



December 9, 2016

James Ashley, Director  
Industrial Commission of Arizona  
800 W Washington Street  
Phoenix, Arizona 85007

Dear Mr. Ashley:

Our office has received several Complaints About State Program Administration (CASPA) against the Arizona Division of Occupational Safety and Health (ADOSH). Since the complaint items are similar, they are being compiled into a single CASPA 2017 AZ 34.

The CASPA alleges the following:

The Industrial Commission of Arizona (ICA) is reclassifying and/or reducing penalties for a significant number of ADOSH proposed citations without following the guidelines of the Arizona Field Operations Manual or using other approved "at least as effective as" criteria.

The following is a list of some recent examples of inspection cases with citations reviewed and adjusted by the ICA since the beginning of September:

Gorman Roofing Services, Inc.: Reviewed by the ICA on December 1, 2016.

The ICA reclassified serious violations as non-serious and reduced penalties for repeat and serious violations from \$18,500.00 to \$4,750.00 following a discussion with company representatives. The discussion involved company safety, difficulty getting employees to comply, and the high penalty amount.

Metric Roofing, Inc: Reviewed by the ICA on October 27, 2016.

The ICA reduced penalties for serious violations from \$7,500.00 to \$3,750.00 following a company representative's discussion about the company's safety and participation in the ICA Roofers Alliance.

H.K.B. Inc., dba Southwest Industrial Rigging (SWIR): Reviewed by the ICA on October 20, 2016.

The ICA reduced penalties for serious violations from \$5000.00 to \$3000.00 following the associated companies and their attorney's threat to contest, a discussion about the company's safety, and comments made by the injured worker.

Shamrock Foods Company, Inc.: Reviewed by the ICA on September 29, 2016.

The ICA reclassified a serious citation to non-serious, and reduced the penalty amount from \$4,500.00 to \$2,500.00 following company representatives' discussion with the Commission and ADOSH regarding company safety, the condition of their injured employee, and a request that the ICA reevaluate the penalties and citations.

JBS Tolleson, Inc. dba JBS USA, LLC: Reviewed by the ICA on September 15, 2016.

The ICA reduced the penalties for serious violations from \$5,000.00 to \$2,000.00 following a company representative's discussion with the Commission and ADOSH regarding company safety.

Ranbro Steel Works, Inc: Reviewed by the ICA on September 15, 2016.

Ranbro Steel Works, Inc. The ICA reduced penalties for serious violations from \$5,750.00 to \$3,750.00 following a company representative's discussion with the Commission regarding safety and the injury their employee suffered that triggered the citation.

Sturgeon Electric Company, Inc.: Reviewed by the ICA on September 1, 2016.

The ICA reclassified a citation from serious to non-serious following a company representative's discussion with the Commissioners regarding safety and the significant injury their employee suffered related to the citation.

United Dairymen of Arizona: Reviewed by the ICA on September 1, 2016.

The ICA reclassified a citation from serious to non-serious and reduced the penalty from \$8,500.00 to \$4,200.00 following the company and their outside attorney's discussion with the Commissioners and questioning of ADOSH officials.

Valley Pallet, Inc: Reviewed by the ICA on September 1, 2016.

The ICA reduced the penalty amount from \$5,000.00 to \$4,000.00 following a company representative's discussion with the Commissioners regarding company safety and the amputation injury to their employee.

This list does not constitute all the citations that have been reduced or re-classified; however, please respond with the criteria the Commission has used to make the reductions in these ten cases. We have on record that Arizona adopted OSHA's Field Operations Manual (FOM) with changes. There were no significant changes made to the criteria for classifying violations or calculating penalties. Please provide documentation about how the Commission ensured the ADOSH FOM criteria were applied in the ten cases listed above. If the Commission is actually applying a separate set of criteria please provide a copy so that we can evaluate to ensure it is "at least as effective" as OSHA's policy.

Please fully address and respond to these allegations within 30 days to allow Federal OSHA to timely gather all facts related to these serious allegations. Please submit such material to me at the above address. If you have any questions, please feel free to contact me at 602.514.7265, or email at [Barnett.Zachary@dol.gov](mailto:Barnett.Zachary@dol.gov).

Sincerely,



for  
T. ZACHARY BARNETT, CSP  
Area Director, Phoenix Area Office

Copy to: Mr. William Warren