

MINUTES OF MEETING  
OF THE INDUSTRIAL COMMISSION OF ARIZONA  
Held at City of Lake Havasu Council Chambers  
2360 McCulloch Blvd North  
Lake Havasu City, Arizona 86403  
Thursday, March 29, 2018 – 1:30 p.m.

Present:	Dale L. Schultz	Chairman
	Joseph M. Hennelly, Jr.	Vice Chair
	Scott P. LeMarr	Commissioner (Telephonic)
	James Ashley	Director
	Jason M. Porter	Chief Legal Counsel
	Trevor Laky	Legislative Affairs Chief / Public Information Officer
	Renee Pastor	Self Insurance (Telephonic)
	Jessie Atencio	ADOSH Interim Director
	Kara Dimas	Commission Secretary

Chairman Schultz convened the meeting at 1:31 p.m. Also in attendance were Gusmar Nunez and Brandon Owl with Ramar Production Services, Inc.

Approval of Minutes of March 15, 2018 Regular Meeting Minutes.

Vice Chair Hennelly moved to approve the Minutes of the March 15, 2018 regular session meeting and Commissioner LeMarr seconded the motion. Chairman Schultz, Vice Chair Hennelly, and Commissioner LeMarr 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.

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- a. Approval of Proposed Civil Penalties Against Uninsured Employers.
  1. 2C-17/18-0521 Tempe Powersports and Marine, LLC
  
- b. Approval of Requests for Renewal of Self-Insurance Authority.
  1. ABF Freight System, Inc.
  2. Intel Corporation

Chairman Schultz highlighted Intel Corporation's excellent safety record and improving experience modification rating. Vice Chair Hennelly moved to approve the items on the Consent Agenda and Commissioner LeMarr seconded the motion. Chairman Schultz, Vice Chair Hennelly, and Commissioner LeMarr voted in favor of the motion. The motion passed.

Discussion and Action of Arizona Division of Occupational Safety and Health Proposed Citations and Penalties.

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Chairman Schultz discussed the purpose of and process for the Commission's consideration of ADOSH citations and proposed penalties.

Edge Building Services, Inc. 2425 W. 12 <sup>th</sup> St., Ste 3 Glendale, AZ 85305	Fatality/Accident Years in Business: 5 Empl. Covered by inspection: 2
Site Location: 6800 N. 95 <sup>th</sup> Ave., Glendale, AZ 85305	
Inspection No: Y8817 - 1267739	
Inspection Date: 09/20/2017	

Mr. Atencio summarized ADOSH's fatality investigation and reviewed the file. He noted that ADOSH was not recommending any citations.

Chairman Schultz and Mr. Atencio discussed whether the employee's medical condition was related to work being performed.

The Commission took no action.

Printpack, Inc. 6800 E. 2 <sup>nd</sup> St., Prescott Valley, AZ 86314	Fatality/Accident Years in Business: 26 Empl. Covered by inspection: 8
Site Location: 6800 E. 2 <sup>nd</sup> St. Prescott Valley, AZ 86314	
Inspection No: A3807 - 1275850	
Inspection Date: 11/13/2017	

SERIOUS – Citation 1 - Item 1 –

- a) Press #3: Two employees worked at heights above 4 feet on the #2 and #3 decks of the Premier Press, model #7508 and serial number unknown, and were not protected from falling by standard railing or the equivalent as specified in paragraph (e)(3) of this section on all open sides when leaving the guardrail system of the 8 step rolling stair. 29 CFR 1910.23(c)(1)
- b) Press #3: Two employees worked at heights above 4 feet on the #6 and #7 decks of the Premier Press, model #7508 and serial number unknown, and were not protected from falling by standard railing or the equivalent as specified in paragraph (e)(3) of this section on all open sides when leaving the guardrail system of the 8 step rolling stair. 29 CFR 1910.23(c)(1)

Div. Proposal - \$5,000.00	Formula Amt. - \$1,750.00
TOTAL PENALTY - \$5,000.00	TOTAL FORMULA AMT. - \$1,750.00

Mr. Atencio discussed ADOSH's investigation, summarized the citation and proposed penalty, and discussed the photographs. Vice Chair Hennelly noted the prior Commission visit to the employer's plant. He and Mr. Atencio discussed the company's ladder safety program and the circumstances leading to the injury.

Chairman Schultz, Vice Chair Hennelly, and Mr. Atencio discussed abatement, the company's efforts to acquire new equipment to eliminate the hazard, and the status of the injured worker.

Commissioner LeMarr also noted the Commission's visit to the company's VPP facility. He and Mr. Atencio discussed the reasons why ADOSH was unaware of the hazard at the time of the VPP certification process and the company's efforts to abate the hazard.

Commissioner LeMarr and Mr. Porter discussed a penalty reduction based on prompt abatement.

Based upon the company's prompt abatement, strong safety program, and participation in the Voluntary Protection Program, Commissioner LeMarr moved to approve issuance of the citation with the formula penalty of \$1,750.00. Vice Chair Hennelly seconded the motion. Chairman Schultz, Vice Chair Hennelly, and Commissioner LeMarr voted in favor of the motion. The motion passed.

Chairman Schultz commended Billie Gingrass for her excellent work on the inspection.

Ramar Production Services, Inc.	Fatality/Accident	
19438 S Avenue A.,	Years in Business:	22
<u>Somerton, AZ 85350</u>	Empl. Covered by inspection:	5
Site Location:	19438 S Avenue A.,	
	Somerton, AZ 85350	
Inspection No:	E5149 - 1269947	
Inspection Date:	10/04/2017	

SERIOUS – Citation 1 - Item 1 – a) 19438 South Avenue A, Somerton, Arizona: Employee who operated the Case 586G Model, Serial #JJG0293406, Rough Terrain Forklift Truck had not been trained and evaluated in the safe operation of the powered industrial truck. A.R.S. 23-403.A

Div. Proposal - \$5,000.00	Formula Amt. - \$2,250.00
TOTAL PENALTY - \$5,000.00	TOTAL FORMULA AMT. - \$2,250.00

Mr. Atencio discussed ADOSH's investigation, summarized the citation and proposed penalty, and discussed the photographs.

Vice Chair Hennelly and Mr. Atencio discussed whether employees could safely traverse from one elevated basket to another, the different types of baskets and forklifts being used in the date industry, and whether the company properly maintained its forklifts.

Commissioner LeMarr and Mr. Atencio discussed the forklift malfunction and appropriate emergency procedures for that type of forklift malfunction.

Mr. Porter and Mr. Atencio discussed whether the citation was premised on a lack of forklift training in general or on a lack of forklift emergency procedures. They also discussed why the violation falls under the general duty clause.

Mr. Nunez discussed the nature and duration of the employer's business operations, the gravity of the incident and injury, the company's concern for the safety of its employees, the circumstances leading to the injury, the company's maintenance practices, disciplinary actions taken after the incident, the employee's expired forklift certification, and the decision to hire an in-house certified trainer. He

discussed the design of the basket, what the employees should have done under the circumstances, a variance requested from Cal-OSHA, the absence of similar incidents in the past, the company's safety program, the types of forklifts used by the company, the lock-out/tag-out status of the involved forklift, and efforts to have the forklift evaluated by a competent third party. He noted that the company's operations are in the air and discussed efforts to provide a safe workplace and the best possible equipment for employees.

Chairman Schultz noted the limited scope of the proposed citations.

Vice Chair Hennelly and Mr. Nunez discussed whether the involved employees were seasonal and the company's training program.

Based upon the company's prompt abatement and the disciplinary actions taken, Vice Chair Hennelly moved to approve issuance of the citation with the formula penalty of \$2,250.00. Commissioner LeMarr seconded the motion. Chairman Schultz, Vice Chair Hennelly, and Commissioner LeMarr voted in favor of the motion. The motion passed.

Discussion and/or action regarding Industrial Commission goals, objectives and key initiatives for 2018. This Agenda Item may include discussion regarding the Commission budget and review of Division, Department, and Section specific objectives.

Mr. Ashley and Mr. Laky provided an update on the status of House Bill 2047 and discussed Commission efforts to move the bill forward. Chairman Schultz and Mr. Ashley discussed the amendment to include a delayed enactment date.

Mr. Ashley reported that the Commission had been announced as the winner of the State Employee Charitable Campaign – based on the percentage of Commission employee contributions. He reported that the Commission would be able to select a charity to receive a \$250 contribution in the Commission's name. He and Chairman Schultz commended those employees that participated.

Mr. Ashley summarized the Commission's positive trip to Lake Havasu City. He discussed the meetings held with members of the City Council, the business community, employees, the Chamber of Commerce, and Representative Mosley. He also discussed Mr. Laky and Mr. Atencio's participation in a radio interview to discuss the Commission's safety consultation and labor-related services.

Announcements, Scheduling of Future Meetings and Retirement Resolutions.

Ms. Dimas confirmed Commission meeting dates through May 2018. Commissioner LeMarr noted his unavailability on April 26.

Mr. Ashley reminded the Commissioners about the ICA Day at the Capitol on April 12, 2018.

Mr. Atencio noted that the Fall Protection Campaign will run from May 7, 2018, to May 11, 2018. He noted that 11 employers have already requested ADOSH's participation. He invited the Commission to attend.

Mr. Atencio noted that ADOSH has two trainers on staff – one in the Phoenix office and one in the Tucson office. He discussed steps to increase training efforts.

Public Comment.

There was no public comment.

Vice Chair Hennelly moved to adjourn and Commissioner LeMarr seconded the motion. Chairman Schultz, Vice Chair Hennelly, and Commissioner LeMarr voted in favor of the motion and the meeting was adjourned at 2:20 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By James Ashley  
James Ashley, Director

ATTEST:

Kara Dimas  
Kara Dimas, Commission Secretary