

MINUTES OF MEETING  
OF THE INDUSTRIAL COMMISSION OF ARIZONA  
Held at 800 West Washington Street  
Phoenix, Arizona 85007  
Thursday, January 23, 2025 – 1:00 p.m.

Present:	Dennis P. Kavanaugh	Chairman
	Joseph M. Hennelly, Jr.	Vice Chair
	D. Alan Everett	Commissioner
	Maria Cecilia Valdez	Commissioner
	Gaetano J. Testini	Director
	Afshan Peimani	Chief Legal Counsel
	Lisa Padgett	Deputy Director
	Charles Carpenter	Legislative Affairs Chief/Public Information Officer
	Renee Pastor	Self-Insurance (Telephonic)
	Melissa Spurgeon	Labor Director
	Christina Sanchez	Labor Supervisor
	Christina Lasater	Labor Supervisor
	Vincent Argana	Labor Investigator
	Kimberly Gooby	Labor Investigator
	Mackenzie Scharf	Claims
	Halina Clark	Claims
	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 1:03 p.m. In attendance, confirmed by roll call were Geneva Haber (Snell and Wilmer) and Dan Wallace (self).

Chairman Kavanaugh pulled Item 5.2. RT-2425-0057 Oxford Bank Corporation from today's Agenda for further evaluation.

Approval of Minutes of January 16, 2025 Regular Meeting Minutes.

Commissioner Everett moved to approve the Minutes of the January 16, 2025 regular session meeting and Vice Chair Hennelly seconded the motion. Chairman Kavanaugh, Vice Chair Hennelly, Commissioner Everett and Commissioner Valdez 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 Arizona Division of Occupational Safety and Health Proposed Citations and Penalties Less Than \$15,000.

1. UR-2024-AM866-0035 Eleven Western Builders Inc.
2. RF-2024-EG419-0078 Oakland Construction Company, Inc.
3. CP-2024-AM866-0028 Transmission & Automotive Outlet, L.L.C.
4. CP-2024-MB431-0062 Transmission & Automotive Outlet, L.L.C.

Commissioner Valdez moved to approve the items on the Consent Agenda and Vice Chair Hennelly seconded the motion. Chairman Kavanaugh, Vice Chair Hennelly, Commissioner Everett and Commissioner Valdez voted in favor of the motion. The motion passed.

Discussion and Action regarding Establishment of Discount Rate for Calculating Lump Sum Commutations under A.A.C. R20-5-121(B).

Chairman Kavanaugh commented this is an annual action for the Commission and staff prepared a memo updating the discount rate to be used in calculating the present value of an award under A.A.C. R20-5-121 and R20-5-122. Staff recommended setting the discount rate at 2.78% for calculating fixed period and permanent lump sum commutations, effective immediately.

Vice Chair Hennelly moved to approve staff recommendation to use a 2.78% discount rate in the calculation for lump sum commutations under A.A.C. R20-5-121 and R20-5-122, effective immediately. Commissioner Everett seconded the motion. Chairman Kavanaugh, Vice Chair Hennelly, Commissioner Everett and Commissioner Valdez voted in favor of the motion. The motion passed.

Discussion and Action regarding Proposed Retaliation Penalty.

1. RT-2425-0058 Mohave Farms, LLC dba Jars Cannabis

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 \$5,550.00 for violation of A.R.S. § 23-364 and in addition a \$250.00 civil penalty pursuant to A.R.S. § 23-364(F).

Chairman Kavanaugh asked if the Commissioners had any questions.

Commissioner Valdez moved to approve issuance of a Penalty for Retaliation in the amount of \$5,550.00 and a \$250.00 civil penalty to Mohave Farms, LLC dba Jars Cannabis. Commissioner Everett seconded the motion Chairman Kavanaugh, Vice Chair Hennelly, Commissioner Everett and Commissioner Valdez voted in favor of the motion. The motion passed.

Discussion and Action regarding Proposed Sick Time Subsequent Civil Penalty.

1. ST-2425-0130 PeopleReady, Inc. and/or True Blue, Inc.

Ms. Spurgeon summarized the Labor Department's investigation into a violation of A.R.S. § 23-372(A) and A.R.S. § 23-375(C) for a prior Earned Paid Sick Time (EPST) Retaliation claim. Ms. Spurgeon noted on March 24, 2023 the Labor Department assessed a civil penalty in the amount of \$250.00 for violating the same statute, which was not paid by the employer. On October 18, 2024 the Labor Department received another complaint against the employer for the same violation. The employer is still not in compliance with the statute. The Department recommended issuance of a subsequent Civil Penalty of \$1,000.00 for violation of A.R.S. § 23-375(C).

Chairman Kavanaugh asked if the Commissioners had any questions.

Commissioner Everett moved to approve the issuance of a Subsequent Civil Penalty in the amount of \$1,000.00 to PeopleReady, Inc. and/or True Blue, Inc. Vice Chair Hennelly seconded the motion. Chairman Kavanaugh, Vice Chair Hennelly, Commissioner Everett and Commissioner Valdez voted in favor of the motion. The motion passed.

Discussion and Action of Resolution Appointing Custodian of Records.

Halina Clark

Ms. Scharf introduced Ms. Clark and let the Commission know what Ms. Clark's duties would be.

Commissioner Valdez moved to appoint Ms. Clark as Custodian of Records and Commissioner Everett seconded the motion. Chairman Kavanaugh, Vice Chair Hennelly, Commissioner Everett and Commissioner Valdez 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.

Gerardo Olmedo DBA The Lost Barrio Gallery	Complaint
208 South Park Avenue	Years in Business: 6
Tucson, AZ 85719	Empl. Covered by Inspection: 2
Site Location: 208 South Park Avenue	
Tucson, AZ 85719	
Inspection No: CP-2024-MB431-0063	
Inspection Date: July 26, 2024	

SERIOUS – Citation 1 - Item 1a –

- a) Woodworking shop: Two employees were exposed to a Kidde class ABC fire extinguisher that was not mounted and identified for use. 29 CFR 1910.157(c)(1) \*Penalty Calculated based on highest amount in group (1-1b)
- |                            |                           |
|----------------------------|---------------------------|
| Div. Proposal - \$2,765.00 | Formula Amt. - \$2,074.00 |
|----------------------------|---------------------------|

SERIOUS – Citation 1 - Item 1b –



- a) Woodworking shop: Two employees were exposed to a Kidde class ABC fire extinguisher that had not been visually inspected on a monthly basis. 29 CFR 1910.157(e)(2)  
Div. Proposal - \$0.00 Formula Amt. - \$2,765.00

SERIOUS – Citation 1 - Item 1c –

- a) Woodworking shop: Two employees were exposed to a Kidde class ABC fire extinguisher that had not been subjected to an annual maintenance check. 29 CFR 1910.157(e)(3)  
Div. Proposal - \$0.00 Formula Amt. - \$2,074.00

SERIOUS – Citation 1 - Item 2 –

- a) Woodworking shop: Two employees were exposed to a JET 18" bandsaw, model JWBS-18-3, serial number 0606763, that lacked an adequate guard surrounding the blade. 29 CFR 1910.213(i)(1)  
Div. Proposal - \$3,457.00 Formula Amt. - \$3,457.00

SERIOUS – Citation 1 - Item 3 –

- a) Woodworking shop: Two employees used a Dewalt 4 ½" angle grinder, model DWE4120N, serial number unknown without safety guards. 29 CFR 1910.243(c)(3)  
Div. Proposal - \$3,457.00 Formula Amt. - \$3,457.00

SERIOUS – Citation 1 - Item 4 –

- a) Woodworking shop: Two employees worked in close proximity to an electrical panel whose door was not attached. 29 CFR 1910.303(g)(2)(i)  
Div. Proposal - \$3,457.00 Formula Amt. - \$3,457.00

SERIOUS – Citation 1 - Item 5 –

- a) Woodworking shop: Employees used a Delta table saw, model 36-275, serial number 14A 015450 2014 02 CT, to cut wood, and the power cord had a damaged outer jacket.  
b) Woodworking shop: Employees used an industrial floor fan, make model and serial number unknown, whose power cord had been spliced together.  
c) Woodworking shop: Employees used an electrical extension cord that had a damaged outer jacket to power an industrial floor fan. 29 CFR 1910.334(a)(2)(ii)  
Div. Proposal - \$2,765.00 Formula Amt. - \$2,765.00

SERIOUS – Citation 1 - Item 6a –

- a) Woodworking shop: Two employees used chemicals such as Mohawk Lacquer sealer, various stains and wood glues without access to a written hazard communication program. 29 CFR 1910.1200(e)(1)  
Div. Proposal - \$2,074.00 Formula Amt. - \$2,074.00

SERIOUS – Citation 1 - Item 6b –



- a) Woodworking shop: Two employees used chemicals such as Mohawk Lacquer sealer, various stains and wood glues without access to Safety Data Sheets. 29 CFR 1910.1200(g)(8)  
 Div. Proposal - \$0.00 Formula Amt. - \$2,074.00

SERIOUS – Citation 1 - Item 6c –

- a) Woodworking shop: Two employees used chemicals such as Mohawk Lacquer sealer, various stains and wood glues without training on use, storage or safe handling of chemicals. 29 CFR 1910.1200(h)(1)  
 Div. Proposal - \$0.00 Formula Amt. - \$2,074.00  
 TOTAL PENALTY - \$17,975.00 TOTAL FORMULA AMT. - \$26,271.00

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

Chairman Kavanaugh commented he was glad a complaint was made since there are quite a few violations for a company that has three employees. Mr. Hudson note the good news is they are going to be put on the right track.

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 and Commissioner Valdez voted in favor of the motion. The motion passed.

Marrs Construction, Inc. 711 W Happy Valley Rd Phoenix, AZ 85085	Referral Years in Business: 12 Empl. Covered by Inspection: 5
Site Location: 15000 W Indian School Road Goodyear, AZ 85395	
Inspection No: RF-2024-RS480-0132	
Inspection Date: July 26, 2024	

REPEAT-SERIOUS – Citation 1 - Item 1 –

- a) W Indian School drive, Goodyear: Two employees were installing 12" pipes in an excavation that had a vertical wall that was about 10' deep without excavation protection when it collapsed. 29 CFR 1926.652(a)(1) \*first-time repeat + small employer = Multiplier of 2

Marrs Construction, Inc. was previously cited for a violation of the Occupational Safety and Health Standard or its equivalent standard 29 CFR 1926.652(a)(1) which was contained in the ADOSH inspection 1426934, citation number 01, item number 02 and was affirmed as final order on 03/03/2020, and abated on 08/30/2019, with respect to a workplace on W Lincoln St. Phoenix, AZ.

Div. Proposal - \$16,134.00 Formula Amt. - \$16,134.00

REPEAT-SERIOUS – Citation 1 - Item 2 –

- a) W Indian School drive, Goodyear: Two employees were installing 12" pipes in an excavation that was about 10' deep against a bridge and under a metal gate that had not been supported to prevent collapse. 29 CFR 1926.651(i)(3) \* Second-time repeat + small employer = Multiplier of 5

Marrs Construction, Inc. was previously cited for a repeat-serious violation of the Occupational Safety and Health Standard or its equivalent standard 29 CFR 1926.651(i)(3) which was contained in the ADOSH inspection 1471235, citation number 01, item number 01 and was affirmed as final order on 10/20/2020, and abated on 03/31/2020, with respect to a workplace on Cotton Lane and Cactus Road, Phoenix, AZ.

The Marrs Construction, Inc. was previously cited for a violation of this occupational safety and health standard or its equivalent standard 1926.652(a)(1), which was contained in ADOSH inspection number 1426934, citation number 1, item number 2 and was affirmed as a final order on 03/03/2020, with respect to a workplace located at 402 W. Lincoln St., Phoenix, AZ 85003, and was abated on 8/30/2019.

Div. Proposal - \$40,334.00

Formula Amt. - \$40,334.00

NON-SERIOUS –

- a) W Indian School drive, Goodyear: One employee was hospitalized as a result of an excavation collapse that was not reported. 29 CFR 1904.39(a)(2)

Div. Proposal - \$5,000.00

Formula Amt. - \$5,000.00

TOTAL PENALTY - \$61,468.00

TOTAL FORMULA AMT. - \$61,468.00

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

Vice Chair Hennelly confirmed with Mr. Hudson that there was an injury. Mr. Hudson did not know the status of the injury.

Vice Chair Hennelly asked if there was any communication from the employer why they repeatedly fail to comply with these very important safety procedures with respect to trenching. Mr. Hudson noted he has not had discussions at this time. Ms. Medina noted there were different crews with different foreman each time.

Chairman Kavanaugh noted he had not seen a double repeat. He confirmed with Mr. Hudson that the \$5,000.00 was permitted in the Field Operations Manual at the discretion of the ADOSH Director. Mr. Hudson noted the \$1,000.00 penalty seems to him that companies would be willing to gamble with the chances of not ever having an inspection, and as serious as it is to report, considering raising the amount from \$1,000.00 to \$5,000.00 for failing to report on future violations that come to the Commission.

Chairman Kavanaugh noted he did not have a 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 and Commissioner Valdez voted in favor of the motion. The motion passed.

Piana Nonwovens LLC, AZ  
2801 N Main St  
San Luis, AZ 85349

Site Location: 2801 N Main St  
San Luis, AZ 85349  
Inspection No: RF-2024-ZP447-0022

Referral  
Years in Business: 5  
Empl. Covered by Inspection: 35

Inspection Date: July 31, 2024

REPEAT-SERIOUS – Citation 1 - Item 1 –

- a) Regrind Machine: Employees were exposed to the operation and maintenance of the Regrind Machine without having specific procedural steps in place for shutting down, isolation, blocking and securing machines or equipment to control hazardous energy. 29 CFR 1910.147(c)(4)(ii)(B)

Piana Nonwovens LLC, AZ was cited for a violation of the Occupational Safety and Health Standard or its equivalent Standards 29 CFR 1910.147(c)(1) which was contained in the ADOSH Inspection RF-2023-E7721-0086, citation number 1, item number 1 and was affirmed as final order on August 3, 2023, and was abated on February 17, 2023, with respect to a workplace location of 2801 N Main St, San Luis, AZ 85349.

Div. Proposal - \$16,134.00

Formula Amt. - \$16,134.00

SERIOUS – Citation 2 - Item 1a –

- a) Regrind machine: Employees exposed to a regrind machine with an unguarded nip point at the point where the grinding roller intook fibers.
- b) Regrind machine: Employees exposed to an unguarded circular opening exposed to the moving inner belt creating an ingoing nip point. 29 CFR 1910.212(a)(1) \*Based on causal factor for the highest penalty of grouped items (1-2c)

Div. Proposal - \$16,131.00

Formula Amt. - \$16,131.00

SERIOUS – Citation 2 - Item 1b –

- a) Regrind Machine, near Pinch Point sticker: Employees exposed to an unguarded projecting shaft end.
- b) Regrind Machine, near circular opening at point of operation: Employees exposed to an unguarded projecting shaft end. 29 CFR 1910.219(c)(4)(i)

Div. Proposal - \$0.00

Formula Amt. - \$16,131.00

SERIOUS – Citation 2 - Item 1c –

- a) Regrind Machine: Employees exposed to an unguarded rotating shaft when using the regrind machine. 29 CFR 1910.219(c)(2)(i)

Div. Proposal - \$0.00

Formula Amt. - \$16,131.00

TOTAL PENALTY - \$32,265.00

TOTAL FORMULA AMT. - \$64,527.00

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 and Commissioner Valdez voted in favor of the motion. The motion passed.

Refrigeration Unlimited, LLC  
5621 South 24th Street

Referral  
Years in Business:

25



Site Location: 15581 W McDowell Rd  
 Goodyear, AZ 85395  
 Inspection No: RF-2024-AM866-0034  
 Inspection Date: August 6, 2024

SERIOUS – Citation 1 - Item 1 –

- a) Mechanical Room; One employee exposed to electrical hazards when utilizing extension cords plugged into non-GFCI outlets installed in a spider box. 29 CFR 1926.404(b)(1)(i)  
 \*Per ADOSH Director as causal factor

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 confirmed with Mr. Hudson that the employee survived.

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

Vice Chair Hennelly moved to approve the citation and proposed penalties as presented and Commissioner Everett seconded the motion. Chairman Kavanaugh, Vice Chair Hennelly, Commissioner Everett and Commissioner Valdez voted in favor of the motion. The motion passed.

Discussion and/or Action regarding Approval of Substantive Policy Statement: Definition of Adenocarcinoma in the Scope of Firefighter and Fire Investigator Workers’ Compensation Claims.

Chairman Kavanaugh noted he would like to add to the staff memo, he was the original drafter of § 23-901.01 and §23-1043.01 in terms of listing the diseases and used the comma after Adenocarcinoma and former colleagues at Legislative Counsel do not like Oxford commas and when it was drafted they omitted the comma. He does appreciate the fact that the Commission rule adopted a number of years ago, provided separate coding for that. What he sees from Commission staff is consistent with the statute and the intended original draft was to have a simple listing of each disease. He agreed with the recommendation to adopt this policy.

Commissioner Valdez moved to direct the Legal Division to issue the proposed Substantive Policy Statement related to Definition of Adenocarcinoma in the Scope of Firefighter and Fire Investigator Workers’ Compensation Claims. Commissioner Everett seconded the motion. Chairman Kavanaugh, Vice Chair Hennelly, Commissioner Everett and Commissioner Valdez voted in favor of the motion. The motion passed.

Announcements, Scheduling of Future Meetings and Retirement Resolutions.

Ms. Dimas confirmed Commission meeting dates through February 2025.

Mr. Testini commented that Workers’ Injury Law and Advocacy Group (WILG) will be hosting their conference in Phoenix this Friday and Saturday at the Boulders Resort. He will be speaking Saturday morning and Mr. Hudson and the ADOSH Deputy Directors will be doing a panel in the afternoon.

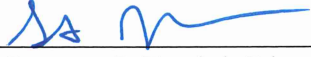
Public Comment.

There was no public comment.

The meeting was adjourned at 1:46 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By

  
\_\_\_\_\_  
Gaetano J. Testini, Director

ATTEST:

  
\_\_\_\_\_  
Kara Dimas, Commission Secretary