

State of California
California Occupational Safety and Health Appeals Board
Minutes of the Public Meeting & Closed Session
Held on September 17, 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
Christopher Jessup, Administrative Law Judge
Jennie Culjat, Administrative Law Judge
Les Murad, Administrative Law Judge
Mario Grimm, Administrative Law Judge
Rheeah Yoo Avelar, 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
Anne Marie Plascencia, Senior Legal Typist, DOSH
Beth Reiken, Executive Secretary
Dan Lucido, Chief Counsel, DOSH
Denise Cardoso, Assistant Chief Counsel, DOSH
Keith Mackenzie, Staff Counsel, DOSH
Lauren H. Ocadiz, Staff Counsel, DOSH
Lisa Brokaw, Staff Counsel, DOSH
Ina Fitzgibbon, Office of Director, DIR
David Wiseman, Staff Counsel, Cal Fire
Kita Banks, Staff Counsel, Cal Fire
David Botelho, Division of Apprenticeship
Lisa Price, The Prince Firm

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 October

California Occupational Safety and Health Appeals Board
Minutes of the Public Meeting and Closed Session
September 17, 2025

8th and October 22nd board meetings remotely pursuant to Government Code section 11123.2, subdivision (j)(2)(A).

This motion was seconded by Ed Lowry.

The Board voted to approve the remote attendance request 3-0.

Minutes of September 3, 2025, Meeting:

(Approve or amend minutes of previous board meeting.)

Action: The Board voted to approve the minutes for the September 3, 2025, meeting with amendments.
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 the purpose and efficacy of the Board's settlement conference process.

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: Elizabeth Clarke provided status updates on the following bills in the CA legislation: SB-20, AB-845, SB-470, and AB-516, AB-1336, AB-1181. The Legislature is currently on recess until January 5, 2026. Board Member Judith Freyman asked follow-up questions.

Chairperson's Report:

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

Action: Chairperson Ed Lowry shared that Scott Pease will be the Interim Executive Officer for the Board now that Patricia Hapgood has retired.

Board Members' Reports:

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

California Occupational Safety and Health Appeals Board
Minutes of the Public Meeting and Closed Session
September 17, 2025

Action: Board Member Marvin Kropke extend his appreciation to Patricia Hapgood as she retires, and thanked Scott Pease for moving into the Interim Executive Officer role. He provided comments on the Joint Committee Hearing. He also shared his condolences towards the recent passing of California Democratic Leader John Burton, and his deep appreciation for all his work.

Executive Officer's Report:

(Report regarding administrative matters.)

Action: Scott Pease shared that the next Stakeholder's Conference will take place on Wednesday, January 7th from 10:00 a.m.- 3:00 p.m. at the May Lee Complex in Sacramento. We are finalizing the contract, the "Save the Date," and coordinating with the media team for the day of the event. He is coordinating interviews for the Senior Legal Typist (SLT) position for early October. He has sent the top candidate for the Associated Governmental Program Analyst (AGPA) candidate to HR for approval. The Attorney III position has been posted. Interviews for the Attorney III (Limited Term) position will be scheduled for mid-October.

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: Aaron Jackson shared that we are still waiting on approval on the regulation packages.

2. Ligation Update

Action: Aaron Jackson provided the following updates: On Monday, the Board received a notice of Ex Parte Motion to stay administrative proceedings in the Uber case (1594663). Legal staff briefed and provided oral argument on Tuesday and the court subsequently denied the motion. In the General Dynamics NASSCO appeal case (1300984), legal staff is filing an opposition brief. On the Baldi/Arana case (1568252), legal staff will be filing a demurrer to the 3rd amended petition for writ of mandate. On the Geo Group case (1609228), there will a hearing on October 24th on the Board's demurrer.

California Occupational Safety and Health Appeals Board
Minutes of the Public Meeting and Closed Session
September 17, 2025

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 the Board's Settlement Conference process and appreciation towards retired Patricia Hapgood.

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.)

There are no Decisions of Administrative Law Judges.

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.)

There are no Petitions for Reconsideration.

Orders Dismissing Appeal:

1675024 Elite Stone Group Inc

Action: The Board discussed this matter.

1759125 Holcomb Engineering Contractors, Inc.

Action: The Board discussed this matter.

1745466 M&J Design Inc

Action: The Board discussed this matter.

1477600 Steven Matthew Glenn

Action: The Board discussed this matter.

Orders Denying Leave to File Late Appeal:

1813590 Capay Farms, Inc.

Action: The Board discussed this matter.

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.

1473644 Amazon.com Services, LLC
Whether the employer's training program was in compliance with the applicable safety order.

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

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 discussed this matter.

1360156 CA Forest and Fire Protection

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

Action: The Board discussed this matter

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

California Occupational Safety and Health Appeals Board
Minutes of the Public Meeting and Closed Session
September 17, 2025

Action: The Board discussed this matter

- 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.
- 1454931 Tesla Inc.

California Occupational Safety and Health Appeals Board
Minutes of the Public Meeting and Closed Session
September 17, 2025

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.)

1778214 Aberle Concrete, Excavating & Grading, Inc.
1796603 AP Global Construction, Inc

California Occupational Safety and Health Appeals Board
Minutes of the Public Meeting and Closed Session
September 17, 2025

1715984	ASF Clean Team LLC
1812580	B.C. Personnel, Inc.
1754911	Baker Commodities Inc
1689859	Berber Food MFG, Inc.
1569389	Bottling Group LLC
1687251	Burford Farming Company Inc.
1650044	Central Transport LLC
1799689	Clean Harbors Buttonwillow, LLC
1669921	D & J Packing LLC
1704554	D & J Packing LLC
1777938	Diana's Mexican Food Products, Inc.
1712370	Dolan Concrete Construction
1634914	Evolution Hospitality, LLC, GF Carneros Tenant, LLC
1714200	Frito-Lay, Inc.
1788424	Humboldt Sawmill Co, LLC
1814617	KKH Ventures, LLC
1686028	Leonard Roofing Inc
1803580	Los Primos Tires Inc
1679869	Milgard Manufacturing Inc.
1428083	Murray Plumbing and Heating Corporation
1294543	Nationwide Plastic Products Inc
1809979	Nor-Cal Concrete Company
1840367	Nor-Cal Concrete Company
1654750	Olam Farming, Inc
1707414	Olam West Coast, Inc.
1809691	Optimum, Inc.
1583309	Pacific Asiana, LLC
1745657	Pacific Coast Producers
1758137	Ransom Concrete Construction, Inc.
1828165	RCAT Detailing
ART-202101	Rexford Properties, LLC
1798547	Sequoia Forest Products LLC
1786729	Slarve Construction LLC
1778665	Steve Chinchio
1803276	Surveillance Security Inc
1805595	Swinerton Builders
1716729	Taylor Brothers Architectural Products Inc.
1773792	The HMC Group Cold Storage, Inc.
1615669	The Mochi Ice Cream Company
1771315	Top-Shelf Fixtures, LLC
1525609	Total-Western, Inc.
1627570	Trinchero Family Estates
1638539	United Natural Foods, Inc.
1791060	Valero Refining Company- California
1725770	Vista Steel Company
1567691	Wonderful Pistachios & Almonds, LLC

California Occupational Safety and Health Appeals Board
Minutes of the Public Meeting and Closed Session
September 17, 2025

1759903	Woodmont Real Estate Services L.P.
1671348	XL Construction Corporation

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

Personnel:

(Issues regarding staff)

The Closed Session adjourned at 11:08 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 11:09 a.m.