

MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA
Held at 800 West Washington Street
Phoenix, Arizona 85007
Thursday, February 13, 2025 – 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
	Gaetano J. Testini	Director
	Afshan Peimani	Chief Legal Counsel
	Lisa Padgett	Deputy Director
	Charles Carpenter	Legislative Affairs Chief/Public Information Officer
	Melissa Spurgeon	Labor Director
	Christina Sanchez	Labor Supervisor
	Christina Lasater	Labor Supervisor
	Vincent Argana	Labor Investigator
	Jason Polasko	Labor Investigator
	Kimberly Gooby	Labor Investigator
	Brian Hudson	ADOSH Director
	Bryce Rucker	ADOSH Assistant Director
	Jonathon Wright	ADOSH Compliance
	Brian Mason	ADOSH Compliance
	Mireya Gomez	ADOSH Compliance
	Bethany Votta	ADOSH Admin
	Kara Dimas	Commission Secretary

Chairman Kavanaugh convened the meeting at 1:00 p.m. In attendance, confirmed by roll call were Charles Keller and Taylor Thomas (Snell and Wilmer); Anne Ryman (ABC15); Candy Gylinsey (Suntree Snack Foods, LLC); Tom Stack (Pinnacle West); and David Oatman (We Buy Scrap).

Approval of Minutes of February 6, 2025 Regular Meeting Minutes.

Commissioner Everett moved to approve the Minutes of the February 6, 2025 regular session meeting and Commissioner Godfrey 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 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. UR-2025-JW184-0130 Arizona Public Service Company
2. UR-2025-JW184-0139 Integrated Lath & Plaster LLC
3. CP-2025-JW184-0125 Stone Liquidators Group Corp. dba Phoenix Stone Group

Chairman Kavanaugh confirmed with Mr. Hudson that Arizona Public Service Company and Bay Valve, LLC were related.

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

Discussion and Action regarding Proposed Retaliation Penalty.

1. RT-2425-0057 Oxford Bank Corporation

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 \$19,826.25 for lost wages and \$10,000.00 to deter future termination violations in violation of A.R.S. § 23-364.

Commissioner Everett and Ms. Spurgeon discussed the exemption for the number of employees according to A.R.S. § 23-372(B) if they have less the 15 employees they are still entitled to sick time; however, their entitlement is 24 hours per year instead of 40. They also discussed the employer could have denied the sick time per their policy but instead allowed an exception thereby protecting that date.

Commissioner Valdez moved to approve issuance of a Penalty for Retaliation in the amount of \$29,826.25 to Oxford Bank Corporation. Commissioner Godfrey seconded the motion.

Commissioner Godfrey asked if there were suggestions to bring awareness to employers and employees on how these situations can be navigated. Ms. Spurgeon responded that the employers are notified about the claims and the statute §23-364(B) and have an opportunity to correct and stop the accruing penalties.

Chairman Kavanaugh, Vice Chair Hennelly, Commissioner Everett, Commissioner Valdez and Commissioner Godfrey voted in favor of the motion. The motion passed.

2. RT-2425-0077 K&N Ventures, LLC DBA V'S Barbershop

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 \$27,014.12 for lost wages and \$10,000.00 to deter future termination violations in violation of A.R.S. § 23-364.

Chairman Kavanaugh asked if the Commissioners had any questions.

Commissioner Godfrey moved to approve issuance of a Penalty for Retaliation in the amount of \$37,014.12 to K&N Ventures, LLC DBA V'S Barbershop. 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.

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.

Bay Valve, LLC	Fatality/Catastrophe	
4385 South 133rd Street	Years in Business:	43
<u>Tukwila, WA 98168</u>	Empl. Covered by Inspection:	3
Site Location:	11600 S 363rd Ave	
	Arlington, AZ 85322	
Inspection No:	FC-2025-JW184-0127	
Inspection Date:	November 7, 2024	

SERIOUS – Citation 1 - Item 1 –

- a) Third platform of heat recovery steam generator 1B: Three employees removed a valve and actuator from a pipe approximately 18 feet above the lower level while one of the guardrails was approximately 31 inches tall. 29 CFR 1926.502(b)(1) *Per ADOSH Director as causal factor

Div. Proposal - \$11,524.00	Formula Amt. - \$11,524.00
TOTAL PENALTY - \$11,524.00	TOTAL FORMULA AMT. - \$11,524.00

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

Chairman Kavanaugh, Mr. Hudson and Mr. Wright discussed the employer of the crane operator which is a different employer.

Vice Chair Hennelly moved to approve the citation and proposed penalties as presented and Commissioner Godfrey seconded the motion.

Chairman Kavanaugh commented that it was a very tragic situation in that sequence and the guardrail not complying with the rule, unfortunately resulting in a fatality.

Chairman Kavanaugh, Vice Chair Hennelly, Commissioner Everett, Commissioner Valdez and Commissioner Godfrey voted in favor of the motion. The motion passed.

Rush Auto Recyclers, Inc. dba We Buy Scrap	Complaint	
3035 West Broadway Road	Years in Business:	29
<u>Phoenix, AZ 85041</u>	Empl. Covered by Inspection:	11
Site Location:	3035 West Broadway Road	
	Phoenix, AZ 85041	
Inspection No:	CP-2025-JW184-0121	

Inspection Date: October 3, 2024

SERIOUS – Citation 1 - Item 1 –

- a) 3035 W Broadway Rd, Phoenix: One employee installed cameras while in a red metal man basket model # and serial # unknown lifted by a Case forklift model # and serial # unknown approximately 10 to 12 feet above the ground while one side of the man basket did not have a top rail. 29 CFR 1910.29(b)(1)
 Div. Proposal - \$4,610.00 Formula Amt. - \$4,610.00

SERIOUS – Citation 1 - Item 2 –

- a) Welding area: Two employees used an oxygen and acetylene cylinder to cut scrap metal near multiple oxygen and acetylene cylinders that were not secured. 29 CFR 1910.101(b)
 Div. Proposal - \$4,610.00 Formula Amt. - \$4,610.00

SERIOUS – Citation 1 - Item 3 –

- a) Processing area: Three employees processed scrap metal near a storage container of diesel fuel while being allowed to smoke near the container. 29 CFR 1910.106(d)(7)(iii)
 Div. Proposal - \$4,610.00 Formula Amt. - \$4,610.00

SERIOUS – Citation 1 - Item 4 –

- a) Yard: Five employees operated a silver Nissan forklift model #MUGLO2A35LV serial # unknown that did not have a seat belt installed on it. 29 CFR 1910.132(a)
 Div. Proposal - \$4,610.00 Formula Amt. - \$4,610.00

SERIOUS – Citation 1 - Item 5a –

- a) 3035 W Broadway Rd, Phoenix: One employee installed cameras while in a red metal man basket model # and serial # unknown that was attached to a Case forklift model # and serial # unknown without having received written approval from the manufacture. 29 CFR 1910.178(a)(4)
 Div. Proposal - \$4,610.00 Formula Amt. - \$4,610.00

SERIOUS – Citation 1 - Item 5b –

- a) 3035 W Broadway Rd, Phoenix: One employee installed cameras while in a red metal man basket model # and serial # unknown that was attached to a Case forklift model # and serial # unknown without having updated the data plate with the man basket included. 29 CFR 1910.178(a)(5)
 Div. Proposal - \$0.00 Formula Amt. - \$4,610.00

SERIOUS – Citation 1 - Item 6 –

- a) Welding area: One employee used an oxygen acetylene cutting torch and an arc welding machine to cut scrap metal without having received training on the welding equipment. 29 CFR 1910.252(a)(2)(xiii)(C)
 Div. Proposal - \$4,610.00 Formula Amt. - \$4,610.00

SERIOUS – Citation 1 - Item 7a –

- a) Welding area: Three employees moved and stored three oxygen cylinders that did not have valve protection caps installed. 29 CFR 1910.253(b)(2)(iv)
 Div. Proposal - \$4,610.00 Formula Amt. - \$4,610.00

SERIOUS – Citation 1 - Item 7b –

- a) Welding area: Three employees moved and used oxygen cylinders for welding that were stored next to acetylene cylinders. 29 CFR 1910.253(b)(4)(iii)
 Div. Proposal - \$0.00 Formula Amt. - \$4,610.00

SERIOUS – Citation 1 - Item 8a –

- a) 3035 W Broadway Rd, Phoenix: Three employees handled hazardous chemicals such as; used motor oil, used gasoline, used transmission fluid, acetylene, and oxygen while the company did not have a hazard communication program in place. 29 CFR 1910.1200(e)(1)
 Div. Proposal - \$2,765.00 Formula Amt. - \$2,765.00

SERIOUS – Citation 1 - Item 8b –

- a) Processing area: Two employees poured hazardous chemicals such as gas and used motor oil into metal containers that were not properly labeled. 29 CFR 1910.1200(f)(6)
 Div. Proposal - \$0.00 Formula Amt. - \$2,765.00

SERIOUS – Citation 1 - Item 8c –

- a) 3035 W Broadway Rd, Phoenix: Three employees handled hazardous chemicals such as; used motor oil, used gasoline, used transmission fluid, acetylene, and oxygen while the company did not maintain safety data sheets. 29 CFR 1910.1200(g)(8)
 Div. Proposal - \$0.00 Formula Amt. - \$2,765.00

SERIOUS – Citation 1 - Item 9 –

- a) 3035 W Broadway Rd, Phoenix: Three employees handled hazardous chemicals such as; used motor oil, used gasoline, used transmission fluid, acetylene, and oxygen without having received hazard communication training. 29 CFR 1910.1200(h)(1)
 Div. Proposal - \$2,765.00 Formula Amt. - \$2,765.00

TOTAL PENALTY - \$37,800.00 TOTAL FORMULA AMT. - \$52,550.00

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

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

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

SERIOUS – Citation 1 - Item 4 –

- a) 1120 West Alameda Drive #5, Tempe: Two employees used hazard chemical such as Sparyway Glass Cleaner, propane, and adhesive remover without having received hazard communication training. 29 CFR 1910.1200(h)(1)

Div. Proposal - \$6,913.00

Formula Amt. - \$6,913.00

TOTAL PENALTY - \$27,652.00

TOTAL FORMULA AMT. - \$41,478.00

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

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

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

T N R & S Acquisition, LLC
2727 W Club Dr
Tucson, AZ 85742

Referral

Years in Business: 40

Empl. Covered by Inspection: 60

Inspection No: RF-2025-T3633-0042
Inspection Date: December 12, 2024
Site Location: 2727 W Club Dr
Tucson, AZ 85742

SERIOUS – Citation 1 - Item 1 –

- a) Golf course: Employees were directed to repair a golf cart bridge up to 10 feet above the next lower level without fall protection. 29 CFR 1910.28(a)(1) *Per ADOSH Director for causal factor

Div. Proposal - \$11,524.00

Formula Amt. - \$11,524.00

SERIOUS – Citation 1 - Item 2 –

- a) Golf course: Employees were not provided fall hazards training while working ten feet above the ground. 29 CFR 1910.30(a)(1)

Div. Proposal - \$10,372.00

Formula Amt. - \$10,372.00

NON-SERIOUS –

- a) 2727 W Club Dr, Tucson: An employee was hospitalized after an accident that occurred on July 9, 2024, and the hospitalization was not reported to the Arizona Division of Occupational Safety and Health until July 16, 2024. 29 CFR 1904.39(a)(2)

Div. Proposal - \$1,000.00

Formula Amt. - \$1,000.00

TOTAL PENALTY - \$22,896.00

TOTAL FORMULA AMT. - \$22,896.00

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

Chairman Kavanaugh, Mr. Hudson and Commissioner Everett discussed the hotel and the possible reason for removing the bridge and how they currently cross the road.

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

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

Announcements, Scheduling of Future Meetings and Retirement Resolutions.

Ms. Dimas announced the retirement of Steven Black, a Senior Industrial Hygienist in the ADOSH Division who is retiring after 23 years of service.

Ms. Dimas confirmed Commission meeting dates through March 2025.

Mr. Testini announced the Special Fund Investment Committee will be a full committee, the Governor has appointed Aaron Bickham will be joining the next meeting, filling a position that has been vacant for many years.


Mr. Carpenter updated the Commissioners noting there has not been any movement on bills pertaining to the Commission. HB2233 regarding elevator mechanics have some sort of certification and will be administered by the Registrar of Contractors, make definition changes in Title 23. The Elevator Chief would have to see how the Commission will be managing that, but do not see any impact to the agency. No other bills are moving and will report more when there is more movement or if anything is going to be impactful.

Public Comment.

There was no public comment.

The meeting was adjourned at 2:00 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By 
Gaetano J. Testini, Director

ATTEST:


Kara Dimas, Commission Secretary