

January 25, 2013

Occupational Safety and Health Appeals Board
2520 Venture Oaks Way, Suite 300
Sacramento, California 95833

SUBJECT: PROPOSED CHANGES TO TITLE 8 OF THE CALIFORNIA CODE OF REGULATIONS REGARDING RULES OF THE OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD: PARTY STATUS EXPANDED

Dear Board members:

The California Chamber of Commerce and the below signed organizations appreciate the opportunity to comment regarding the changes made to the stakeholder negotiated regulations to address concerns regarding parties to an appeal.

However, we are opposed to this change as proposed in the 15 day notice of January 10, 2013. We disagree with the Board that regarding the change to the proposal per the following response from the Board:

“The 15 day notice does not require an additional initial statement of reasons because it is a change sufficiently related to the original proposal that a reasonable person is on notice of the potential change per Govt Code 11346.8 ©. The reasons for this language are the same as the reasons for the previous language, but it is hoped this language is more clear. It is responsive to the comments received so far.”

While we supported the original proposed regulation, we have concerns regarding this amended proposal. It is not sufficiently related to the original proposal, as follows:

- An unlimited number of parties with the same or similar interest is unnecessary and strays from the purpose of the Appeals Board hearing process which is to provide the employer with a venue to fairly and equitable contest the validity of an alleged violation.
- The addition of unlimited employee parties and representatives of employees having the same or similar interest will unduly burden the appeals process which will likely result in a greater back log of appeals.
- Where additional parties wish to participate in the hearing, they are afforded the opportunity through the intervener process which allows the hearing judge to assess the extent of the participation of the intervening party based on factors that would determine the benefit to the process through their participation.
- The initial purpose of expanding party status was to provide an equal opportunity for a deceased employee's family to participate in hearings. This proposal unreasonably expands party status beyond that which was initially proposed and discussed through the advisory committee process.

Please contact Marti Fisher at CalChamber, (916) 444-6670 if you wish to discuss the matter further or have questions regarding our comments.

Thank you.

California Chamber of Commerce
Associated Roofing Contractors of the Bay Area Counties, Inc.
California Professional Association of Specialty Contractors
California Framing Contractors Association
Residential Contractor's Association
Walter & Prince, LLP

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