

MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA
Held at 800 West Washington Street
Phoenix, Arizona 85007
Thursday, October 3, 2024 – 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 (Telephonic)

Gaetano J. Testini Director
Afshan Peimani Chief Legal Counsel
Lisa Padgett Deputy Director
Charles Carpenter Legislative Affairs Chief/Public Information Officer
Brian Hudson ADOSH Director
Victoria Medina ADOSH Supervisor
Anna Maria Stonerock ADOSH Compliance
Bethany Votta ADOSH Admin
Kara Dimas Commission Secretary

Chairman Kavanaugh convened the meeting at 1:00 p.m. In attendance was Geneva Haber (Snell and Wilmer).

Approval of Minutes of September 25, 2024 Regular Meeting Minutes.

Vice Chair Hennelly moved to approve the Minutes of the September 25, 2024 regular session meeting and 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.

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-2024-JR339-0059 Stardust Non-Profit Building Supplies, Inc.
2. CP-2024-ZP447-0004 Storm Pro Roofing LLC

Commissioner Valdez moved to approve the items on the Consent Agenda and 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 and Action of Arizona Division of Occupational Safety and Health Proposed Citations and Penalties.

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

Walmart Inc. dba Walmart Supercenter #1370 2608 SE J St Mail Stop 0505 <u>Bentonville, AR 72716</u>	Referral-Employer Reported Years in Business: 62 Empl. Covered by Inspection: 8
Site Location: 2840 Arizona 95 Bullhead City, AZ 86442	
Inspection No: RF-2024-AM866-0019	
Inspection Date: April 5, 2024	

SERIOUS – Citation 1 - Item 1 –

- a) Stockroom receiving/unloading: Two employees perform maintenance work on a Fast System Unloading Machine without specific proper lockout/tagout procedures. 29 CFR 1910.147(d)(2)

Div. Proposal - \$16,131.00	Formula Amt. - \$16,131.00
TOTAL PENALTY - \$16,131.00	TOTAL FORMULA AMT. - \$16,131.00

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

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

Commissioner Everett moved to approve the citation and proposed penalties as presented 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.

Engineered Concepts Metal Fabrication, Inc. 7941 East Lakeside Parkway <u>Tucson, AZ 85730</u>	Complaint Years in Business: 21 Empl. Covered by Inspection: 3
Site Location: 9367 East Old Vail Road Tucson, AZ 85747	
Inspection No: CP-2024-MB431-0048	
Inspection Date: April 10, 2024	

SERIOUS – Citation 1 - Item 1 –

- a) Storage area: Employees were exposed to struck-by and/or crushing hazards while removing materials from storage racks that were not anchored and bolted into the ground. A.R.S. 23-403.A

Div. Proposal - \$3,457.00	Formula Amt. - \$3,457.00
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SERIOUS – Citation 1 - Item 2a –

- a) 9367 East Old Vail Road, Tucson: Three employees welding were required to purchase their own Personal Protective Equipment (PPE) such as welding helmets. 29 CFR 1910.132(a)
Div. Proposal - \$3,457.00 Formula Amt. - \$3,457.00

SERIOUS – Citation 1 - Item 2b –

- a) 9367 East Old Vail Road Tucson: A hazard assessment had not been performed for employees conducting tasks such as welding galvanized steel. 29 CFR 1910.132(d)(2)
Div. Proposal - \$0.00 Formula Amt. - \$3,457.00

SERIOUS – Citation 1 - Item 3a –

- a) Maintenance Bay: Employees used a Nissan forklift, Model MP1F2A25DV, Chassis # P1F2-9H4980 that had a hole drilled into one tine, and no written approval for the modification was obtained from the manufacturer. 29 CFR 1910.178(a)(4)
Div. Proposal - \$2,074.00 Formula Amt. - \$3,457.00

SERIOUS – Citation 1 - Item 3b –

- a) 9367 East Old Vail Road Tucson: Employees operated a Nissan forklift, Model MP1F2A25DV, Chassis # P1F2-9H4980 and a Toyota forklift Model # BFGU25V, Serial # 12099 without having been trained by the employer. 29 CFR 1910.178(l)(3)
Div. Proposal - \$0.00 Formula Amt. - \$3,457.00

SERIOUS – Citation 1 - Item 3c –

- a) Maintenance Bay: Employees operated a Nissan forklift Model # MP1F2A25DV, Chassis # P1F2-9H4980 that had a deformed/damaged seat.
b) Maintenance Bay: Employees operated a Toyota forklift Model # BFGU25V, Serial # 12099 that lacked a seatbelt and had a broken ignition switch. 29 CFR 1910.178(p)(1)
Div. Proposal - \$0.00 Formula Amt. - \$3,457.00

SERIOUS – Citation 1 - Item 4a –

- a) 9367 East Old Vail Road Tucson: Employees used hazardous compressed gasses such as Nitrogen, Carbon Dioxide, Argon and Oxygen, and a written Hazard Communication (HAZCOM) program had not been implemented in the workplace. 29 CFR 1910.1200(e)(1)
Div. Proposal - \$3,457.00 Formula Amt. - \$3,457.00

SERIOUS – Citation 1 - Item 4b –

- a) 9367 East Old Vail Road Tucson, AZ: Employees used hazardous compressed gasses such as Nitrogen, Carbon Dioxide, Argon, and Oxygen without having access to the Safety Data Sheets (SDS). 29 CFR 1910.1200(g)(8):
Div. Proposal - \$0.00 Formula Amt. - \$3,457.00

SERIOUS – Citation 1 - Item 5 –

a) 9367 East Old Vail Road Tucson, AZ: Employees used hazardous compressed gasses such as Nitrogen, Carbon Dioxide, Argon and Oxygen without being trained on the hazards associated with them. 29 CFR 1910.1200(h)(1)
Div. Proposal - \$3,457.00 Formula Amt. - \$3,457.00
TOTAL PENALTY - \$17,285.00 TOTAL FORMULA AMT. - \$31,113.00

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

Chairman Kavanaugh commented that the company has been in business for 21 years without any serious injuries despite the variety of dangerous situations. It is disappointing to see the depth of the situation.

Commissioner Valdez moved to approve the revised citation and proposed penalties of \$17,285.00 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.

Announcements, Scheduling of Future Meetings and Retirement Resolutions.

Ms. Dimas confirmed Commission meeting dates through November 2024.

Mr. Testini commented that the agency joins the Governor's Office and other state agencies in lighting our building purple for the month of October in recognition of Domestic Violence Awareness.

Chairman Kavanaugh commented that the Administrative Law Judge Division is in the process of interviewing two Judge positions in the Tucson Office, one for a new position and one for a Vice Chief ALJ.

Public Comment.

There was no public comment.

The meeting was adjourned at 1:23 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By



Gaetano J. Testini, Director

ATTEST:



Kara Dimas, Commission Secretary