

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

Present:

Ed Lowry, Public Member, Chair
Judith Freyman, Management Member
Marvin Kropke, Labor Member
Scott Pease, Interim Executive Officer
Kerry Lewis, Presiding Administrative Law Judge
Sam E. Lucas, Presiding Administrative Law Judge
Christopher Jessup, Administrative Law Judge
Howard Chernin, Administrative Law Judge
Jennie Culjat, Administrative Law Judge
Aaron Jackson, Chief Counsel
Jeffrey Mojcher, Chief Counsel Emeritus
Karen Halbo, Staff Counsel
Maria Rios, Legal Analyst
Beth Reiken, Executive Secretary
Denise Cardoso, Assistant Chief Counsel, DOSH
Ina Fitzgibbon, Office of Director, DIR
David Wiseman, Staff Counsel, Cal Fire
Kita Banks, Staff Counsel, Cal Fire
Karin Umpfrey, Worksafe

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 December 3rd and December 18th Board meetings remotely pursuant to Government 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 November 5, 2025, Meeting:

(Approve or amend minutes of previous Board meeting.)

California Occupational Safety and Health Appeals Board
Minutes of the Public Meeting and Closed Session
November 19, 2025

Action: The Board voted to approve the minutes for the November 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.)

Action: No report.

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: Ed Lowry shared his thoughts regards the passing of OSHAB's staff counsel, Elizabeth Clarke. His meeting with Fed OSHA has been rescheduled to December 12, 2025. He attended the Cal OSHA advisory committee meeting.

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: Scott Pease reported that RSVPs for the Stakeholder's Roundtable Discussion are coming in. He asked for any agenda items for the Stakeholder's Roundtable Discussion to be submitted by 12/1/2025. The posting for the Senior Legal Typist (SLT) position has closed, and he expects to have applications reviewed next week. The Attorney III (LT) position is being finalized by HR. The Attorney III position applications will be released soon, and interviews will take place in December.

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 received a promise from DIR legal they will finish their review of both the Appeal Initiation Regulations and the Prehearing and Hearing Regulation packages by the end of the week.

2. Ligation Update

Action: Aaron Jackson provided the following updates: In the Geo Group case (1609228), the Board's reply brief is due November 26th. Elizabeth Clarke's cases have been reassigned as follows: Jeffrey Mojcher is handing Baldi/Arana (1568252). There is a hearing on our demurrer currently scheduled for November 25th. The Board filed an ex parte application to modify that hearing date and are waiting on the court's decision. Drill Tech (1420923) has been reassigned to Aaron Jackson and there is a meeting tomorrow with the opposing counsel to discuss a hearing date and briefing schedule. Aaron Jackson will be handing the General Dynamics NASSCO appeal (1300984). The Board is currently waiting for the court to set the matter for oral argument. Waterproofing and Roofing (1690855) is on appeal and has been transferred to Karen Halbo.

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 from the public regarding the Stakeholder's Roundtable agenda, SB 20 and Silica, and comments on the passing of Elizabeth Clarke, Staff Counsel with OSHAB.

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

California Occupational Safety and Health Appeals Board
Minutes of the Public Meeting and Closed Session
November 19, 2025

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.)

- 1446266 Creative Packaging
Action: The Board discussed this matter.
- 1484149 International Line Builders, Inc.
Action: The Board discussed this matter.
- 1469097 Lowe's Home Centers, LLC
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.)

- 1811001 Advanced Textile Manufacturing
Action: The Board voted to issue an order reinstating and remanding the appeal.
It was moved by Marvin Kropke.
It was seconded by Judith Freyman.
The vote was 3-0.
- 1599318 LA Police Department
Action: The Board voted to issue a Denial of the Petition for Reconsideration.
It was moved by Marvin Kropke.
It was seconded by Judith Freyman.
The vote was 3-0.
- 1675024 Elite Stone Group Inc.
Action: The Board voted to issue a Denial of the Petition of Reconsideration.
It was moved by Marvin Kropke.
It was seconded by Judith Freyman.
The vote was 3-0.

Orders Dismissing Appeal:

- 1578056 American Custom Private Security, Inc.
Action: The Board discussed this matter.
- 1638742 Contra Costa Electric, Inc.
Action: The Board discussed this matter.

California Occupational Safety and Health Appeals Board
Minutes of the Public Meeting and Closed Session
November 19, 2025

1718594 The Camp NR LLC
Action: The Board discussed this matter.

Orders Denying Leave to File Late Appeal:

There are no Orders Denying Leave 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.

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| 1360156 | CA Forest and Fire Protection
<i>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.</i> |
| 1545777 | Entact, LLC
<i>Did the Decision of the Administrative Law Judge properly affirm violations for failure to ensure that employees operated industrial trucks in a safe manner by maintaining a safe distance from other vehicles, and for failure to ensure that employees traveled with the load trailing when the load being carried obstructed forward view.</i> |
| 1488312 | Indiana Finish Line, Inc.
<i>Whether the cited employer established procedures adequate to protect employees from COVID-19.</i> |
| 1371294 | KPRS Construction Services, Inc.
<i>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.</i> |
| 1692964 | L & S Framing, Inc.
<i>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,</i> |

California Occupational Safety and Health Appeals Board
Minutes of the Public Meeting and Closed Session
November 19, 2025

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].

Action: The Board discussed this matter.

- 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.
- 1458699 Primula Mozzarella LLC.
Whether the Employer's petition for reconsideration was timely.
- 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.
- 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)
8. Drill Tech Drilling & Shoring, Inc. N25-1793 (1420923)

Appellate Court:

1. General Dynamics NASSCO (1300984)
2. Waterproofing and Roofing Solutions, Inc. 24STCP03693 (1690885)

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.)

1832183	4 X 8 Construction, Inc.
1806543	AG-Weld, Inc.
1633062	Argo Labor Services, Inc.
1759259	Argo Labor Services, Inc.
1704570	Amazing Grace Elder Care LLC
1652852	Angeles Contractor, Inc.
1798436	Antioch Building Materials, Co.

California Occupational Safety and Health Appeals Board
Minutes of the Public Meeting and Closed Session
November 19, 2025

1616451	Arctic Glacier U.S.A., Inc.
1795774	Auto-Chlor System, LLC
1796412	Bartlett Painting, Inc.
1829091	Brasswood Estate
1834986	California Building & Roofing Supply Corporation
1727585	California Department of Forestry and Fire
1523261	Contract Office Installations Inc.
1794177	Crosno Construction, Inc.
1710165	CRST Specialized
1530777	Cutwater Spirits, LLC
1826370	Domus Management Company
1710098	DPI, Inc.
1783887	Dreamspace Builders Inc.
1759447	Dunn Right Painting Inc.
1804604	Durden Construction, Inc.
1775097	Early Morning LLC
1683956	Employbridge, LLC
1780928	Enrique A. Cruz Masonry, Inc.
1617063	Esparza Enterprises, Inc.
1795120	Five Engineering and Plumbing, Inc.
1819426	G and J Logging
1626318	GD Tile and Stone, LLC
1625620	High Light Electric, Inc.
1569265	Hughson Nut, Inc.
1658514	Hughson Nut, Inc.
1796821	IGS Solutions LLC
1777182	J. Talley Corp DBA Talley Metal Fabrication
1801132	Jim Bootsma Jr. Dairy LP
1616533	Kern County Superintendent of Schools, Edison
1795301	L & HR Inc
1574729	Level 10 Construction, LP
1797131	Marcon Engineering Inc
1602432	MC Painting, Inc.
1673722	Mitchell Repair Information Company, LLC
1783760	Mulholland Security & Patrol Inc.
1845084	North Valley Tree Service
1794851	Pacific Gas and Electric Company
1819229	Pacific Tire #6
1729707	Patrica Thomas
1828436	Polar Air Heating and Cooling
1756531	Precise Company
1598680	Primus Marble, Inc.
1678482	Primus Marble, Inc.
1804130	Rar Hotel Management Inc
1801347	Recology Inc.
1751910	Regan Roofing Inc.

California Occupational Safety and Health Appeals Board
Minutes of the Public Meeting and Closed Session
November 19, 2025

1796572	Rick Hamm Construction, Inc.
1818598	Rojas Builders Corp
1817194	Sacramento County Sheriff's Department
1740466	Safeway, Inc.
1783859	Salinas BW Enterprises, LLC
1781344	San Francisco Foods, LLC
1851120	Satkaar Group Investments Corp
1833218	Shaw Bakers, LLC
1493422	Sierra Pacific Industries
1711298	Simply Fresh, LLC
1689595	Skillset Group Inc.
1825492	Skyline Tree Enterprise, Inc.
1686774	Solar Turbines Incorporated
1758267	Sony Pictures Entertainment
1792430	Starbucks Corporation
1745330	Steelscape, LLC
1845445	Sunny Creek Solar and Maintenance
1829712	Synergy Power
188993	The HMC Group Cold Storage, Inc.
1768545	The Open Door Network
1780577	TRG Construction Inc.
1821090	Trinity River Timber Company
1808017	UC Merced
1671518	Universal Protection Service LPP
1775668	Vegtask, LLC
1832602	Wash Depot Holdings, Inc.
1594920	Xebec Building Company
1780161	XL Concrete Masonry, LLC

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

Personnel:

(Issues regarding staff)

The Closed Session adjourned at 10:50 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 10:51 a.m.