

MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA
Held in the Palm Room
at the Wigwam Resort
300 East Wigwam Boulevard, Litchfield Park, Arizona
Friday, August 15, 2014 – 11:30 a.m.

Present:	David M. Parker	Chairman
	Susan Strickler	Vice Chair
	Michael G. Sanders	Member
	Joseph M. Hennelly, Jr.	Member
	Laura McGrory	Director
	Andrew Wade	Chief Counsel
	William Warren	ADOSH Director
	Mandy Murphy	ADOSH Supervisor
	Kara Dimas	Commission Secretary

Chairman Parker convened the Commission meeting at 11:47 a.m. noting a quorum present. Also in attendance was Jason Weber of Snell and Wilmer.

Approval of Minutes of August 7, 2014 Meeting.

The Commission unanimously approved the Minutes of the August 7, 2014 General Session on motion of Ms. Strickler, second of Mr. Hennelly.

Consent Agenda:

a. Approval of Proposed Civil Penalties Against Uninsured Employers.

1. 2C14/15-0210 Ichulas Salon and Spa, L.L.C. dba Ichulas Nails & Hair Salon
2. 2C13/14-1997 Movers of the Valley, LLC
3. 2C13/14-1597 Mr. Head's, Inc., dba Mr. Heads Gallery & Bar
4. 2C13/14-1979 Reyma USA, L.L.C.

b. Approval of Requests for Renewal of Self-Insurance Authority.

1. Learjet Inc.

Chairman Parker asked if any agenda items needed to be removed from the Consent Agenda. Hearing none, the Commission unanimously approved the items on the consent agenda on motion of Mr. Sanders, second of Ms. Strickler.

Discussion and/or Action regarding Residential Fall Protection and Federal OSHA's Notice of Initiation of Proceedings to Reject State Initiated Plan Change No. 133, and Reconsider Arizona's State Plan Authority under Section 18(e) of the Occupational Safety and Health Act. The

Commission may move into Executive Session under A.R.S. §§ 38-431.03(A)(3) and (A)(4) to consult with its attorneys to obtain legal advice and to consider its position and instruct its attorneys regarding pending or contemplated litigation.

Mr. Wade stated there was nothing new to report at this time.

Discussion and Action regarding Notice of Proposed Rulemaking to Update Rules Governing Arizona Boilers and Lined Hot Water Heaters, A.A.C. R20-5-402 through R20-5-432, and the Impact of this Proposed Rulemaking upon the Commission's Budget.

Ms. McGrory stated that the Arizona Boiler Advisory Board has recommended that the Boiler and Lined Hot Water Heater rules be amended to conform to current national consensus standards and to change the inspection schedule for certain boilers and LHWS from an initial one-time inspection that is conducted at the time of installation, to an inspection every four years. There are approximately 9,000 objects that would fall into this inspection cycle, which will result in an additional 900 to 1,000 inspections that would need to be conducted by a state boiler inspector. She explained that under Arizona law, with the exception of boilers that are inspected by special inspectors, the Commission Boiler Section is responsible for inspecting boilers in the state. Overseen by a Boiler Inspector Chief, there are two state boiler inspectors conducting inspections in Arizona. These two inspectors conducted over 2,000 inspections in FY14 and over 1,800 inspections in FY13. Currently, there is a small backlog with 28 units overdue for inspection by the state inspectors.

She explained that current resources (number of inspectors) are not adequate to accommodate the increased number of inspections recommended by the Boiler Advisory Board and that she would like to include a request for an additional boiler inspector position in the Commission's FY16 budget package that will be submitted to OSPB in the near future. Mr. Parker commented on the public sector budget process. Ms. McGrory further explained why she was taking the step of presenting this issue to the Commission. Mr. Parker agreed with adding the funding request in FY16 budget submission. Mr. Sanders asked about the large number of boilers and Ms. McGrory responded to Mr. Sanders' question. Mr. Parker asked if any of the Commissioners had any concerns about staff proceeding with the budget submission as discussed and hearing none, stated that Ms. McGrory could proceed.

Discussion and Action of Arizona Division of Occupational Safety and Health (ADOSH) Discrimination Complaint.

14-6444-04 William Wohlenhaus vs. State of Arizona, Arizona Department of Public Safety – William Warren presented a summary of the employee's complaint, the employer's response, and ADOSH's investigation of the matter and responded to questions from the Commissioners. Mr. Warren recommended that the Commission decline to pursue the matter because there is insufficient evidence to support a causal connection between the exercise of protected activity and any adverse action. The Commission unanimously voted not to pursue the complaint on motion of Mr. Sanders, second of Mr. Hennelly.

Reliable Plant Maintenance, LLC
PO Box 26229
Tempe, AZ 85285

Unprogrammed Related
Years in Business: 3
Empl. Covered by inspection: 2

Site Location: 1325 N. 22nd Avenue
Phoenix, AZ 85009
Inspection No: F3904-317756047
Inspection Date: 5/15/2014

SERIOUS – Citation 1 - Item 1 – East yard, Mega Metals facility: Sufficient guards were not placed between bales of titanium product and hot work being performed adjacent to those bales. (1910.252(a)(1)(ii)).

Div. Proposal - \$1,500.00

Formula Amt. - \$1,500.00

SERIOUS – Citation 1 - Item 2 – East yard, Mega Metals facility: Suitable fire extinguishing equipment was not maintained at the site for the type of combustible material present (titanium), as only ABC fire extinguishers were provided, and titanium fires require a Type D fire extinguisher. (1910.252(a)(2)(ii)).

Div. Proposal - \$1,500.00

Formula Amt. - \$1,500.00

SERIOUS – Citation 1 - Item 3

a) East yard, Mega Metals facility: Reliable management (owner or foreman) did not designate precautions to be followed in granting authorization to their employees to proceed with their work in the form of a written permit. (1910.252(a)(2)(iv)).

b) East yard, Mega Metals facility: Cutting or welding was permitted in areas near the storage of large quantities of exposed, readily ignitable bales of combustible titanium, wrapped in plastic and coated in cutting oil. (1910.252(a)(2)(vi)(D)).

Div. Proposal - \$1,500.00

Formula Amt. - \$1,500.00

SERIOUS – Citation 1 - Item 4 - East yard, Mega Metals facility: The employer (Reliable) did not ensure that the supervisor for the hot work being performed at Mega Metals, Inc. determined the combustible materials present. (1910.252(a)(2)(xiv)(B)).

Div. Proposal - \$1,500.00

Formula Amt. - \$1,500.00

TOTAL PENALTY - \$6,000.00

TOTAL FORMULA AMT. - \$6,000.00

During the discussion for this item, Mr. Wade asked Mr. Warren some questions about the Reliable employee sending photographs to his employer before the fire. Mr. Sanders stated he had the same questions. Following further discussion, Mr. Parker verified that everyone that was present during the initial discussion and vote for Mega Metals, Inc. was still present and returned to that agenda item. Mr. Sanders moved to reconsider the Mega Metals, Inc. matter and Ms. Strickler seconded the motion. The Commission unanimously voted to reconsider Mega Metals, Inc. Mr. Parker asked Commission staff to perform further review on both items and that no further action would be taken today.

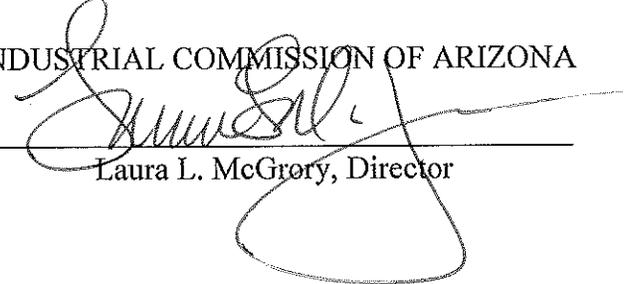
Announcements and Scheduling of Future Meetings.

Mr. Parker inquired if there were any changes needed to the future meeting schedule and it appeared that no changes were needed at this time. The next meeting will be August 28, 2014.

There being no further business to come before the Commission and no public comment, the meeting was adjourned at 12:29 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By



Laura L. McGrory, Director

ATTEST:



Kara Dimas, Commission Secretary