OSHA Commission Meeting Minutes

Date: December 15, 2017
Time: 9:00 a.m.
Location: Via phone, and Cheyenne CBC, Room 1141/42, 1510 East Pershing Blvd, Cheyenne WY

1. **Call to order:** OSHA Commission Chair Dennis Shepard called the meeting to order at 9:08 a.m.

2. **Introduction of the OSHA Commission members:** Chair Dennis Shepard, Doug Thomas, Dr. Peter Perakos, Mandi Safford.

3. **Introduction of the OSHA Staff and guests present:** Dan Bulkley, Deputy Administrator; Ken Masters, Operations Manager; Brad Westby, Compliance Lead; Jody Paessler, Operations Support; Adam Leuschel, Attorney General’s Office; Tom Crosby, Carpenter’s Union; Clayton Gaunt, Haselden Construction; Alex Chovorria, HD Roofing.

4. **Old Business:**

   **Approval of Previous Meeting Minutes for additions or corrections:** A motion to approve the minutes of the September 15, 2017 regular meeting; October 6, 2017 special meeting; and October 27, 2017 special meeting was put forth. The motion was seconded and vote carried the motion.

5. **New Business:**

   **a. Final Orders:**

      i. Ken Masters reported to the Commission that Flawless Roofing had come into the OSHA office and left a check for their penalty. He asked that we advance the Final Order until the check cleared and once that occurs, they would void the Final Order. A representative with HD Roofing was expected to arrive to address the Commission. Ken requested that the motion and vote include all employers
listed (see attached) and if the two employers (Flawless Roofing & HD Roofing) follow through with their good faith efforts, their Final Orders will be destroyed. Motion was made to proceed with Final Orders as presented. The motion was seconded – vote carried the motion.

NOTE: Employer representative from HD Roofing subsequently arrived at the meeting – the following is a record of that appearance:

Alex Chovorria, Supervisor, HD Roofing addressed the Commission to resolve the outstanding issues with their case file. Mr. Chovorria explained that there had been some fallout from the inspection and he left the company and had been working in Texas until recently. He is now back and is co-owner of HD Roofing. A motion to move to executive session was made. Motion was seconded – vote carried the motion. After discussion by Commission members and OSHA staff, the Commission concurred to revise the current Consent Agreement with a new payment schedule and training requirements. A motion was made to close the executive session. The motion was seconded – vote carried the motion. A motion to revise the current Consent Agreement with HD Roofing with a new payment schedule over a period of twelve months to be determined by OSHA staff, an agreement to pay a previous penalty now in collections, as well as meet all other requirements of the Consent Agreement. The motion was seconded – vote carried the motion.

b. Cases sent to The Collection Center for collection processing: Staff presented a list of employers who have been sent to collections (see attached). This is an information only agenda item. No vote was required.

c. Administratively Closed Cases: Staff presented a list of employers whose cases have been administratively closed (see below). A motion was made to administratively close the casefiles, with the provision that should the employers actively work in Wyoming in the future, that any penalties still owing will be pursued. The motion was seconded – vote carried motion.

ALL AROUND LANDSCAPING; MORENO CONSTRUCTION LLC; and CNR ROOFING DBA RITO CASTANEDA

d. Case Files To Reopen

i. None

e. Files Being Negotiated by AG Office: This is an information only agenda item. No action required.
i. Dan D Rental (11(c) Discrimination Case. (File is closed)

f. **Contested Cases:** Staff provided a list of current contested cases being developed to the Commission (see attached). This is an information only agenda item. No action required.

g. **ATS adoptions progress:** Staff provided status documents to the Commission (see attached). There are no items that require action at this time.

h. **Rules adoption progress:** Staff presented an update on rules adoption (see attached).

i. **New Federal Policies/Guidance** - Ken (New federal policies that requires a vote by the Commission to adopt/approve.) A motion was made to adopt the policies as a group. Motion seconded – vote carried motion.

   
   ii. Revised VPP Policy Memorandum #5: Further Improvements to the Voluntary Protection Programs (VPP).
   
   iii. Enforcement Guidance for Upstream Oil and Gas Extraction Industries.
   
   
   v. Clarification of Streamlined Procedures to Close Cases that OSHA Lacks Authority to Investigate.

j. **Open Public Comments/Concerns:** None

k. **Consultation update:** Staff provided Consultation Program update (see attached Program notes and MARC reports).

l. **Compliance update:** Staff provided Compliance Program update (see attached SAMM reports).

m. **Operations update:** Ken Masters reported that Operations has been working on a system for tracking equipment calibration and preventative maintenance. In addition,
a streamlined SOP for working case files is being implemented. This will improve our open case file timelines. Ken also reported that policies are being developed for electronic case file management and discrimination file management. Consultation is also in the process of moving to electronic files. Monthly meetings with the Fiscal Division have been implemented to more closely monitor the grant allocation process.

n. **Training:** Staff provided an update with regard to sending Division employees to training as well as the OTI courses that will be held in Cheyenne (Electrical Standards #3090 2/27-3/8/2018 and Principles of Scaffolding #3080 4/2-4/6/2018) Also see Consultation Program notes.

o. **Alliances update:** See Consultation Program notes.

p. **Summit update:** Dan Bulkley reported that he is on the Safety Awards committee for the Summit. He is also responsible for coordinating the safety presentations that will be available this year. The offerings are being guided by the surveys from last year’s Summit. This year, the presentations will occur on the first day of the conference, while the second day will be comprised of ½-day training sessions (topics still being considered). The Safety Summit will be held June 20-21, 2018. Chair Shepard brought forth the matter of a request for having representation from the Commission participate in the Summit. Dan responded that they were looking for someone to do the opening welcome, the introduction of the keynote speaker and the introduction for the Safety Awards. Dan will send an email to Commission members to determine interest.

q. **Meetings attended:** Dan thanked Dennis for attending the OSHSPA meeting in Jackson and speaking to the fact that Federal OSHA is not meeting their funding obligation to the states. Chair Shepard requested that Dan follow up on his inquiry at OSHSPA about getting regional “train the trainers” for some of the OTI courses. Dan reported he will bring it up at the next OSHSPA board meeting (January 18, 2018). There is also an upcoming OSHSPA meeting February 27-28, 2018 which Dan and Christian Graham will be attending. A discussion ensued regarding a proposal to enlist Labor Standards investigators to assist with OSHA Discrimination complaints. Dan stated that if the Commission would support such a proposal, he would approach the Administrator and Director with it. A motion was made in support of the proposal. Motion was seconded – vote carried the motion.

r. **Closed Session:**
   
i. None

s. **Set Next Meeting date and time:** March 16, 2018, 9:00 a.m.; Cheyenne CBC, via telephone from OSHA Training Room 1141/42, 1510 East Pershing Blvd., Cheyenne

t. **Adjourn Meeting:** Chair Shepard adjourned the meeting at 12:08 p.m.