

State of California
California Occupational Safety and Health Appeals Board
Minutes of the Public Meeting & Closed Session
Held on October 8, 2025
Sacramento, California
Zoom Platform

Present:

Ed Lowry, Public Member, Chair
Judith Freyman, Management Member
Marvin Kropke, Labor Member
Kerry Lewis, Presiding Administrative Law Judge
Sam E. Lucas, Presiding Administrative Law Judge
Christopher Jessup, Administrative Law Judge
Jennie Culjat, Administrative Law Judge
Weiru Wang, Administrative Law Judge
Aaron Jackson, Chief Counsel
Jeffrey Mojcher, Chief Counsel Emeritus
Elizabeth Clarke, Staff Counsel
Karen Halbo, Staff Counsel
Maria Rios, Legal Analyst
Beth Reiken, Executive Secretary
John Garcia, Staff Counsel, DOSH
Lisa Brokaw, Staff Counsel, DOSH
John Steve Barnett, Staff Counsel, DOSH
Ina Fitzgibbon, Office of Director, DIR
David Wiseman, Staff Counsel, Cal Fire
Jordan Uter, Worksafe
Michaela Tyus
Guest

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:

No report.

Minutes of September 17, 2025, Meeting:

(Approve or amend minutes of previous board meeting.)

Action: The Board voted to approve the minutes for the September 17, 2025, meeting with amendments.

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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.)

Action: No report.

Legislation:

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

Action: Karen Halbo provided the following report. The Legislator is still in recess. The Governor signed SB-470, the bill extending the sunset of the Bagley-Keene changes allowing more remote attendance until 2030.

Chairperson's Report:

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

Action: Chairperson Ed Lowry shared that Scott Pease has taken over as Interim Executive Officer and he is pleased with the work Scott is doing. He shared his concerns regarding the Federal Government shutdown. He is attending a quarterly meeting tomorrow with Jennifer Osborn and Adam Romero.

Board Members' Reports:

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

Action: Marvin Kropke asked whether the Federal Government shutdown will have an impact on OSHAB's budget.

Executive Officer's Report:

(Report regarding administrative matters.)

Action: In Scott Pease's absence, Kerry Lewis shared the following details for the Stakeholder's Conference: It will be held on January 7th from 10:00 a.m.- 3:00 p.m. at the May Lee Complex center in Sacramento. A "Save the Date" invitation went out on October 1st to our Stakeholders. The contracts are still being finalized with the May Lee Complex and with the audio team. As for staffing, interviews for the Senior

Legal Typist position will be held October 9th and 10th. An Associated Governmental Program Analyst candidate has accepted the Board's offer and will start in two weeks. Interviews for the Limited Term Attorney III position will be on October 21st and October 22nd. The job posting for the Attorney III position has closed and applications will be reviewed. OSHAB's Zoom contract is transitioning from OSHAB to DIR. Updates to all form have been made. The dial in phone number for Zoom calls will be the only change.

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: No report.

2. Ligation Update

Action: Aaron Jackson provided the following updates: In the Uber case (1594663) the Board received a motion to stay and the hearing is set for January 2026. In the General Dynamics NASSCO appeal case (1300984), legal staff filed an opposition brief. On the Baldi/Arana case (1568252), legal staff filed a demurrer. On the Geo Group case (1609228), the hearing on the Board's demurrer was moved to November 21st. On Drill Tech (1420923), legal staff filed an answer to the petition.

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 comments on case settlements.

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

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Decision. The board members review the Decision and decide if they will reconsider the ALJ Decision on their own motion.)

1581944 Marques General Engineering, Inc.

Action: The Board discussed this matter.

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.)

1789153 J.G. Boswell Company

Action: The Board discussed this matter.

1745466 M&J Design Inc

Action: The Board discussed this matter.

1751481 Shooters Paradise, Inc.

Action: The Board voted to issue a Denial of Petition for Reconsideration
It was motioned by Marvin Kropke
It was seconded by Judith Freyman
The vote was 3-0

1698769 Suburban Propane, LP

Action: The Board discussed this matter.

Orders Dismissing Appeal:

1757373 B & S Plastics Inc

1731351 Commercial Coating Company, Inc,

1730975 Gaspar Marble and Tile

1728531 I beam Construction LLC

1765551 J.B. Marble Co.

1599318 Los Angeles Police Department

1722623 Mayan General Construction/Mayan Landscaping

Action: The Board discussed the Orders Dismissing Appeal.

Orders Denying Leave to File Late Appeal:

There are no Order Denying to File Late Appeal

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.

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

Action: The Board voted to issue the Decision After Reconsideration with Amendments.
This was moved by Judith Freyman
It was seconded by Marvin Kropke
The vote was 3-0.

1360156 CA Forest and Fire Protection
Did the Decision of the Administrative Law Judge properly affirm a violation for failure to wear thermal protection for ears and neck during wildland fire fighting.

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

Action: The Board voted to issue the Decision After Reconsideration.
This was moved by Marvin Kropke
It was seconded by Judith Freyman
The vote was 3-0.

1488312 Indiana Finish Line, Inc.
Whether the cited employer established procedures adequate to protect employees from COVID-19.

Action: The Board discussed this matter

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- 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.
- 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)?
- 1703764 The Don Chapin Co., Inc.
Did the Decision of the Administrative Law Judge properly find that employees were exposed to the hazard of a failure to provide a swinging gate or equivalent protection at the entrance to a ladder opening on a platform.

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- 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. USA Waste of California, Inc., 34-2022-80003841 (1384029)
2. Arana Residential and Commercial Painting, Inc. (1568252)
3. Western Oilfields Supply Company, 24WM000169 (1498595)
4. The Geo Group, Inc., 25WM000023 (1609228)
5. Uber Technologies Inc (1594663)
6. Employbridge Holding Company, 25CHCP00143 (1499137)
7. Sun Belt Rentals, 25CU041526C (1465119)

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.)

- 1787796 3 Generaciones AG Services LLC
1621019 Adco Roofing, Inc.

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1761679	Advantage Elevator, Inc.
1796833	AGI Cargo
1678147	Agriscap
1670780	Albertsons LLC
1759326	Anahiem Global Medical Center, Inc.
1603775	Avanti Install California, LLC
1806163	Barnett Roofing
1572099	Bay Area Production Services, LLC
1795737	Big Guy Official LLC
1672392	Bigge Crane and Rigging Co.
1745077	Blackwell Construction, Inc.
1833529	Burlington Distribution Corp
1838530	C&H Industries, Inc
1802634	California Conservation Corps
1783494	Camino Real Foods, Inc.
1837255	Canning Electric, Inc
1660044	Chevron U.S.A. Inc.
1796803	City of Calexico- Public Works
1647856	Clover Flat Land Fill Inc.
1816452	Coastal Farm Labor Services, Inc.
1775638	Community Chevrolet Company
1717027	Corn Maiden Foods Inc.
1677508	DFA Dairy Brands Fluid, LLC
1686394	Dolan Concrete Constructions
1823991	Dreyer's Grand Ice Cream, Inc.
1797408	Dynamic Iron Works, Inc.
1823962	Elle Placement, Inc.
1671117	Embassy Suites Employer LLC
1697198	Esau Concrete, Inc.
1639315	Evolution Hospitality, LLC, 3421 Cleveland Owner
1773505	Felix's Landscaping & Tee Service LLC
1803766	Focus Servicing, LLC
1787039	Gabriel Container
1759042	GAHC LLC
1779712	Garcia Furniture Designs Inc.
1796662	General Engineering Technology
1728158	George Reed, Inc
1779747	Georgia-Pacific Corrugated LLC
1752841	Grower's Choice, Inc.
1773056	H & R Labor Contracting LLC
1774370	Hampton Tedder Electric Company
1557901	Harmer Steel Products Company
1765804	Imperial Brewing Inc.
1823745	In-N-Out Burgers
1717028	International Marmol, Inc.
1791338	JT Construction Services Inc

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1733264	Kehe Distributors, LLC
1748956	Kern County Swap Meet, LLC
1704568	King National, Inc.
1797160	King Scaffolding Inc.
1455010	Lattco Services Inc.
1770812	LDCO, Inc.
1764907	Legacy CA, Inc.
1789699	Linde Inc
1759032	Logan Landscape Inc.
1581944	Marques General Engineering, Inc.
1726627	Marquez Brothers International, Inc.
1798889	Mast Roofing, Inc.
1811865	McClarty Farms, LLC
1776758	Mettler & Son, Inc.
1726001	Morro Bay Hospitality LLC
1731014	Murphy Industrial Coatings, Inc.
1795868	New Hope Dairy LLC
1764000	Nongshim America, Inc.
1832139	Nor-Cal Concrete Company
1702512	Northland Cable Television, Inc.
1813049	Oak Tree Ag Mgt., Inc.
1791057	Oakland Pallet Co. Inc.
1785482	Oceanside Unified School District
1703695	Pacific Coast Drilling Company Inc.
1764659	Pacific Gas and Electric Company
1769766	Potential Industries Inc
1686797	R & R Pro Roofing Inc.
1702850	R & R Roofing & Waterproofing, Inc.
1806580	R&S Overhead Doors of South Bay, Inc
1796396	Rainbow Gutters
1508894	Ralph's Grocery Company
1672429	Reliable Construction Services LLC
1769845	Rich Products Corporation
1728738	Riverside Unified School District
1835277	RMC Refrigeration & Air Conditioning Inc.
1783090	Royal Construction & Roofing Co. Inc.
1817746	Santa Paula Materials, Inc.
1815495	Serafin Rodriguez Mendoza
1527268	Sharp Memorial Hospital
1704046	Sherwood Management, Co., Inc.
1767343	Silveira & Son Drywall, Inc.
1800095	SNR 27 Arcadia Place Owner LLC
1831073	Stellex Powerline Opco, LLC
1657529	Suffolk Construction Company Inc.
1612874	Sun County Builders, Inc.
1808688	Sunup Solar Tech Services

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1803276	Surveillance Security Inc
1698229	Taylor Farm California Inc
1774908	The Los Angeles Dodgers
1532902	This is Fine (US), Inc.
1480159	Three Sons, Inc.
1803586	Tony's Muffler and Transmission, Inc.
1805223	Torres Farm Labor Contractor, Inc.
1773799	Traina Dried Fruit, Inc.
1826627	Trinity River Timber Company
1809419	Turn Key Scaffold LLC
1522663	Turnaround Welding Services, LLC
1809736	Tyler Love Corp.
1742518	U.S. Perma, Inc.
1758733	United Building Company Inc.
1811712	United Hay Press, Inc.
1619417	United Parcel Service, Inc.
1832136	VYVE Broadband
1835279	Wagner Roofing
1657825	Walk and Talk Holdings, Inc.
1795191	Xpert Dairy Systems Inc.

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

Personnel:

(Issues regarding staff)

The Closed Session adjourned at 10:47 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 10:48 a.m.