

State of California
California Occupational Safety and Health Appeals Board
Minutes of the Public Meeting & Closed Session
Held on March 19, 2025
Sacramento, California
Zoom Platform

Present:

Ed Lowry, Public Member, Chair
Judith Freyman, Management Member
Marvin Kropke, Labor Member
Patricia Hapgood, Executive Officer
Kerry Lewis, Presiding Administrative Law Judge
Sam E. Lucas, Presiding Administrative Law Judge
Christopher Jessup, Administrative Law Judge
Leticia Tanner, Administrative Law Judge
Aaron Jackson, Chief Counsel
Jeffrey Mojcher, Chief Counsel Emeritus
Elizabeth Clarke, Staff Counsel
Vincent Mersich, Staff Counsel
Karen Halbo, Staff Counsel
Scott Pease, Operations Manager
Maria Rios, Legal Analyst
Anne Marie Plascencia, Senior Legal Typist
Beth Reiken, Executive Secretary
Denise Cardoso, Assistant Chief Counsel, DOSH
Javier Castro, Staff Counsel, DOSH
John Steve Barnett, Staff Counsel, DOSH
Keith Mackenzie, Staff Counsel, DOSH
Lisa Brokaw, Staff Counsel, DOSH
Sesilya Saraydarian, Staff Counsel, DOSH
Ina Fitzgibbon, Office of Director DIR
Dave Wiseman, Staff Counsel, Cal Fire
Kevin D. Bland, Ogletree Deakins
Karin Umfrey, Worksafe
Catherine Baldi

Notice of remote attendance:

As required by Government Code Section 11123.5, subdivision (d), notice is hereby given that Board member Marvin P. Kropke will be participating remotely pursuant to Government Code Section 11123.2, subdivision (j), paragraph (2), and Board member Judith Freyman will be participating remotely pursuant to Government Code Section 11123.2, subdivision (j), paragraph (1).

Request for remote attendance:

Member Marvin Kropke made a motion requesting to attend the April 9, 2025 and April 23, 2025 board meetings remotely pursuant to Government

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Code section 11123.2, subdivision (j)(2)(A).

This motion was seconded by Judith Freyman.

The Board voted to approve the remote attendance request 3-0.

Minutes of March 5, 2025, Meeting:

(Approve or amend minutes of previous board meeting.)

Action: The Board approved the minutes of the March 5, 2025, meeting.

This was moved by Marvin Kropke.

It was seconded by Judith Freyman.

The vote was 3-0.

New Business:

(The Appeals Board hears and discusses new reports presented by staff.)

Action: No report.

Old Business:

(The Appeals Board hears and/or discusses matters on a follow-up basis.)

1. Discuss the newly prepared informational stakeholder videos (re “How to File an Appeal”) and discuss whether to post on OSHAB’s website. In addition, discuss whether the Board should explore any other avenues to publicize the availability of these videos to stakeholders.

Action: Executive Officer Patricia Hapgood contacted the Office of External Affairs to discuss how we can publicize the informational stakeholders videos. She also contacted Translation Services to get the videos translated to Spanish. For additional languages, YouTube has a feature that can translate these videos for viewers.

2. Discuss proposals and comments received at the recent roundtable meeting.

Action: Chairperson Ed Lowry discussed the Board’s proposed responses to the comments received at the 2024 Roundtable Meeting.

Legislation:

(Review and discuss current legislation which may affect the appeals Board.)

Action: No report

Chairperson’s Report:

(Hear report from the Chairperson on activities and issues affecting the Appeals Board.)

Action: No report.

Board Members' Reports:

(Hear reports from Board members on activities and issues affecting the Appeals Board.)

Action: No report.

Executive Officer's Report:

(Report regarding administrative matters.)

Action: Executive Officer Patricia Hapgood reported on the following items: the Board's efforts to make room to accommodate staff returning to in-person work on July 1st, progress on hiring two Office Technician candidates and the Associate Government Program Analyst (AGPA) candidate, and her efforts to reserve a venue for the 2025 Stakeholders' Roundtable Meeting. There was some discussion regarding the frequency of the meetings. Further comments were shared during the public comment portion of the meeting.

Staff Reports:

(Reports from the Supervising ALJ and the Chief Counsel regarding matters from the Hearing Operations and Legal Units.)

1. Discuss and may take action on proposals for new regulations or proposals for modifications to, or repeal of, existing regulations. In addition, discuss whether any concerns exist with existing regulations.

Action: Karen Halbo has no new updates at this time.

2. Litigation Update

Action: Aaron Jackson reported the following: 1.) The Board is preparing a response to the Geo Group, Inc.'s (1609228) Petition for Writ of Mandate. 2.) The Board has received a Notice of Appeal and is awaiting a briefing schedule for General Dynamics NASSCO (1300984), 3.) Angelus Block Co. Inc. (1743773) is set for a hearing on March 28, 2025. The Petitioner's reply brief is due on March 21st, 4.) A hearing in Waterproof and Roofing Solutions (1690885) is set for July 22, 2025, and 5) Arana Residential and Commercial Painting, Inc./Baldi (1568252) is set for a Case Management Conference on April 1, 2025. The Board is preparing to file its demur.

Any matter not completed at this meeting may be continued to subsequent meetings. If the closed session agenda is not completed on the scheduled day, the closed session will continue from day to day until completion and adjournment.

Public Comment:

(Public comments will be entertained during discussion of each agenda item of the open meeting.)

Action: The Board heard from a number of members of the public about matters raised in the Stakeholders Meeting memo, and other issues including the following topics: The frequency of stakeholders' meetings – some attendees agree that the meetings should be held annually, others suggested the meetings could be held biennially. Board staff answered questions about OASIS and making public record requests, the stakeholder informational videos, and summary judgment motions.

Decisions of Administrative Law Judges:

(Written decision issued by an Administrative Law Judge. The Decision summarizes the evidence received from the Division of Occupational Safety & Health and the Employer, makes findings of fact for all issues involved in the appeal and gives reasons and grounds for the Decision. The board members review the Decision and decide if they will reconsider the ALJ Decision on their own motion.)

There are no Decision at this time.

Petitions for Reconsideration:

(The Division of Occupational Safety & Health and the Employer each have the right to petition the Appeals Board to reconsider a decision or order of an Administrative Law Judge. The Appeals Board must decide to grant or deny each petition.)

1718594 The Camp NR LLC

Action: The Board voted to issue an order of remand.
This was moved by Marvin Kropke.
It was seconded by Judith Freyman.
The vote was 3-0.

Orders Dismissing Appeal:

1600950 Stanislaus County Sheriff's Department
Action: The Board discussed this matter.

1698769 Suburban Propane, LP
Action: The Board discussed this matter.

1664681 The Molecular Mexican Inc.
Action: The Board discussed this matter.

1715536 Torrance Refining Company LLC
Action: The Board discussed this matter.

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1671166 Tri-P's Management Corporation
Action: The Board discussed this matter.

Orders Denying Leave to File Late Appeal:

1748421 Aca Taco Inc
Action: The Board discussed this matter.

1748579 Rolling Frito-Lay Sales, LP
Action: The Board discussed this matter.

1743025 Valley Pride, Inc.
Action: The Board discussed this matter.

Matters Pending Reconsideration:

(If the Appeals Board orders reconsideration of an Order or Decision, it reviews the record and then affirms, rescinds, alters, or amends the Order or Decision being reconsidered.)

The following list is intended to inform stakeholders and members of the public of what the Board believes is the issue of most interest to the general public presented in each of the following matters. The issues are listed to assist those interested in research or public information, and not litigation, and are not necessarily or exclusively the only issue or issues presented in each matter. The issues identified are not positions of the Board. Further, the Board may add and decide issues not included in the list or decide the matter on other grounds, under authority of Labor Code sections 6620 through 6623.

1431672 A. Teichert & Son, LLC
Whether the cited employer was in violation of lockout/tagout requirements.

1473644 Amazon.com Services, LLC
Whether the employer's training program was in compliance with the applicable safety order.

1466722 Bragg Investment Company, Inc.
Whether the Employer violated the crane operating safety order as alleged while repositioning a crane at a construction site.

1647115 Concord Farms, Inc.
Whether there was good cause for the late appeal.

1420923 Drill Tech Drilling & Shoring, Inc.

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*Whether the Employer failed to enforce its IIPP as required.
Whether the Employer violated the lockout/tagout requirements of
section 3314 as alleged.*

- 1488312 Indiana Finish Line, Inc.
*Whether the cited employer established procedures adequate to
protect employees from COVID-19.*
- 1436480 Interline Brands, Inc.
Whether the employer violated foot protection standards.
- 1371294 KPRS Construction Services, Inc.
*Whether the employer violated section 1632 as alleged? Whether
the ALJ's ruling that the Division did not meet its burden of proof
regarding the employer's IIPP was correct.*
- 1486257 Kroger Company
*Whether the cited employer adequately trained employees
regarding workplace hazards.*
- 1692964 L & S Framing, Inc.
*Whether Employer committed the violations alleged in the citations,
including alleged violations of section 1704, subdivision (f) [failure
to adopt a compliant Code of Safe Practices]; section 1704,
subdivision (b)(2) [failure to ensure that nailers and staplers were
operated in accordance with manufacturer's recommendations],
and section 1704, subdivision (g), 1509, and section 3203
[inadequate safety training on the use of nailers and staplers].*
- 1235941 McCarthy Building Companies, Inc.
Whether the Division proved exposure to Valley Fever.
- 1549611 Metcalf, Inc.
*Whether Employer committed the violations alleged in the citations,
including alleged violations of section 3203, subdivision (a)(6)
[failure to correct an unsafe condition]; section 1621, subdivision (b)
[failure to provide toeboards on scaffolding]; and (3) section 3276,
subdivision (e)(15)(B) [safe use of ladders], and whether Employer
established its affirmative defense.*
- 1355061 Republic Electric West, Inc.
*Whether fall protection requirements apply to the work. Whether the
IEAD was established. Whether penalties were duplicative.
Whether the Employer exercised reasonable diligence. Whether it
was an error to reduce the classification of the violations and
reduce the penalties.*

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- 1760736 RJS Electric
Was the ALJ's Order Denying Late Appeal correctly decided?
- 1465119 Sun Belt Rentals
Whether certain information accepted into evidence was inadmissible hearsay, and whether the evidence supports a finding that Employer violated sections 3203 and 3328, as alleged.
- 1475491 Sutter Bay Hospitals dba Mills-Peninsula Medical Center
Was the ALJ correct in granting Employer's appeals of the citations alleging violations of section 342, subdivision (a) and section 5199, subdivision (i)?
- 1454931 Tesla Inc.
Whether the ALJ properly affirmed the citations and, if so, whether Employer committed a serious accident-related violation of section 3328, subdivision (a).
- 1486176 Tutor Perini Corporation and O&G Industries, Inc.
Whether the Employer committed a serious accident-related violation of section 3328, subdivisions (a)?

Matters Pending Litigation:

(If the Division of Occupational Safety & Health or the Employer disagrees with a Decision after Reconsideration or a Denial of a Petition for Reconsideration, either one or both parties may apply to the California Superior Court for a Writ of Mandate. The Appeals Board receives legal advice from its Legal Unit and provides policy direction regarding pending litigation.)

Superior Court:

1. United Parcel Service, Inc. dba UPS, 34-2019-80003174 (1116529)
2. Davis Development Company, 34-2020-80003373 (1226084)
3. Hill Crane Service Inc., 34-2021-80003744 (1135350)
4. USA Waste of California, Inc., 34-2022-80003841 (1384029)
5. Angelus Block Co., Inc., CIVSB2417796 (1113026)
6. Hamilton Iron Works, Inc., 24WM000100 (1497263)
7. Arana Residential and Commercial Painting, Inc. (1568252)
8. Western Oilfields Supply Company, 24WM000169 (1498595)
9. Waterproofing and Roofing Solutions, Inc., 24STCP03693, (1690885)

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10. The Geo Group, Inc., 25WM000023 (1609228)

Appellate Court:

1. General Dynamics NASSCO (1300984)

Other Items:

There are no Other Items.

Orders Of Administrative Law Judges:

(Written order issued by an Administrative Law Judge after a pre-hearing conference in which the Division of Occupational Safety & Health and the Employer agree to settle an appeal without a hearing. The Board Members review the Order and decide if they will reconsider or remand the issued order.)

1615001	A. Teichert & Sons, Inc.
1504675	A1 Roof Management & Construction, Inc., An Almaz USA
1675534	AEJ Trust Properties
1650234	American Airlines, Inc.
1506586	American Fumigation Services, LLC
1761345	Apptek Inc.
1613357	Aramark Uniform & Career Apparel, LLC
1740319	Atkore- Unistrut Construction
1612883	Aus Decking, Inc.
1657467	Basalite Building Products LLC
1719965	BCM Service & Engineering, Inc.
1552834	Bergelectric Corp.
1774572	BTV Construction Inc.
1625315	Building Worx, Inc.
1508346	Building Zone Industries, LLC
1424908	C.Overaa & Co.
1565231	CA Corrections & Rehabilitation, Office of Correctional Safety
1599950	CA Forestry and Fire Protection- San Luis Obispo
1632248	CA Forestry and Protection
1771448	Carlton Senior Living LLC
1772879	Caro Nut Company
1695293	Central Valley Meat Co., Inc.
1724952	City of Burbank
1744989	City of Lemoore
1773509	Corwood Car Wash, Inc.
1625205	Costco Business Center
1622754	D L Long Landscaping, Inc.
1733199	Diamond Gloves
1528440	FedEx Ground Package System, Inc.
1640972	FedEx Ground Packaging Systems
1776954	Goodwill Industries of Orange County, CA

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1561878	Griffith Company
1733310	Hoffmeyer Company, Inc.
1744771	Jose David Diaz
1717901	Korbel Champagne Cellars
1693649	KV Structures, Inc.
1764631	Lucchesi Builders Inc.
1751812	Mandrell's Body and Paint Shop Inc.
1720939	Martin Marietta Northern California Aggregates, LLC
1592819	MCA Remodeling, Inc.
1755910	Mike O'Brien Specialized Hauling, Inc.
1607232	Mitsui-Soko (U.S.A.) Inc.
1659572	N.M.N Construction, Inc.
1775292	Neil's Controlled Blasting, L.P.
1591796	Pacific Coast Container
1673884	Pacific Gas and Electric Company
1672437	Pacific West Builders, Inc.
1752801	Par La Vina, LLC
1766294	Riffe International Inc.
1721434	RJL Labor Services, Inc
1596313	Ruiz Food Products, Inc.
1645148	Safran Cabin Inc.
1582383	San Antonio Regional Hospital
1716395	San Francisco Bay Window Cleaning
1740151	Savemart Companies
1651069	Seals Construction, Inc.
1636104	Service by Medallion
1646623	SFUSD- Washington High School
1729615	Shipyard Staffing LLC
1770539	Show Ready, Inc.
1366500	Solpac Construction, Inc.
1511675	State of California Department of Public Health Licensing
1600218	Sunrun, Inc.
1760724	System Displays, Inc.
1560846	Taylor Farms Pacific, Inc.
1752128	TDH Construction Inc. DBA Foothill Painting and Drywall
1767852	Tenco Solar Inc
1752673	The Key of California, LLC
1553893	Tidalwave Enterprises, Inc.
1693225	Tolead Logistics US Inc.
1655887	Top Cabinets, Inc.
1711554	Unified Parking Services Inc.
1597803	Unified Rentals, Inc.
1706749	Walmart Neighborhood Market #3133
1753786	Williams-Sonoma Direct, Inc.
1736855	Xtreme Pallets Inc

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Action: The Board discussed the Settlement Orders issued by the Administrative Law Judges.

Personnel:

(Issues regarding staff)

The Closed Session adjourned at 11:14 a.m. and the Board returned to the Public Meeting. The Appeals Board incorporated, by reference, its actions in the Closed Session as indicated above. The Board meeting was adjourned at 11:15 a.m.