



**SUSANA MARTINEZ**  
Governor

**JOHN A. SANCHEZ**  
Lt. Governor

## NEW MEXICO ENVIRONMENT DEPARTMENT

### *Occupational Health and Safety Review Commission*

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**BUTCH TONGATE**  
Cabinet Secretary

**BRUCE YURDIN**  
Acting Deputy Secretary

**DRAFT until Approved**

### **Occupational Health and Safety Review Commission Minutes of September 18, 2018 Meeting**

The meeting of the Occupational Health and Safety Review Commission was held on September 18, 2018, starting at 9:30 a.m. in the Large Conference Room of the Marquez Place Building, 525 Marquez Place Santa Fe, NM.

#### **1. CALL TO ORDER.**

Chair William "Brock" Carter, called the meeting to order at 9:29 a.m. A quorum was established by roll call.

#### **2. ROLL CALL.**

##### Members Present:

William "Brock" Carter, Chair  
Robert Roehm  
Jeff Kokos

##### Members Absent

##### Others Present:

John Kreienkamp, Assistant Attorney General (Commission Counsel)  
John Baca, Hearing Clerk (Commission Administrator)  
Robert Genoway, OSHA Bureau Chief

#### **3. APPROVAL OF THE AGENDA.**

**MOTION:** Mr. Roehm questioned item 10. The presentation will be postponed until the next agenda meeting. Mr. Roehm moved to approve the agenda as written. The motion passed by a voice vote.

#### **4. APPROVAL OF MINUTES OF June 12, 2018.**

**MOTION:** Mr. Carter requested one change to item number 11. The motion should read "Mr. Carter instead of Mr. Brock". Mr. Roehm requested some changes to Item 6, 16-035 should read NMED v. GM Construction and 17-01 NMED v. Shred It USA, LLC. On the second paragraph of item 6 "He specifically referenced part F, "which" should be deleted. Item 9 should read Mr. Roehm inquired about the new policies and procedures for training the new Administrator. Mr. Carter requested in the second paragraph JM Construction and Shredded LLC needed to be changed. Mr. Roehm moved to approve the meeting minutes as amended. Mr. Kokos seconded the motion. The motion passed by a voice vote.

#### **5. Introduction of new Commissioner Member.**

Mr. Carter introduced Jeff Kokos, the new OHSRC Commissioner. Mr. Kokos gave a brief introduction on his background. Mr. Carter thanked Mr. Drennan for all his years of service being on the commission. Mr. Roehm Seconded.

#### **6. DISCUSSION OF OPEN/PENDING OHSRC CASES.**

Mr. Genoway discussed and reviewed the closed/ pending cases listed with the Commissioners. Mr. Genoway noted that McVay had settled. Mr. Carter had a question regarding OSHA 17-33. Mr. Genoway will get an update on this case for the Commissioner's. Mr. Roehm noted that it is important for the Commissioner's to receive the settlement agreements along with the citations when they are filed with the Commission Administrator. Mr. Roehm had questions regarding several cases for the year, 2016; OSHA 16-06, National Roofing, a Notice of Docketing was filed on March 1, 2016, OSHA 16-11 NMED v. McCarthy Bldg. is being appealed, OSHA 16-15, NMED v. Danlar Collision, a Notice of Docketing was filed on March 30, 2016. Mr. Genoway noted that a consolidation may have been reached regarding some of these cases. OSHA 16-18 NMED v. The Color Works, a Notice of Docketing was filed on April 26, 2016, OSHA 16-23 NMED v. Lone Sun Builders, a Notice of Docketing was filed. OSHA 16-29 NMED v. Ruidoso Ford Lincoln, Inc, a Notice of Finality Agreement was filed a date of closure was not placed on the list. OSHA 16-32 NMED v. Otero and Sons Roofing is being appealed. OSHA 16-40 NMED v. Puerta Door & Hardware, Inc., Notice of Finality of Settlement Agreement was filed. Mr. Roehm suggested to include the year on the spreadsheet when a case is closed. OSHA 17-33 NMED v. BBMK Contracting Contests LLC., a settlement agreement filed but no closure date was placed on the spreadsheet. Mr. Kreienkamp stated on the spreadsheet under status, if a notice of finality, is filed this closes the case. Mr. Genoway agreed with that statement. Mr. Brock requested an updated version of the 2016 pending/closed cases.

#### **7. Discussion regarding GN Construction (OSHA 16-35) discussion and possible action on the pending motion for default judgement.**

**a. The Commission may vote to enter into closed session pursuant to NMSA 1978, Section 10-15-1(H)(3), the Open Meetings Act exception authorizing closed session for deliberations by a public body in connection with an administrative adjudicatory proceeding.**

Mr. Carter asked if the commissioners would like to enter into a closed session pursuant to the Open Meetings act. Mr. Kreienkamp advised the commissioners on what the statute refers to regarding closed session and if the Commissioners had questions then the Commission would go into closed session. The Commission remained in open session. Mr. Kokos agreed to discuss in open session. Mr. Kreienkamp suggested that the Bureau file an order in this case. Mr. Genoway will meet with Mr. Andrew Knight, Office of General Counsel to proceed and file an order for default judgement in this case.

#### **8. Discussion on the designation of a Chair for the commission.**

Mr. Carter stated that the Chair is appointed by the Governor. The Commission may vote on a chair to expedite the process. Mr. Roehm had a question regarding the terms. Mr. Kreienkamp gave a brief explanation about the designation of the Chair. Mr. Carter asked Mr. Roehm, if he would be interested in the role of being the new chair. Chair Carter questioned if a vote was needed. Mr. Krieienkamp requested for a vote by the Commission to give Commission Counsel the authority to draft a letter on behalf of the Commission to send to the Governor's office, and to authorize Mr. Carter to sign, on behalf of the Commission regarding the appointment by the Governor's Office to appoint a new Chair. Mr. Roehm so moved. Mr. Kokos seconded the motion. The motion passed by a voice vote.

#### **9. Discussion regarding OHSRC website.**

Commissioner Drennan needed to be removed from the website and Mr. Kokos added with his term. Mr. Roehm questioned when Mr. Carter's term ended, this is still awaiting confirmation from the Governor's office. Mr. Roehm suggested posting the minutes two weeks after the meeting.

#### **10. In Service Presentation and Legal Training by Commission Counsel.**

This item is re-scheduled for the next meeting. Mr. Kreienkamp gave a brief description of what the presentation will cover and will be scheduled for two hours.

#### **11. Other.**

Mr. Roehm suggested for a copy of the code 11 NMAC 5.5.4 be sent to Mr. Koskos. Mr. Krienenkamp will email a copy to him. Mr. Roehm requested for Mr. Koskos email address. Mr. Koskos provided his email address to the Commission and the Hearing Clerk. Mr. Carter asked about confirmation for the Commissioner's. Mr. Krienkamp mentioned confirmation would be during the next Legislation. Mr. Roehm mentioned in his experience when he was 0020being confirmed that it was the Governor's office who had contacted a Senator to confirm him. The appointment would be at the next confirmation meeting. They Commissioners are still allowed to serve.

#### **12. Next Meeting**

A meeting will be scheduled before the end of the year.

#### **13. Adjournment**

The meeting was adjourned at 10:24 am.

**Motion:** Mr. Carter moved for adjournment. Mr. Rohem so moved. Mr. Koskos seconded the motion.  
The motion passed by a voice vote.

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Chair