

MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA
Held at 2675 East Broadway Boulevard
Tucson, Arizona 85716
Thursday, October 24, 2019 – 1:30 p.m.

Present:	Dale L. Schultz	Chairman
	Scott P. LeMarr	Commissioner
	Steven J. Krenzel	Commissioner (Telephonic)
	James Ashley	Director
	Gaetano Testini	Chief Legal Counsel
	Trevor Laky	Legislative Affairs Chief / Public Information Officer
	Renee Pastor	Self Insurance (Telephonic)
	Jessie Atencio	ADOSH Director
	Alex Ceballos	Compliance Officer
	Riley Hill	Compliance Officer
	Jordan Senia	Compliance Officer
	Kara Dimas	Commission Secretary

Chairman Schultz convened the meeting at 1:30 p.m. Also in attendance was Mike Bruns (Lee's Pipelines, Inc.).

Approval of Minutes of September 19, 2019 and October 10, 2019 Regular Meeting Minutes.

Approval of the Minutes of the September 19, 2019 regular meeting was postponed to a future agenda, as a quorum who participated in the September 19, 2019 regular meeting was not present.

Commission LeMarr moved to approve the Minutes of the October 10, 2019 regular session meeting and Commissioner Krenzel seconded the motion. Chairman Schultz, Commissioner LeMarr and Commissioner Krenzel 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 Proposed Civil Penalties Against Uninsured Employers.
 - 1. 2CNP-18/19-0719 Gringros Landscaping LLC \$1000
 - 2. 2CC19/20-0003 Iron Horse Welding Work LLC \$1000

- b. Approval of Requests for Renewal of Self-Insurance Authority.
 - 1. Parker Hannifin Corporation

Commissioner LeMarr moved to approve the items on the Consent Agenda and Commissioner Krenzel seconded the motion. Chairman Schultz, Commissioner LeMarr and Commissioner Krenzel voted in favor of the motion. The motion passed.

Presentation from and/or discussion with the Industrial Commission's Legislative Affairs Chief/Public Information Officer. This agenda item may include discussion regarding potential legislation and the operations of the Industrial Commission.

Mr. Laky discussed the Commission's efforts and also what to expect next legislative session. The Commission has also unveiled a cancer presumption data and statistics page on the website which will be updated monthly.

Mr. Ashley provided the Commissioners with the current data.

Mr. Laky explained that the Commission has wanted to gather this information for a long time and the new Claims system facilitates compiling the data. The Agency will be working on producing additional types of reports.

Mr. Ashley discussed Mr. Laky's successful communication with several media outlets regarding the collected data. Mr. Ashley also offered to the Senate Ad Hoc Committee assistance from ADOSH Industrial Hygienists (IH). In addition, the Commission is exploring conducting a safety summit focused on municipalities, first responders and firefighters.

Chairman Schultz noted a terrific way to get involved with preventative efforts.

Mr. Laky discussed deviation rates for self-insured employers which are set to expire in 2020, meeting with stakeholders, and achieving a consensus.

Mr. Laky noted the Commission will be working with the Registrar of Contractors to help them ensure a contractor has workers' compensation coverage when necessary before the contractor is issued a license.

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

Chairman Schultz discussed the purpose of and process for the Commission's consideration of ADOSH citations and proposed penalties. Mr. Atencio noted today's citations were all anonymous complaints.

Advanced Manufacturing & Power Systems AZ, Inc.	Complaint	
9 N 41 st Ave	Years in Business:	1
Phoenix, AZ 85009	Empl. Covered by Inspection:	9
Site Location:	9 N 41 st Ave	
	Phoenix, AZ 85009	
Inspection No:	V4364 -1404992	
Inspection Date:	6/3/2019	

SERIOUS – Citation 1 - Item 1 –

- a) 9 N 41st Ave, Phoenix, AZ 85009: The employer did not provide training to three employees in the use, care, maintenance, working life, and disposal of the Personal Fall Arrest Systems utilized while painting and masking the tops of generator enclosures. 29 CFR 1910.132(f)(1)
Div. Proposal - \$900.00 Formula Amt. - \$900.00

SERIOUS – Citation 1 - Item 2a –

- a) 9 N 41st Ave, Phoenix, AZ 85009: A written respiratory protection program was not developed and implemented in the workplace for four employees who worked with hazardous chemicals and welded. 29 CFR 1910.134(c)(1)
Div. Proposal - \$1,500.00 Formula Amt. - \$2,500.00

SERIOUS – Citation 1 - Item 2b –

- a) 9 N 41st Ave, Phoenix, AZ 85009: Three employees were required to wear a Honeywell 7700 series and MSA Advantage 200LS half-mask tight-fitting respirators without receiving a medical evaluation. 29 CFR 1910.134(c)(1)(ii)
Div. Proposal - \$0.00 Formula Amt. - \$1,500.00

SERIOUS – Citation 1 - Item 2c –

- a) 9 N 41st Ave, Phoenix, AZ 85009: Three employees were required to wear a Honeywell 7700 series and MSA Advantage 200LS half-mask tight-fitting respirators without receiving a fit test. 29 CFR 1910.134(c)(1)(iii)
Div. Proposal - \$0.00 Formula Amt. - \$1,500.00

SERIOUS – Citation 1 - Item 2d –

- a) 9 N 41st Ave, Phoenix, AZ 85009: Two welders were required to wear MSA Advantage 200LS half-mask tight-fitting respirators while welding carbon and alloy steels and were not trained.
- b) 9 N 41st Ave, Phoenix, AZ 85009: One painter was required to wear a Honeywell Series 7700 half-mask tight-fitting respirator while working with Carboguard and was not trained.
- c) 9 N 41st Ave, Phoenix, AZ 85009: An employee was required to wear a respirator, unknown brand, model, and serial number, while applying a sealant onto of a generator enclosure without receiving training. 29 CFR 1910.134(c)(1)(viii)
Div. Proposal - \$0.00 Formula Amt. - \$1,500.00

SERIOUS – Citation 1 - Item 3 –

- a) 9 N 41st Ave, Phoenix, AZ 85009: Two employees were operating a Hyster 60 forklift, model #H60FT and serial #L177V02502F, without receiving training.
- b) 9 N 41st Ave, Phoenix, AZ 85009: Two employees were operating a Doosan forklift, model #D1206-7 and serial #FDC09-2300-00052, without receiving training. 29 CFR 1910.178(l)(1)(i)
Div. Proposal - \$1,500.00 Formula Amt. - \$1,500.00

SERIOUS – Citation 1 - Item 4 –

SERIOUS – Citation 2 - Item 1b –

- a) 30011 W Freda Ln, Lot #322, Buckeye, AZ 85396: An employee was required to wear an SAS Safety brand N95 respirator without receiving a fit test. 29 CFR 1910.134(f)(2)
Div. Proposal - \$0.00 Formula Amt. - \$1,500.00

SERIOUS – Citation 2 - Item 1c –

- a) 30011 W Freda Ln, Lot #322, Buckeye, AZ 85396: Training was not provided to an employee who was required to wear an SAS Safety brand N95 respirator. 29 CFR 1910.134(k)(1)
Div. Proposal - \$0.00 Formula Amt. - \$1,500.00

SERIOUS – Citation 2 – Item 2a –

- a) 30011 W Freda Ln, Lot #322, Buckeye, AZ 85396: Three employees were exposed to respirable crystalline silica dust. 29 CFR 1926.1153(d)(2)(i)
Div. Proposal - \$1,500.00 Formula Amt. - \$1,500.00

SERIOUS – Citation 2 - Item 2b –

- a) 30011 W Freda Ln, Lot #322, Buckeye, AZ 85396: A written exposure control plan was developed or implemented in the workplace for employees cutting concrete roof tiles. 29 CFR 1926.1153(g)(1)
Div. Proposal - \$0.00 Formula Amt. - \$1,500.00
TOTAL PENALTY - \$6,000.00 TOTAL FORMULA AMT. - \$9,000.00

Mr. Atencio clarified that only the first Citation was a Repeat-Serious and the remaining items were Serious, and discussed ADOSH's investigation, summarized the citations and proposed penalties.

Commissioner LeMarr and Mr. Atencio discussed several photographs. and that proper fit testing would have prevented the citation.

Chairman Schultz complimented the inspection and Photograph 13 which clearly shows the extent of the exposure to the silica dust and well as excellent picture to show exposure to the others of the roof.

Commissioner LeMarr moved to approve the citation and proposed penalties as presented and Commissioner Krenzle seconded the motion. Chairman Schultz, Commissioner LeMarr and Commissioner Krenzle voted in favor of the motion. The motion passed.

Lee's Pipelines, Inc.
435 S Hamilton Ct.
Gilbert, AZ 85232

Complaint
Years in Business: 47
Empl. Covered by Inspection: 8

Site Location: Sun City Blvd & Unit 60
Florence, AZ 85232
Inspection No: B8139 -1399609
Inspection Date: 05/07/2019

SERIOUS – Citation 1 - Item 1 –

Chairman Schultz noted he thought he had seen the non-serious citations classified as serious in the past. Mr. Atencio explained that in this instance the compliance officer chose the non-serious citation based on the information received.

Chairman Schultz noted he appreciates the compliance officers' grouping and the non-serious citations because we have an employer who has done a number of things right but has not met the standards and wanted to make sure everyone understands he appreciates the efforts that are obvious and knows how hard it is to keep track of everybody everyday everywhere but this definitely put these folks at risk with the things that were not done as thoroughly or as completely as they might have been.

Mr. Atencio noted there were other excavations on the premises which were not in violation.

Commissioner LeMarr and Mr. Bruns discussed what Mr. Bruns was doing differently since the inspection.

Commissioner LeMarr moved to amend the citation proposing a 25% reduction for a total of \$3,375.00, because the company has abated the dangers and modified their practice. Commissioner Krenzel seconded the motion. Chairman Schultz, Commissioner LeMarr and Commissioner Krenzel voted in favor of the motion. The motion passed.

Discussion and/or action regarding Industrial Commission goals, objectives and key initiatives for 2019. This Agenda Item may include discussion regarding the Commission budget and review of Division, Department, and Section specific objectives.

Mr. Ashley discussed the Agency VPP Audit scheduled for November 6, 7, and 8, the five Special Government Employees (SGE's) that will participate, and that staff have been working hard and looking forward to the audit. Mr. Atencio noted there will be an opening, and closing, just like a regular inspection. Chairman Schultz would like to thank them for doing this.

Mr. Ashley noted the Golden Hard Hat award recipient for October was for ADOSH Consultation who are on track to achieve 1,000 consultation visits this year. Chairman Schultz noted his amazement at the increase in the number of consultations in a relatively short period of time and without doubling the size of the staff, making so many more workplaces and workers safe.

Announcements, Scheduling of Future Meetings and Retirement Resolutions.

Mr. Ashley announced an update from Workers' Compensation Research Institute (WCRI) who will be holding their 2021 Conference in Phoenix; Laure Lamy will present a WCRI update at our November 7, 2019 meeting.

Mr. Atencio introduced Mr. Senia, the newest Compliance Officer for the Tucson office.

Ms. Dimas confirmed Commission meeting dates through December 2019. There was some discussion about visiting Douglas or Bisbee for the first quarter of 2020.

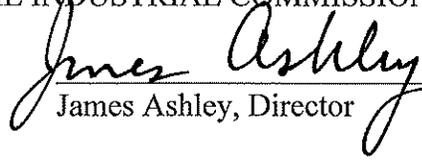
Public Comment.

There was no public comment.

Commissioner LeMarr moved to adjourn and Commissioner Krenzle seconded the motion. Chairman Schultz, Commissioner LeMarr and Commissioner Krenzle voted in favor of the motion and the meeting was adjourned at 2:36 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By


James Ashley, Director

ATTEST:


Kara Dimas, Commission Secretary