
**DEPARTMENT OF INDUSTRIAL RELATIONS
OCCUPATIONAL SAFETY AND HEALTH
APPEALS BOARD**

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TO: OSHAB Stakeholders

FROM: Kari Johnson

DATE: June 18, 2013

RE: Expedited Proceedings

As you may be aware, the Appeals Board has a new regulation to provide for a process of Expedited Proceeding for certain cases (a copy of the regulation, which will go into effect on July 1, 2013, is below).

We want to make sure you know about the Expedited Proceeding regulation, how the Appeals Board will handle these cases, and what we are requesting of parties and the Division of Occupational Safety and Health (DOSH).

When each Appeal Form reaches the Board, we review the contents to see if the appeal qualifies for Expedited Proceeding, that is: the citation appealed is classified as Serious, Repeat Serious, Willful Serious, Willful, Willful Repeat, Failure to Abate, and abatement has been appealed or has not occurred.

If we cannot determine from the Appeal Form and citation whether abatement has occurred, we will contact the appropriate DOSH District Manager via email or telephone to ascertain abatement status. Those cases in which abatement has not been accomplished and which meet the other conditions will continue into the Expedited Proceeding process.

Please take a moment to review our process outlined below in the regulation. We conducted a pilot project covering this process and we know we can complete Expedited Proceedings efficiently with your assistance. Thank you so much, and please email Executive Officer Kari Johnson at kajohnson@dir.ca.gov or call at 916-274-5770 if you have questions.

California Occupational Safety and Health Appeals Board

Amend Section 373, Expedited Proceeding, to read:

(a) Upon motion of a party or upon its own motion, the Appeals Board may order an expedited proceeding. All parties shall be notified and shall be expected to do all things necessary to complete the proceeding in the minimum time consistent with fairness. Time limits for filing a motion to compel discovery and for responsive filings under section 372.6 may be shortened as necessary to accommodate the expedited date for disposition of the case.

(b) Where the Appeals Board is aware or is notified that an alleged violation appealed is classified by the Division of Occupational Safety & Health as a Serious, Repeat Serious, Willful Serious, Willful, Willful Repeat or Failure to Abate, and either abatement is on appeal, or abatement has not occurred, the Appeals Board shall expedite the proceeding.

(c) The Appeals Board shall serve parties written explanation of the expedited process, a notification of docketing, a copy of the docketed appeal forms and citations, a standing order compelling discovery, a stipulation form, and a status conference notice.

(1) A telephonic status conference shall be held within 30 days of the docketing of the appeal. At that time, the ALJ will confirm that the expedited process is appropriate, review the requirements of the expedited process with the parties, review pending and impending discovery, and make such orders regarding any matter as needed to meet the timetable of this section.

(2) A telephonic prehearing conference shall be held within 60 days of the status conference. The prehearing conference will proceed under Section 374. The parties will be required to stipulate to undisputed facts, identify issues, and raise issues regarding the admissibility of evidence. The parties shall identify all witnesses and exhibits they intend to call or introduce at the hearing.

(3) A hearing shall be held within 60 days of the prehearing conference and will be scheduled for one day and adjusted, if necessary.

(4) The Appeals Board or a party may bring a motion to shorten the timeframes set forth in subsections (c)(1) – (3) on a showing of good cause.

Note: Authority cited: Section 148.7 and 149.5, Labor Code. Reference: Sections 148.7 and 149.5, Labor Code.