

MINUTES OF MEETING  
OF THE INDUSTRIAL COMMISSION OF ARIZONA

Held at 800 West Washington Street

Conference Room 308

Phoenix, Arizona 85007

Wednesday, August 22, 2012 – 1:00 p.m.

Present:	David Parker	Chairman (video conference)
	Kathleen Oster	Vice Chair
	John A. McCarthy, Jr.	Member
	Susan Strickler	Member
	Michael G. Sanders	Member
	Laura McGrory	Director
	Andrew Wade	Chief Counsel
	Darin Perkins	Director, ADOSH
	Renee Pastor	Self Insurance Manager
	Kamen Kovatchev	Self Insurance
	Teresa Hilton	Commission Secretary

Chairman Parker convened the Commission meeting at 1:00 p.m. noting a quorum present. Also in attendance was Jason Weber of Snell & Wilmer.

Approval of Minutes of August 10, 2012 Meeting

The Commission unanimously approved the Minutes of the August 10, 2012 meeting on motion of Mr. Sanders, second of Ms. Strickler.

Consent Agenda:

a. Approval of Proposed Civil Penalties Against Uninsured Employers.

1. 2C11/12-2265 Charlie G. Champie, a Single Man, dba Joe's Guaranteed Used Tires & Rims
2. 2C11/12-2386 Long Wong's At The Fire House, L.L.C.
3. 2C11/12-2437 Salt River Solar & Wind, L.L.C.

Chairman Parker asked whether any items needed to be removed from the consent agenda. Secretary Hilton stated that there were not. The Commission unanimously approved the consent agenda on motion of Mr. McCarthy, second of Ms. Oster.

Discussion & Action of Resolution to adopt final rulemaking amendments for A.A.C. R20-5-601 and A.A.C. R20-5-602 from the Federal Occupational Safety and Health Standards, 29 CFR 1926 Construction Standards and 29 CFR 1910 General Industry Standards respectively as published in Federal Register 76 FR 75782-75786 and which became a final rule on March 5, 2012, to adopt the Compressed Gas Association's most current references, and Federal Register 77 FR 17574-17896, March 26, 2012, to conform to the United Nation's Globally Harmonized System of classification and labeling of chemicals.

Darin Perkins advised that ADOSH is recommending the Commission proceed with final rulemaking to conform Arizona standards to the federal OSHA standards. The federal amendments became a final rule on March 5, 2012. The new amendments adopt the Compressed Gas Association's most current references, and also modify the hazard Communication standard to conform to the United Nation's Globally Harmonized System of classification and labeling of chemicals. Mr. Perkins responded to questions from Chairman Parker. Mr. Parker stated this is a big step forward because manufacturers were not necessarily consistent with their material safety data sheets and the harmonized system should make the safety data sheets more standard. The Commission unanimously approved the Notice of Final Rulemaking for A.A.C. R20-5-601 and A.A.C. R20-5-602 and directed ADOSH to file the Notice of Final Rulemaking with the Arizona Secretary of State on motion of Ms. Oster, second of Mr. Sanders.

Discussion & Action of Proposed OSHA Citations & Penalties

Madera Component Systems, Inc.  
6323 West Van Buren Street  
Phoenix, AZ 85034

Complaint  
Yrs/Business - 33  
Empl. Cov. by Insp. - 58

Site Location: 6323 West Van Buren Street, Phoenix, AZ 85034

Inspection #: X9949/316482041

Insp. Date: 04/20/12

GROUPED SERIOUS - Citation 1 - Item 1(a) - Three porta-jons provided for employee use were kept in an unsanitary condition (1910.141(a)(3)(i)).

Citation 1 - Item 1(b) - Potable water for drinking, washing and using the porta-jons was not readily available to the employees working in the outdoor shop (1910.141(b)(1)(i)). There were two other instances of this violation.

Citation 1 - Item 1(c) - The employees used a water faucet to wash their hands (1910.141(d)(2)(i)).

Citation 1 - Item 1(d) - There was no tepid water available for the employees' hand washing needs (1910.141(d)(2)(ii)).

Citation 1 - Item 1(e) - No hand soap or similar cleansing agent was provided for employees to wash their hands (1910.141(d)(2)(iii)).

Citation 1 - Item 1(f) - A means for employees to dry their hands after washing was not provided (1910.141(d)(2)(iv)).

Div. Proposal - \$1,250.00

Formula Amt. - \$1,250.00

SERIOUS - Citation 1 - Item 2 - A written lockout/tag-out program and procedures had not been updated and implemented for the maintenance and servicing on the compressors, auto mill, timber mill and all the green roller tables; and any other equipment when the unexpected energizing, start up or release of stored energy could occur and cause injury (1910.147(c)(1)).

Div. Proposal - \$1,250.00

Formula Amt. - \$1,250.00

SERIOUS - Citation 1 - Item 3 - Four employees were not trained or certified in the safe

operation of diesel powered industrial trucks (1910.178(I)(1)(i)).

Div. Proposal - \$1,250.00

Formula Amt. - \$1,250.00

SERIOUS – Citation 1 - Item 4 – Five chains and sprockets that allowed the rollers to move the lumber closer to the machine operator were not enclosed to preclude any employee from entering into the ingoing nip points (1910.219(f)(3)). There were 5 other instances of this violation.

Div. Proposal - \$1,250.00

Formula Amt. - \$1,250.00

SERIOUS – Citation 1 - Item 5 – A circuit breaker panel labeled “A” was not effectively closed, as there were gaps above breakers 1, 2, 29 and 30 (1910.305(b)(1)(ii)).

Div. Proposal - \$1,250.00

Formula Amt. - \$1,250.00

TOTAL PENALTY - \$6,250.00

TOTAL FORMULA AMT. - \$6,250.00

Darin Perkins summarized the citations and proposed penalty as listed and responded to questions from the Commissioners. The Commission unanimously approved issuing the citations and assessed the recommended penalty of \$6,250.00 on motion of Mr. McCarthy, second of Mr. Sanders.

Century Roofing, Inc.  
2615 W. Lone Cactus Drive  
Phoenix, AZ 85027-2412

Referral  
Yrs/Business – 21  
Empl. Cov. by Insp. – 4

Site Location: 9999 E. Cholla Street, Phoenix, AZ 85260

Inspection #: Y5457/316482157

Insp. Date: 04/23/12

SERIOUS – Citation 1 – Item 1 – One employee was working on a balcony approximately 12’ above the ground that was not guarded by a standard rail and a toe-board (A.R.S. § 23-0403(A)).

Div. Proposal - \$3,000.00

Formula Amt. - \$3,000.00

SERIOUS – Citation 1 - Item 2 – Three employees were working on the first story roof of a residence, with an approximate 5:12 pitch, at approximately 12’ above the ground and had not implemented fall protection through a written fall protection plan (A.R.S. § 23-0403(A)).

Div. Proposal - \$3,000.00

Formula Amt. - \$3,000.00

SERIOUS – Citation 1 - Item 3 – Three employees were stepping up and over approximately 30” high window openings without a step or ramp (1926.1051(a)).

Div. Proposal - \$1,500.00

Formula Amt. - \$1,500.00

SERIOUS – Citation 1 - Item 4 – Four employees were accessing a 13’ high second story level by a stairway that was lacking at least one handrail (1926.1052(c)(1)(ii)).

Div. Proposal - \$1,500.00

Formula Amt. - \$1,500.00

TOTAL PENALTY - \$9,000.00

TOTAL FORMULA AMT. - \$9,000.00

Darin Perkins summarized the citations and proposed penalty as listed and responded to questions from the Commissioners. He explained that this inspection occurred after SB 1441 became effective but before the Industrial Commission’s rule implementing the new residential fall protection standards and the fall protection citations are under the general duty clause. He explained that the violation would be the same under both the general duty clause and the new standards under SB 1441 and the penalty amount would be the same either way. Ms. Strickler

requested that ADOSH advise the employer that under the new standard this would be the same penalty and clarify that consideration was given to the uniqueness of the time frame. Ms. McGrory discussed the general duty clause and the SB 1441 emergency clause. Chairman Parker also requested that language be added in the letter to the employer clarifying that if the conditions had been cited under the new law it would be a violation although it would be cited differently. The Commission unanimously approved issuing the citations and assessed the recommended penalty of \$9,000.00 on motion of Ms. Oster, second of Ms. Strickler.

Discussion & Action regarding Application for Self Insurance Authority. 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

Ruan Transportation Management Systems, Inc. – Chairman Parker asked if any of the Commissioners thought it was necessary to go into Executive Session. Hearing none, he stated Ms. Pastor could present her report and the Commission could go into Executive Session later if needed. Renee Pastor presented staff's report along with a current Dunn and Bradstreet credit rating and responded to questions from the Commissioners. Administration is recommending approval of workers' compensation self-insurance authority effective September 1, 2012 based on the submission of a complete and satisfactory application and meeting all of the requirements for a self-insured employer in the State of Arizona; a clean audit report; the company's stability and profitability; and acceptable credit ratings. The Commission unanimously granted self-insurance authority effective September 1, 2012 on motion of Ms. Oster, second of Mr. Sanders.

Discussion & Action regarding Requests for Renewal of Self Insurance Authority. 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

Chairman Parker asked if any of the Commissioners thought it was necessary to go into Executive Session. Hearing none, he stated Ms. Pastor could present her reports and the Commission could go into Executive Session later if needed.

Purcell Tire & Rubber Company (dba Purcell Western States Tire) – Ms. Pastor presented staff's renewal report along with current credit rating from Dunn and Bradstreet. Administration is recommending renewal of self-insurance authority due to the Company's financial stability, large size with total assets of just over \$118.7 million; clean audit report and acceptable credit ratings. Following discussion, the Commission unanimously approved renewal of self-insurance authority on motion of Mr. Sanders, second of Mr. McCarthy.

QuikTrip Corporation – Ms. Pastor presented staff's renewal report along with a current Dunn and Bradstreet credit rating. Administration is recommending approval of continuance of self-insurance authority based on the Company's good financial condition; an acceptable credit rating and the meeting of all requirements for a self-insured employer in the State of Arizona. The Commission unanimously approved continuance of self-insurance authority on motion of Ms. Oster, second of Ms. Strickler.

Discussion & Action of Applications for Renewal of Self-Insurance Authority

The Kroger Company – John McCarthy recused himself from consideration of this agenda item. Renee Pastor presented staff's renewal report along with current Fitch, Moody's, and Dunn and Bradstreet bond and credit ratings and responded to questions from the Commissioners. Administration is recommending renewal of workers' compensation self-insurance authority based on their financial stability, assets of just over \$23 billion and a clean audit report and acceptable bond and credit ratings. The Commission granted continuance of self-insurance authority on motion of Mr. Sanders, second of Ms. Oster with a vote of four in favor and none against. Mr. McCarthy did not participate in the discussion or vote.

Mayo Clinic - Renee Pastor presented staff's renewal report along with a current Dunn and Bradstreet credit rating and responded to questions from the Commissioners. Administration is recommending renewal of workers' compensation self-insurance authority based on their financial stability, total assets of just over \$10.1 billion, a clean audit report, and acceptable credit ratings. Mr. Parker asked if the Commission had any method to recognize a well-run business particularly one that has done this well this long and consistently been a shining star. The Commission unanimously granted renewal of self-insurance authority on motion of Ms. Strickler, second of Mr. McCarthy. Director McGrory stated that staff will work on putting together some suggestions for a recognition program and will check to see what other states are doing. Mr. Parker stated that if any of the Commissioners have any specific ideas to let Ms. Pastor know.

Announcements and Scheduling of Future Meetings

Meetings were scheduled through the remainder of the year and into 2013 as follows: September 5, September 19, September 26, October 10, October 17, October 24, November 8, November 14, November 28, December 5, December 12 (if necessary), December 19, 2012, and January 9, 2013.

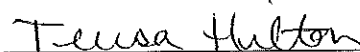
There being no further business to come before the Commission and no public comment, Chairman Parker adjourned the meeting at 1:48 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By

  
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Laura L. McGrory, Director

ATTEST:

  
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Teresa Hilton, Commission Secretary