

State of California
California Occupational Safety and Health Appeals Board
Minutes of the Public Meeting & Closed Session
Held on July 9, 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
Howard Chernin, Administrative Law Judge
Rheeah Yoo Avelar, Administrative Law Judge
Jennie Culjat, Administrative Law Judge
Jeffrey Mojcher, Chief Counsel Emeritus
Aaron Jackson, Chief Counsel
Elizabeth Clarke, Staff Counsel
Karen Halbo, Staff Counsel
Scott Pease, Operations Manager
Maria Rios, Legal Analyst
Anne Marie Plascencia, Senior Legal Typist
Beth Reiken, Executive Secretary
Lauren H Ocadiz, Staff Counsel, DOSH
Ina Fitzgibbon, Office of Director, DIR
Kita Banks, Staff Counsel, CalFire
Kevin D. Bland, Ogletree Deakins
Karin Umpfrey, Worksafe
Aryaman Thareja

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:

Action: No report

Minutes of June 18, 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
July 9, 2025

Action: The Board voted to approve the minutes for the June 18, 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.)

1. Discussion regarding processing and handling of verification of abatement forms by both the Appeals Board and the Division.

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: Scott Pease reported that the Spanish version of the informational videos will be edited and then posted on the website. He expected to have an update next week on the marketing flyer after revisions are made.

Legislation:

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

Action: Karen Halbo provided status updates on the following bills in the CA legislature: SB-20, AB-596, AB-694, AB-845, AB-1371, AB-1424, AB-1515, AB-1336, AB-1181. Karin Umfrey, with Worksafe provided information on AB-1424.

Chairperson’s Report:

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

Action: Ed Lowry shared his reappointment has gone to the Senate floor for review. Ed will be out of the office for the next Board meeting on July 23, 2025. In his absence, Board Member Judith Freyman will act as Chairperson.

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: Patricia Hapgood discussed the vacancies for the Administrative Law Judge and Attorney positions.

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 provided an update on the prehearing and hearing regulation packet.

2. Ligation Update

Action: Aaron Jackson provided the following updates: The Board is responding to the first amended petition in the matter of the GEO Group, Inc. (1609228). The Board prevailed on the demurrer on the Baldi/Arana Residential and Commercial Painting, Inc. (1568252) however the court granted Ms. Baldi leave to amend her petition. The hearing for Waterproofing and Roofing Solutions, Inc. (1690885) is scheduled for July 22nd and Karen Halbo will attend. For General Dynamics NASSCO (1300984), the Board's response brief is due at the end of the month.

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: No report.

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.)

California Occupational Safety and Health Appeals Board
Minutes of the Public Meeting and Closed Session
July 9, 2025

1713933 Proset, 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.)

1730290 Ahuis Building Development Inc

Action: The Board voted to issue a Denial of the Petition of Reconsideration

This motion was moved by Marvin Kropke.
It was seconded by Judi Freyman
The vote was 3-0

1764053 Golden Gate Bridge, Highway and Transportation District

Action: The Board voted to issue a Denial of the Petition of Reconsideration

This motion was moved by Marvin Kropke.
It was seconded by Judi Freyman
The vote was 3-0

1748579 Rolling Frito-Lay Sales, LP

Action: The Board voted to issue a Denial of the Petition of Reconsideration

This motion was moved by Marvin Kropke.
It was seconded by Judi Freyman
The vote was 3-0

1777892 Van Duerr Industries, Inc.

Action: The Board voted to take the matter under submission.

This motion was moved by Marvin Kropke.
It was seconded by Judi Freyman
The vote was 3-0

Orders Dismissing Appeal:

1721061 BOA Logistics LLC

California Occupational Safety and Health Appeals Board
Minutes of the Public Meeting and Closed Session
July 9, 2025

Action: The Board discussed this matter.

1685575 Irwindale Car Wash

Action: The Board discussed this matter.

1728821 Jaem, Inc.

Action: The Board discussed this matter.

1725458 Jesse Jay Ruger

Action: The Board discussed this matter.

1634629 Lane Security Paving Joint Venture

Action: The Board discussed this matter.

1670932 Penguin Natural Food Inc.

Action: The Board discussed this matter.

1699584 Real Good Foods, LLC

Action: The Board discussed this matter.

1663135 Relin Supply Chain Solutions, LLC

Action: The Board discussed this matter.

1730988 Schmidt, Inc.

Action: The Board discussed this matter.

1751481 Shooters Paradise, Inc.

Action: The Board discussed this matter.

1716138 Sub-Zero Excavating Incorporated

Action: The Board discussed this matter.

1654519 Titan Solar Power

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.

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

Action: The Board voted to issue the Decision After Reconsideration.

<div style="text-align: right; padding-right: 20px;">This motion was moved by Judi Freyman.
It was seconded by Marvin Kropke.
The vote was 3-0.</div> |
| 1473644 | Amazon.com Services, LLC
<i>Whether the employer's training program was in compliance with the applicable safety order.</i> |
| 1466722 | Bragg Investment Company, Inc.
<i>Whether the Employer violated the crane operating safety order as alleged while repositioning a crane at a construction site.</i> |
| 1647115 | Concord Farms, Inc.
<i>Whether there was good cause for the late appeal.</i> |
| 1420923 | Drill Tech Drilling & Shoring, Inc.
<i>Whether the Employer failed to enforce its IIPP as required.
Whether the Employer violated the lockout/tagout requirements of section 3314 as alleged.</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. |

California Occupational Safety and Health Appeals Board
Minutes of the Public Meeting and Closed Session
July 9, 2025

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.
- 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.

Action: The Board voted to issue the Decision After Reconsideration.

This motion was moved by Marvin Kropke.
It was seconded by Judi Freyman.
The vote was 3-0.

California Occupational Safety and Health Appeals Board
Minutes of the Public Meeting and Closed Session
July 9, 2025

- 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. USA Waste of California, Inc., 34-2022-80003841 (1384029)
2. Angelus Block Co., Inc., CIVSB2417796 (1113026)
3. Hamilton Iron Works, Inc., 24WM000100 (1497263)
4. Arana Residential and Commercial Painting, Inc. (1568252)
5. Western Oilfields Supply Company, 24WM000169 (1498595)
6. Waterproofing and Roofing Solutions, Inc., 24STCP03693, (1690885)
7. The Geo Group, Inc., 25WM000023 (1609228)

Action: The Board discussed this matter.

8. Uber Technologies Inc (1594663)
9. Employbridge Holding Company, 25CHCP00143 (1499137)

Appellate Court:

1. General Dynamics NASSCO (1300984)

California Occupational Safety and Health Appeals Board
Minutes of the Public Meeting and Closed Session
July 9, 2025

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.)

1785053	2 B Farming, Inc.
1784245	A-1 All American Roofing WLA, Inc.
1540933	Airgas USA, LLC
1797139	All Auto & Truck Specialists, Inc.
1795156	Allied Waste Systems, Inc. DBA Republic Services of San Diego
1758930	Allied West Paper Corp.
1633352	Amarjit Kandola
1573858	Amazon Logistics, Inc.
1596959	Amazon.com Services LLC
1792242	Amazon.com Services LLC
1753607	Amware Pallet Services, LLC
1733516	Argo Family Farms
1749530	Atech Logistics, Inc.
1767047	Balesteri Construction, Inc.
1789149	Barbier Security Group
1553884	Bayshore Family Market
1724503	Bell Brother's Heating and Air, Inc.
1784775	Bellingham Marine Industries, Inc.
1745236	Bellwether Farms LLC
1621382	Beneficial AG Services
1780276	Big L, Inc.
1804482	Black and Veatch Corporation
1761055	Bloehmof Farm Management, Inc.
1785132	Boss Plumbing Company, Inc.
1712221	Boston Barricade Company, Inc.
1769482	Breezlyte LLC
1767013	Brett George Company, Inc
1788303	Brinker International
1652280	Cahill Contractors, LLC
1726712	Cal Closets Retail Inc
1780931	California Dairies, Inc.
1761268	CBC Framing, Inc.
1768060	Cebro Frozen Foods, Inc.
1618112	Cedars-Sinai Medical Center
1769610	Ceeson USA Inc.
1724833	City of Oakland/ Oakland Fire Department

California Occupational Safety and Health Appeals Board
Minutes of the Public Meeting and Closed Session
July 9, 2025

1812662	City of Sacramento
1762638	Clark Bros LLC
1637718	Constant Staffing, LLC
1771172	Court Concepts, Inc
1743719	Court Galvanizing, Inc
1500340	Cream of the Crop AG Service, Inc
1645557	Cypress Senior Living Operations, LP
1767670	Duravent Inc.
1586471	EI Super
1558446	Enterprise Holding, Inc and its Subsidiaries
1567349	FD Thomas, Inc.
1563595	FedEx Express
1584347	FedEx Ground Package System, Inc.
1729503	Flatiron Construction
1721872	Fogo De Chao
1767836	Forebay Farms, LLC
1771050	Franco-American Bakery
1691272	Frank Schipper Construction Co.
1601171	Fruitvale Operating Company, LP
1426614	Gilton Solid Waste Management, Inc.
1614309	Greystar, LP
1775810	Haley Underground, Inc.
1752413	Harold E. Robben Jr.
1687227	I V Mechanical Inc
1807380	IA Marketing, LLC
1713065	ICD Waterjet Inc
1770857	In-Shape Solutions, LLC
1800014	Industrial Threaded Products
1794558	Ink Systems, Inc
1713392	Integrated Turbo Machinery
1779739	J's Custom Painting
1748912	JAC Ag Services, Inc.
1775946	John Muir Medical Center
1770182	Jones NR, Inc.
1778172	Kingdom Roofing
1740504	Klink Orange Cove Citrus
1723336	Largo Concrete Inc.
1724287	Largo Concrete Inc.
1772486	Love's Country Stores of California
1758045	Mar-Val Emporium Inc.
1779362	Martin Paredes, An Individual
1794903	Master's Window & Gutter Cleaning, Inc.
1702370	Mattress Firm, Inc.
1649800	Maui and Sons
1745485	Mesa Cold Storage, LTD
1780280	Mex Restaurant, Inc.

California Occupational Safety and Health Appeals Board
Minutes of the Public Meeting and Closed Session
July 9, 2025

1756934	Myles Davis Electric, Incorporated
1715785	National Trench Safet
1716431	O.R. Builders, Inc.
1630206	Olli Salumeria Americana, LLC
1603443	Orco Block & Hardscape
1782531	PabloDanel Badillo Lopez
1788793	Packaging Specialist Incorporated
1792266	Palacios Renovations, Inc.
1781482	Paragon Textiles, Inc.
1631851	Pavilions Management, LLC, DBA McDonald's No. 10235
1633385	Performance Team, LLC, A Maersk Company
1773495	Pomona Scrap Metal Co
1671788	Professional Restoration Services, Inc.
1565852	R&R Christo Constructions, LLC
1753885	R.C. Home Remodeling Inc.
1685101	Randstad North America, Inc.
1664114	Reborn Cabinets, LLC.
1760462	Red Triangle Oil Company
1679698	Ross Stores, Inc.
1629256	Safeway, Inc.
1801500	Shake Shack California LLC
1784095	Sierra Pacific Industries
1777973	Sierra Roofing and Solar, Inc.
1639030	Southwest Airlines Co
1791989	Stone Family Spreading, Inc.
1668285	Sudyka Construction, Inc.
1777304	Sunpol Resins and Polymers, Inc.
1777179	T.J. Janca Construction, Inc.
1689272	Team Finish, Inc.
1794875	Terra Bella Nursery, Inc.
1600292	The Nevell Group, Inc @Sonic Homes Convina
1784800	The Posh Bakery, Inc.
1796282	Thompson Industrial Supply, LLC
1790391	TK Pax, Inc.
1693858	Tractor Supply Company
1724180	Trademark Construction Co., Inc.
1701402	Tropicale Foods, LLC
1677080	Tula1 LLC
1653581	U.S. Venture, Inc.
1622106	Unisource Solutions
1700662	USA Waste of California, Inc.
1813766	Valdez Plastering, Inc
1713695	Valencia Farm Labor, Inc.
1677224	W.E. Lyons Construction Co.
1588102	West Coast Arborists, Inc.
1647443	Western Sign Company, Inc.

California Occupational Safety and Health Appeals Board
Minutes of the Public Meeting and Closed Session
July 9, 2025

1692839 XYZ Security Corp

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

Personnel:

(Issues regarding staff)

The Closed Session adjourned at 11:05 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 11:06 a.m.