

MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA
Held at 800 West Washington Street
Phoenix, Arizona 85007
Thursday, January 29, 2026 – 1:00 p.m.

Present:	Dennis P. Kavanaugh	Chairman
	Joseph M. Hennelly, Jr.	Vice Chair
	D. Alan Everett	Commissioner
	Maria Cecilia Valdez	Commissioner
	Orion J. Godfrey	Commissioner
	Gaetano J. Testini	Director
	Afshan Peimani	Chief Legal Counsel
	Lisa Padgett	Deputy Director
	Brandt Smith	Deputy Director
	Charles Carpenter	Legislative Affairs Chief/Public Information Officer
	Charles Conner	COOP Program Manager
	Melissa Spurgeon	Labor Director
	Christina Lasater	Labor Supervisor
	Kizzy McCough	Labor Supervisor
	Leticia Blanco	Labor Investigator
	Stella King	Labor Investigator
	Jason Polasko	Labor Investigator
	Brian Hudson	ADOSH Director
	Cecilia Herrera	ADOSH Deputy Director
	Phil Murphy	ADOSH Deputy Director
	Tyler Ninnemann	ADOSH Compliance
	Mingle Tang	ADOSH Compliance
	Gregory Bader	ADOSH Compliance
	Elizabeth Austin	ADOSH Compliance
	Adaysia Henderson	ADOSH Compliance
	Debbie Rol	ADOSH Admin
	Yvonne Borunda	Acting Commission Secretary
	Kara Dimas	Commission Secretary

Chairman Kavanaugh convened the meeting at 1:01 p.m. In attendance, confirmed by roll call were Tiffanie Sorrentino (Snell and Wilmer); Lindsey Wheeler (Premier Risk Management); Alexander Miramontez (Glaz-Tech Industries); Brandan Helzer (Windy City Equipment). Also in attendance on the telephone, confirmed by roll call Juanita Jantz, Drew Jantz and Marielle Babb (JANC Excavating and Construction).

Approval of Minutes of January 15, 2026 Regular Meeting Minutes.

Commissioner Everett moved to approve the Minutes of the January 15, 2026 regular session meeting and 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.

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 Arizona Division of Occupational Safety and Health Proposed Citations and Penalties Less Than \$15,000.

1. CP-2025-MG193-0008 Affordable Powder Coating, LLC
2. CP-2025-AH685-0010 AquaCrossings LLC
3. CP-2025-VM508-0071 Mohsen Oil, Inc
4. CP-2026-JW184-0196 Super Critical LLC

b. Approval of Proposed Youth Employment Penalty.

1. YL-2526-0017 West Valley Rock, LLC and/or Custom Landscape Materials, L.L.C.

Vice Chair Hennelly moved to approve the items on the Consent Agenda and 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.

Discussion and Action regarding Proposed Retaliation Penalty.

1. RT-2526-0032 Men's Ultimate Grooming, Inc. DBA Mug Haircuts

Ms. Spurgeon summarized the Labor Department's investigation into the Earned Paid Sick Time (EPST) Retaliation claim. Ms. Spurgeon recommended that the Commission approve issuance of a Penalty in the amount of \$22,950.00 for violation of A.R.S. § 23-364 and in addition a \$250.00 civil penalty pursuant to A.R.S. § 23-375(C).

Commissioner Valdez moved to approve issuance of a Penalty for Retaliation in the amount of \$22,950.00 and a \$250.00 civil penalty to Men's Ultimate Grooming, Inc. DBA Mug Haircuts. 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.

2. RT-2526- 0043 Southwest Airlines Co.

Ms. Spurgeon summarized the Labor Department's investigation into the Earned Paid Sick Time (EPST) Retaliation claim. Ms. Spurgeon recommended that the Commission approve issuance of a Penalty in the amount of \$22,200.00 for both Letters of Instruction in violation of A.R.S. § 23-364.

Commissioner Godfrey moved to approve issuance of a Penalty for Retaliation in the amount of \$44,400.00 to Southwest Airlines Co. Vice Chair Hennelly seconded the motion. Chairman

- a) 6175 S Midvale Park Rd: One employee was tasked with disconnecting trench box hoisting chains in a trench 14'2"D X 5'2"W X 30'L that was and showed signs of cave-ins and part of the protective system was not installed. 29 CFR 1926.651(k)(2) *Adjustment factors have been removed per ADOSH Director based on citations for National Emphasis Program for trenching & excavations

Div. Proposal - \$16,550.00

Formula Amt. - \$4,965.00

SERIOUS – Citation 1 - Item 4 –

- a) 6175 S Midvale Park Rd: One employee was disconnecting hoisting chains in a double stack trench box in an trench measuring 14'2"D X 5'2"W X 30'L without a end cap shields or protection from cave ins from the north open end of the trench box. 29 CFR 1926.652(a)(1) *Adjustment factors have been removed per ADOSH Director based on citations for National Emphasis Program for trenching & excavations

Div. Proposal - \$16,550.00

Formula Amt. - \$4,965.00

TOTAL PENALTY - \$61,473.00

TOTAL FORMULA AMT. - \$18,442.00

Mr. Hudson discussed ADOSH's inspection, summarized the citation and proposed penalty.

Chairman Kavanaugh checked if the Commissioners had any questions.

Vice Chair Hennelly and Mr. Hudson discussed the employee's health status, which was not in the file.

Chairman Kavanaugh noted there were several people online if they would like to offer comments.

Ms. Babb reported on the condition of the employee.

Ms. Jantz, managing member, noted their employees are important to them, this is a new ordeal for them and they were listening in. She asked about receiving a copy of the report. She would be happy to answer questions.

Commissioner Valdez moved to approve the citation and proposed penalties as presented and Commissioner Godfrey seconded the motion.

Commissioner Godfrey commented that he was grateful the employee was able to come out of this alive, hopefully healthy, and that the employer takes this serious enough to prevent this very preventable disaster from happening again in the future.

Ms. Jantz noted they do.

Mr. Jantz wanted to comment for the record about the tank. He was the onsite competent person and what the employee was doing in the moment and he should not have been.

Mr. Hudson stated ADOSH goal for trenching and excavation, and noted positive feedback for the Trenching Alliance and building resources for organizations so we do not have this happen again.

- a) Trench: Two employees repaired a water pipe inside an approximately seven ft wide 12 feet seven inches long, and six feet deep trench without having access to a safe means of egress due to the fiberglass extension ladder model # and serial # unknown being outside the protection system.

McCain Construction LLC was previously cited for a violation of this Occupational Safety and Health Standard 29 C.F.R. 1926.651(c)(2), which was contained in ADOSH inspection CP-2023-R0175-0020 Citation 1-3a and was affirmed as a final order on September 28, 2023, and abated on March 6, 2025, with respect to a jobsite located at Loop 303 and Glendale Ave, Waddell AZ 85355. 29 CFR 1926.651(c)(2) *Adjustment factors have been removed per ADOSH Director based on citations for National Emphasis Program for trenching & excavations.

Div. Proposal - \$23,646.00

Formula Amt. - \$16,552.00

SERIOUS – Citation 2 - Item 1 –

- a) Trench: One employee was inside a trench while a pipe was lifted above them with a synthetic fiber strap model # and serial # unknown that had not been inspected prior to use. 29 CFR 1926.251(a)(6) *Adjustment factors have been removed per ADOSH Director based on citations for National Emphasis Program for trenching & excavations.

Div. Proposal - \$11,823.00

Formula Amt. - \$8,276.00

SERIOUS – Citation 2 - Item 2 –

- a) Trench: One employee was inside a trench while a pipe was lifted above them with a synthetic fiber strap model # and serial # unknown by an excavator. 29 CFR 1926.651(e) *Adjustment factors have been removed per ADOSH Director based on citations for National Emphasis Program for trenching & excavations.

Div. Proposal - \$11,823.00

Formula Amt. - \$8,276.00

SERIOUS – Citation 2 - Item 3 –

- a) Trench: One employee repaired a pipe inside an approximately seven ft wide 12 feet seven inches long, and six feet deep trench while the east wall of the trench was not protected from cave-ins. 29 CFR 1926.652(a)(1) *Adjustment factors have been removed per ADOSH Director based on citations for National Emphasis Program for trenching & excavations.

Div. Proposal - \$11,823.00

Formula Amt. - \$8,276.00

SERIOUS – Citation 2 - Item 4 –

- a) Trench: Two employees installed a pipe inside an approximately seven ft wide 12 feet seven inches long, and six feet deep trench and the shoring Pro-Tec Hydraulic Vertical Shoring system was not installed in accordance with the tabulated data. 29 CFR 1926.652(c)(2)(i) *Adjustment factors have been removed per ADOSH Director based on citations for National Emphasis Program for trenching & excavations.

Div. Proposal - \$11,823.00

Formula Amt. - \$8,276.00

SERIOUS – Citation 2 - Item 5 –

Mr. Helzer was here observing and asked about his condition.

Mr. Helzer stated his condition and noted he is not back to work yet.

Chairman Kavanaugh noted he did not have another request to speak.

Commissioner Valdez 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 and Action of Attorney Fee Petition. This agenda item may include discussion concerning the processing of attorney fee petitions and the reasonable hourly rates used in analyzing fee petitions.

Abrego and Fendon - Chairman Kavanaugh noted the Commissioners received the analysis from the Legal Department and recommendation. Chairman Kavanaugh checked if the Commissioners had any questions for Ms. Peimani.

Commissioner Godfrey moved to adopt the recommendation from the Legal Department for the Findings and Award granting attorney's fees as indicated and Commissioner Valdez seconded the motion.

Vice Chair Hennelly commented on the thorough presentation that provided all of the information needed to make a decision. Chairman Kavanaugh noted it was a fair resolution for the unique circumstances for this particular case.

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.

Mr. Carpenter provided an update on the two bills that are moving, 1135 and 1136, which ran last year that will impact the Commission. He is watching quite a few and mentioned SB1515 agency run bill for technical corrections. We will be supporting a bill being run by the firefighters to correct the comma situation and in line with the substantive policy statement issued last year by the Commission.

Mr. Carpenter noted the Commission is looking at April 28 for the Workers Memorial Day and will do a recognition event similar to previous years.

Mr. Carpenter also noted the ADOSH Advisory Committee is meeting February 4th at 10:00.

Mr. Testini provided an update informing everyone that the Commission is putting together a Youth Labor Task Force, headed by our Chairman, and include our Labor Director Melissa Spurgeon, a member from the Attorney General Market Protection Unit, a person from the Arizona Anti-Trafficking Network, an employment attorney, someone from the restaurant industry, school board members, the construction industry, federal labor and a Commission attorney. The committee is charged with reviewing the statutes regarding youth labor to be more in line with the current status of the industry.

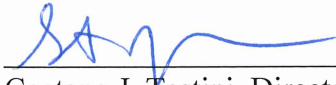
Ms. Borunda confirmed Commission meeting dates through March 2026.

Public Comment.

There was no public comment.

The meeting was adjourned at 2:21 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By 

Gaetano J. Testini, Director

ATTEST:



Anniemarie Tisi, Commission Secretary