

December 30, 2009

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

The California Chamber of Commerce and the below named coalition members appreciate the opportunity to provide our suggestions for rulemaking in the coming year. Employers are entitled under the law and encouraged by Cal/OSHA when cited to file a timely appeal in order to protect their rights. We support the mission of the Appeals Board to fairly, timely and efficiently resolve appeals and to provide clear, consistent guidance to the public, thereby promoting workplace safety and health. These proposals are made to support the streamlining of the hearing process and to support standard principles of justice.

- Revised procedure for prehearing motions that establishes enforceable deadlines for party responses and the Board rulings (section 371).
- Revise regulations for amending citations and appeals in a fair and timely manner for all parties and to recognize the distinction between substantive and non-substantive amendments (section 361.3, 371, 371.2, etc).
- Revise procedures for motions made at hearing which could have been brought earlier in accordance with section 371 to establish that the motion shall not be heard absent a showing of evidence or information not previously available or discoverable (section 371).
- Develop regulatory language related to Board approved non-admission clauses in settlement agreements.
- Revise rules for the Board's granting of continuances so that they are more readily granted and the timing is addressed (section 371.1).
- Revise the expedited hearing process for unabated serious citation hazards to codify the Pilot Project, with changes dictated by Pilot Project experience (section 373).
- Develop regulations to establish means to communicate orally with the Board or Board staff on non-substantive matters, such as confirming receipt of documents.

We look forward to a robust discussion.

Sincerely,

California Chamber of Commerce
Associated Roofing Contractors of the Bay Area Counties, Inc.
California Construction & Industrial Materials Association
California Farm Bureau Federation
California Framing Contractors Association
California Professional Association of Specialty Contractors
Residential Contractors Association
SafeCon Consulting Group
The Alliance of Motion Picture and Television Producers
Walter & Prince, LLP