopt these rules. The Legislative Service Bureau will conduct an informal review to be sure it is in the proper form. As there is not any controversy with these rules, a public hearing should be scheduled reasonably soon. From the beginning of the process to the end it generally takes approximately twelve months.

Subcommittee Re-establishment

Ms. Riddering commented that it was not possible to re-establish the subcommittee at this meeting, as there was not a quorum. Ms. Millben stated that the subcommittee had been reviewing inflatables and other types of devices that might fall under the current definition of "ride" in the Act. The members of the subcommittee had been replaced on the Board, so a new subcommittee needed to be established and meet at a future date to continue that review. Mr. Doman suggested that when the subcommittee begins again they should include simulators in their discussions. He had not been able to determine whether any simulators need to be regulated or if some need to be regulated but not others, depending on the design. He requested that the subcommittee add them to the devices that need to be reviewed.

Licensing Statistics

Ms. Riddering stated that there were currently 898 active rides with twenty pending applications. There were 220 active companies with five pending applications and 1,716 active Special Inspector Commissions and two pending applications.

Mr. Kipling asked about the number of accidents for last year. Mr. Doman replied that there had been around 40 per year for the last four years.

Mr. Kipling asked for an estimate of the number of people riding amusement rides. Mr. Doman replied that Mr. Slattery had recently compiled numbers for the ski industry and concluded that the ski industry brought in about a quarter of a billion dollars to the State and that the carnival-amusement industry in all its facets brought in at least that much. Mr. Heppler commended the state legislature for moving the beginning of the school year back to begin after Labor Day, giving the tourist industry two more weeks of business. He considered that the tourist industry needed a boost, especially since the ski season had to close early because of the warm weather. Mr. Slattery mentioned that the Michigan State Fair has moved back to its traditional closing on Labor Day weekend.

Mr. Slattery added that the number of people riding amusement rides was equivalent to the state population. Mr. Doman added that the vast bulk of the new rides are waterslides.

ITEMS FOR CONSIDERATION FROM BOARD MEMBERS

Mr. Heppler commended the Department on the competence of the inspectors, who not only do inspections but also work with and educate the operators and owners of parks and rides. Their expertise regarding safety helps to cut down on accidents and injuries, which benefits the entire industry.

Mr. Kipling also mentioned that his term as a board member ended this year. He sent a letter to the Governor's office asking to be reappointed, but didn't know if he would be or not. He stated that he enjoyed his terms as a board member and hoped he would be reappointed for another term.

A discussion ensued as to how many Board members were on this particular Board and whether a vacancy exists. The Statute stated that the Board was comprised of six members, and the Director of the Department was also a member to cast a vote in case of a tie.

MOTION: Mr. Kipling moved that the Committee of the Whole should recommend to the full board that the Enforcement staff review very carefully and move very cautiously in regard to the turbo force ride, in the interest of protecting the public, due to its dangerous record in the past. Mr. Heppler seconded and the motion passed unanimously.

