



**COLORADO**  
**Department of**  
**Labor and Employment**  
Division of Oil and Public Safety

Underground Damage Prevention Safety Commission  
633 17<sup>th</sup> Street, Suite 500  
Denver, CO 80202-3610  
303-318-8525 | [www.colorado.gov/ops](http://www.colorado.gov/ops)

**Date:** April 11, 2019

**Location:** Colorado Department of Labor and Employment  
633 17th Street, Suite 500  
Denver, CO 80202

**Present:** Jim Moody, Randy Wheelock, Jeannette Jones, Patrick Fitzgerald, Katherine Duitsman, Eric Kirkpatrick, Lori Warner, Mark Jurgemeyer, Raymond Swedfeger, Mark Frasier, Julie Mileham, Mike Mills, Tom Sturmer, Jeff Rumer.

**Absent:** Chris Kampmann.

**Note:** The meeting was recorded and started at 1:15pm. These minutes represent a summary of this meeting and are not intended to be a verbatim document. Audio recordings of the meetings can be obtained by contacting [cdle\\_safetycommission@state.co.us](mailto:cdle_safetycommission@state.co.us)

#### **MINUTES APPROVAL:**

**A Motion was made to approve the minutes from the February 13, 2019, meeting:** motion carried and discussion was entered. There was no discussion; a vote was taken to approve the minutes. It was approved by a unanimous vote.

#### **COMPLAINT HEARINGS:**

The Review Committee's Findings of Fact form (complaint 2018-004) from the March 18, 2019, hearing was reviewed with the Safety Commission. **A Motion was made to adopt the the Review Committee's recommended remedial action with the following adjustments: The Safety Commission recommends that the Respondent pay a \$1,000 fine, which can be waived if The One Call Basics (in person) training is attended by 9/18/19. As an alternate, the Comprehensive Excavator (online) Course may be attended by 9/18/19. Evidence of the completion of training, shall be provided by 10/18/19.**

Motion carried & discussion was entered. There was no further discussion. A vote was taken. It was approved by a unanimous vote.

#### **COMPLAINT PROCESS FORMS:**

OPS staff requested that the Safety Commission allow OPS to make modifications to various documents to add as examples: address fields and ticket numbers. **A Motion was made to approve the requested edits to the forms.** Motion carried & discussion was entered. There was no further discussion. A vote was taken. It was approved by a unanimous vote.

#### **ADMINISTRATIVE ITEMS/OPS UPDATE:**

OPS staff had several items to run past the Safety Commission for their discussion and approval:

- **Bylaws and Code of Conduct:** ready to post to the website? Majority of Safety Commission members approved this to occur.

- **ASCE 38 Training with Jim Anspach: do you want him to come on August 8?** While the majority of the Safety Commission agreed that this timeline worked, OPS staff will follow up with Jim A to determine if another date works since there were Commission members unable to attend the August meeting..
- **OPS Outreach events:** In the Petroleum Remediation presentation there is the potential to involve Safety Commission members. Additional information will be sent to available members.
- **Developing a Database to manage complaints: OPS pursuing database options & developing something to show the Commission:** OPS clarified that this would allow documents to auto populate once completed. The Safety Commission agreed that OPS should develop the tools they require to do the work. OPS staff requested someone (or a few people) from the Commission to act as support as the database is created, aka a “Technology Liaison.” Follow up contact for those interested will occur.
- **Changes to Forms: CO 811 Request for Info Form: adding a field to denote what information is confidential:** It was discussed that the implication in asking is that there is an expectation that OPS would keep this information confidential. It was noted that the MOU discusses this need (to keep certain information confidential) & that by asking CO 811 to identify which items they are, OPS can comply. OPS will work with CO 811 to determine the best way to move forward with this process.
- **Changes to Forms: Hearing Notification Form: adding “we will be collecting data from CO 811 in regards to the ticket & such information will be available at the OPS office prior to the hearing to review”:** Discussion was had to ensure the Commission and OPS was not taking on undue burden. While it was agreed that the parties should be notified, the concern was that the parties may think this minimizes their burden of proof, and that the Commission is investigating the complaint. It was noted that the Regulations cover the topic of a Burden of Proof. It was suggested that if this becomes a problem, the Commission can re-address this - for now OPS should modify the document to include this language.
- **Potential Agenda Item for the May 9th meeting: Home Rule Entities:** OPS suggested inviting some stakeholders. Commission agreed to proceed.
- **OPS making copies for parties involved in a Hearing:** Discussion was had to allow on a case by case basis for now and reevaluate if needed.
- **PHMSA Grant: OPS plans to apply in conjunction with the Safety Commission:** Are there Commission members interested in helping review this? Eric & Jeannette offered to help with this effort. OPS was asked what the grant money would be used for, it was noted that this has not yet been determined. CO 811 has been the recipient in the past and can discuss this in more detail.

#### **REVIEW COMMITTEE FOR APRIL 24 HEARINGS:**

Five Safety Commission members were chosen and potential Conflicts of Interest were reviewed; none were noted. The Commission briefly reviewed the **Review Committee Hearing Script**, that is used by the Review Committee Chair to run the proceedings. It was noted that the last Review Committee found it helpful. And that a **Next Steps Reminder form** should be provided & handed out. OPS staff to develop this.

**Review Committee Findings form:** it was noted that after the first hearing the form has been revised slightly.

**Safety Commission Final Determination form:** a draft of the form was shown.

**Training List:** There was discussion about other training companies and materials that may meet the needs of the Commission. Care should be taken to only assign trainings that are understood by the Commission. Perhaps a qualification criteria list and training approval process; future agenda item.

#### **BEST PRACTICES:**

OPS has developed a draft question submittal form. It is available as a Google Form and fillable PDF. OPS staff will post the links/forms online. OPS staff shared a summary of the types of questions received thus far. Discussion was had over how to address these questions; examples included drafting best practices or writing policies, or developing a generic Q&A. The Commission will walk a fine line between legal advice and defining best practices. Do not want to provide legal advice. It was noted that CO 811 provides a best practices document that the Commission could use as a resource; OPS to include this as an online resource. It was noted

that SUE questions and Engineers are looking for guidance on how to follow the law in their daily jobs. Moving forward the options include: OPS staff developing a Q&A and providing drafts to review by the Commission, or the Commission having a process to review questions, or add to the Regulations as long as it is within the statute - to extrapolate and be more specific. Agenda item for May 9th to determine, based on what information has been gathered, how to tackle this moving forward. Tom S (as the chair of CO 811's policy committee) offered to help create consensus between both entities.

#### **OPS UPDATE:**

- Senate confirmation hearings: April 15 and 22
- Dropbox set up to share documents with Safety Commission and Review Committee members
- Any news on Safety Commission-related legislation? Please let us know.
- Let's discuss May 9 agenda items prior to adjourning the meeting
- 21 complaints received since April 10th
- No longer doing a webinar for hearings; potentially still doing a call in (conference number)
- Using the Hearing Script during the hearing/discussion & using the Hearing Finding of Fact Form afterwards "offline" to wordsmith

A question was asked to OPS if a staff person will be at the Senate hearings - OPS staff confirmed at least one staff person will be present. The timing of the Senate hearings was also discussed.

#### **CO 811 UPDATE:**

JD Maniscalco (CEO) and Jose Espino (Director of Operations) were present.

- Software updates were discussed
- Road Grading tickets & the changes are still needing membership education
- Avaya Communications Platform targeted for launch in Summer 2019
- iDig811 targeted for launch in mid-Spring 2019 (replaces ticket express)
- Procedures Committee: working on: SUE ticket process & Road grading tickets. CO 811 asked if they should look to the Safety Commission to approve procedures to be on the same page. Initial response from the Safety Commission is for CO 811 to work on their own and if they have a question they are welcome to bring it to the Commission for consideration. Commission members would like to stay informed.
- Grants: while in the past CO 811 was awarded the funds, they defer to the Safety Commission. And, with the current timeline, CO 811 suggests they proceed to obtain the grant as they have in the past.
- iLearn811: in development & it is recommended that Safety Commission members take the class to learn and give feedback.
- April is Safe Digging Month: Proclamation issued for April 2019. Joint press release effort with OPS. New 811 Yard Renovation Photo Contest. Xcel Energy Joint Stakeholder Partnership also in place.

Question for CO 811: changes in process and misunderstanding with SUE tickets - who might be the best point of contact? JD or Marty are points of contact.

#### **OTHER BUSINESS:**

- Agenda for the next meeting was discussed.

**EXECUTIVE SESSION** to discuss procedures for upcoming April 24 complaint hearings

Item: Discussion with attorney (AG's office); Authorized under 26-6-402. The committee motioned for executive session, motion carried and executive session was entered.

The next meeting is scheduled for May 9, 2019.

Meeting adjourned at 4:00pm