



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

Underground Damage Prevention Safety Commission
633 17th Street, Suite 500
Denver, CO 80202-3610
303-318-8525 | www.colorado.gov/ops

Date: October 10, 2019

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

Present: Tom Sturmer, Katherine Duitsman, Mike Mills, Jim Moody, Mark Frasier, Jeannette Jones; remote attendance: Julie Mileham, Raymond Swedfeger, Chris Kampmann

Absent: Jeff Rumer, Patrick Fitzgerald, Eric Kirkpatrick, Mark Jurgemeyer, Lori Warner, Randy Wheelock

Note: The meeting was recorded and started at 12:00pm. 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.

MINUTES APPROVAL:

A Motion was made to approve the minutes from the September 12, 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 from the October 8, 2019 hearing was reviewed with the Safety Commission.
 - Complaint # 2019-036: A Motion was made to adopt the Review Committee's recommended remedial action as noted in the Findings of Fact form: Motion carried & discussion was entered. Members discussed the role and responsibilities of the utility owner and their locator, and also inquired about the excavator's role and responsibilities and how that potentially played a part in the incident. Discussion of the statue and excavation practices were had, including the responsibility of the excavator to find unmarked utilities, color markings, and whether those were factors in the damage. The Members discussed the difference of being found in violation of the law, vs civil responsibility to repair damages, and the Review Committee members only addressed the former issue. A question regarding the type of violation found (moderate) was asked to understand the Review Committee's rationale. The answer was in the matrix used as reference sheet (based on the statue) by the Commission. It was noted that procedurally, having only 9 members voting would not allow the group to make changes to the recommended remedial action. The AG's office staff noted that there may be language in the statute to add to the discussion and that there may be benefit to delaying the vote until the next Safety Commission meeting.

EXECUTIVE SESSION (requested during the discussion of remedial action for complaint # 2019-036)

Item: Discussion with attorney (AG's office) on matters related to sewer lines and the Review Committee hearing and remedial action recommendations. The committee motioned for executive session, motion carried and executive session was entered. After exiting the executive session, the members returned to the discussion of the aforementioned motion.

- **A Motion was made to table the current motion, pending an executive session with counsel at the next Safety Commission meeting (November 14, 2019):** Motion carried & discussion was entered. A vote was taken. The motion was approved unanimously.
- November Hearing dates and Review Committee members were selected.
- Tentative hearing dates for December are still being held, should additional hearings be needed.

BEST PRACTICES:

A summary of the work completed by the Best Practices sub group was provided. Electronically locatable's Best Practice document was shared. The Members decided to allow additional time for all the Members to review the document and potentially vote on the document at the next Safety Commission meeting. Advised the Commission that the topic of Road Grading was started and the next meeting will include the topic of SUE.

ADMINISTRATIVE ITEMS/OPS UPDATE:

- Complaint status: update regarding the receipt of fines and status of remedial actions. There have been a total of 71 complaints.
- 2019 copy of the Statute has been uploaded into reference folders. Only significant change in the excavation law was a modified definition of Professional Engineer.
- PHMSA review of CO program meeting on September 26, 2019: Initial feedback from PHMSA was positive; formal letter forthcoming.
- CO 811 Safety Summit (in September) went well , with a few Safety Commission members in attendance.
- Database: OPS staff are meeting internally to develop a draft tool. Safety Commission members interested in helping provide feedback will be advised once the database has some substance.
- SC members nomination status: 4 of 6 applications received.
- New url for Safety Commission forthcoming to simplify the address for ease of use.
- Colorado not chosen for a PHMSA grant for 2019/2020.

Members discussed an interest in complaint metrics being shared as a standing agenda item and the feedback from PHMSA regarding the grant application. Regarding terms of expiration, and the transition of Safety Commission members, the challenges of setting a 2020 schedule were discussed and there is a desire to not have hearings in January.

CO 811 UPDATE:

JD Maniscalco presented:

- Thanked the Safety Commission members for their participation in the Safety Summit event.
- Update on hold times: the issue has been addressed successfully. Hold times continue to decrease.
- Web ticket entry program: continues to be modified and improved based on feedback. Education classes planned.
- Thanked Eric K for his participation in the collaborative Safety Commission video.
- Public Awareness & Marketing update provided; as well as an update on Damage Prevention efforts & Member Services.
- 2019 Excavator Survey scored a B- and future efforts will work on improving the score. Member survey currently on the CO 811 website.
- Ticket fee for 2020 will increase from \$1.42 to \$1.49.

Discussion with members:

- Members asked how Colorado ticket fees compare to other states. Advised that it's hard to compare because of process and services provided being different.

- Regarding the PHMSA grant not being awarded, CO 811 staff will work with their accounting office to address the changes to the budget.
- Apollo Report briefly covered & Safety Commission advise they would have access to the metrics.

OTHER BUSINESS:

- October 28-29 is the APWA (American Public Works Association) annual conference. Kat & Jim presenting about the Safety Commission.
- It was requested that at a future meeting the Safety Commission analyze the data from CO 811 and how to use it moving forward, including potentially outreaching to companies that are doing well in inputting data.

Agenda for the next meeting was discussed.

The next meeting is scheduled for November 14, 2019.

Meeting adjourned at 2:20 pm