

MINUTES OF MEETING  
OF THE INDUSTRIAL COMMISSION OF ARIZONA  
Held at 800 West Washington Street  
Phoenix, Arizona 85007  
Thursday, March 14, 2024 – 1:00 p.m.

Present:	Dennis P. Kavanaugh	Chairman
	Joseph M. Hennelly, Jr.	Vice Chair
	D. Alan Everett	Commissioner
	Maria Cecilia Valdez	Commissioner (Telephonic)
	Orion J. Godfrey	Commissioner
	Lisa Padgett	Deputy Director
	Afshan Peimani	Chief Legal Counsel
	Renee Pastor	Self-Insurance (Telephonic)
	Phil Murphy	ADOSH Interim Director
	Melissa Spurgeon	Labor Director
	James Reitmeier	ADOSH Compliance
	Kara Dimas	Commission Secretary

Chairman Kavanaugh convened the meeting at 1:01 p.m. In attendance, confirmed by roll call were Paige Millan (Snell and Wilmer); Brett Barratt and Kerry Hayden (NCCI). Also in attendance on the telephone, confirmed by roll call were Sara Hussak, Noemi Mills, Vince Tracey and Art Cuaron (City of Tucson); Ted Howard and Keele Smith (Shamrock Food Co & Shamrock Farm Co.)

Approval of Minutes of March 7, 2024 Regular Meeting Minutes.

Chairman Kavanaugh noted the Minutes from March 7, 2024 were not ready and will be on the next Agenda.

Consent Agenda:

All items following under this agenda item are consent matters and will be considered by a single motion with no discussion unless a Commissioner asks to remove an item on the consent agenda to be discussed and voted on separately. The Commission may move into Executive Session under A.R.S. § 38-431.03(A)(2) to discuss records exempt by law from public inspection. Legal action involving a final vote or decision shall not be taken in Executive Session. If such action is required, then it will be taken in General Session.

- a. Approval of Requests for Renewal of Self-Insurance Authority.
  1. City of Tucson
  2. Shamrock Food Co & Shamrock Farm Co.
  
- b. Approval of Arizona Division of Occupational Safety and Health Proposed Citations and Penalties Less Than \$15,000.
  1. CP-2023-JR339-0022                      VR Electrical Services LLC



Commissioner Everett asked about the employee beginning work at 2:30 am and if that was a normal start time or did he just decide to start at that time.

Mr. Reitmeier responded that the work time was uncommon.

Commissioner Everett asked if the drug issue was a contributing factor and if it would not have happened if drugs were not in his system.

Mr. Murphy noted it was hard to determine.

Commissioner Valdez asked if it was normal for someone to work on a vehicle, particularly large vehicles like this, by themselves with no one else present in the shop.

Mr. Murphy noted companies have different shift hours and it is not uncommon for a mechanics to work on vehicles by themselves, however in this case the compliance officer identified it was uncommon for that time of the morning to be working on the vehicle.

Commissioner Godfrey confirmed that energy controlled is the same as lock out/tag out for the energy controlled plan. When finding them for lock out/tag out procedures was it factored in that this person was the only employee operating outside of normal business hours.

Mr. Murphy noted the employer needs to create a lock out/tag out program and train employees on those even if it is only one employee on duty.

Commissioner Godfrey moved to approve the citation and proposed penalties as presented and Vice Chair Hennelly seconded the motion. Chairman Kavanaugh, Vice Chair Hennelly, Commissioner Everett, Commissioner Valdez and Commissioner Godfrey voted in favor of the motion. The motion passed.

Discussion, Action, and Potential Resolution regarding Final Rulemaking to Title 20, Chapter 5, Article 9, Youth Employment.

Ms. Peimani noted she had three final rulemakings for the Commission to approve.. The public hearing for all three rules was March 7, 2024 and there were no comments. These packets are before the Commission to enter into final rulemaking. Once approved here, we can move forward to the Governor's Office for the final approval and to the Governor's Regulatory Review Council (GRRC) or the Attorney General's Office for them to provide the final approval.

Ms. Peimani noted that Article 9 are new rules for Youth Employment that are being implemented. Article 6 has one section for Rule 629, and will need to go through the Attorney General's Office for final approval rather than GRRC, any time there is a change or adoption of an OSHA standard, the statute requires it to go through the Attorney General's Office. All three were heard for initial approval and now the Legal Division requests authorization to move forward with the final rulemaking process.

Chairman Kavanaugh noted he thought it was a good change and there is an increase in youth labor violations across the country and in Arizona and thought our statutes provided sufficient authority to gain the information that is outlined in many of the provisions, and it is advisable to be more explicit and the information you can request and duties for the employer to comply.

Ms. Peimani agreed.

Chairman Kavanaugh noted on the ADOSH rules we were also simply conforming to the fact that the Administrative Law Judge Division at the Commission no longer hears these cases, and they go to the Office of Administrative Hearing and Appeals, also with gender changes and a clear explanation on an employee's right to contest the decision of the Director.

Ms. Peimani agreed and noted a lot of these were to make things clearer upon finding that perhaps there could have been confusion and making the process for appeals and hearings clearer.

Chairman Kavanaugh asked if the language was changing the processes or revising the process for requesting a variance, was that a clean-up or any substantive change or based on experience that would clarify how employers can move to request a variance from an OSHA Standard.

Ms. Peimani agreed and noted it is to clarify more on how to do things and make sure it is easier for the public.

Chairman Kavanaugh noted there would be separate motions for each proposed rules.

Commissioner Everett moved to approve final rulemaking for Title 20, Chapter 5, Article 9, Youth Employment. Commissioner Valdez seconded the motion. Chairman Kavanaugh, Vice Chair Hennelly, Commissioner Everett, Commissioner Valdez and Commissioner Godfrey voted in favor of the motion. The motion passed.

Discussion, Action, and Potential Resolution regarding Final Rulemaking to Title 20, Chapter 5, Article 6, Occupational Safety and Health Standards.

Vice Chair Hennelly moved to approve final rulemaking for Title 20, Chapter 5, Article 6, Occupational Safety and Health Standards. Commissioner Everett seconded the motion. Chairman Kavanaugh, Vice Chair Hennelly, Commissioner Everett, Commissioner Valdez and Commissioner Godfrey voted in favor of the motion. The motion passed.

Discussion, Action, and Potential Resolution regarding Final Rulemaking to Title 20, Chapter 5, Article 8, Occupational Safety and Health Rules of Procedure Before the Industrial Commission of Arizona.

Commissioner Valdez moved to approve final rulemaking for Title 20, Chapter 5, Article 8, Occupational Safety and Health Rules of Procedure Before the Industrial Commission of Arizona. Commissioner Godfrey seconded the motion. Chairman Kavanaugh, Vice Chair Hennelly, Commissioner Everett, Commissioner Valdez and Commissioner Godfrey voted in favor of the motion. The motion passed.

Announcements, Scheduling of Future Meetings and Retirement Resolutions.

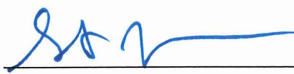
Ms. Dimas confirmed Commission meeting dates through May 2024.

Public Comment.

There was no public comment.

The meeting was adjourned at 1:27 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By   
Gaetano J. Testini, Executive Deputy Director

ATTEST:

  
Kara Dimas, Commission Secretary