

State of California
California Occupational Safety and Health Appeals Board
Minutes of the Public Meeting & Closed Session
Held on November 5, 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
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
Beth Reiken, Executive Secretary
Denise Cardoso, Assistant Chief Counsel, DOSH
Rocio Reyes, Assistant Chief Counsel, DOSH
Ina Fitzgibbon, Office of Director, DIR
Katera Rutledge, DOSH Counsel
Melissa Viramontes, DOSH Counsel
David Wiseman, Staff Counsel, Cal Fire
Adam Crane, Ogletree Deakins
Lisa Prince, The Prince Firm
Jordan Uter, Worksafe
L. Martinez

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:

No report.

Minutes of October 22, 2025, Meeting:

(Approve or amend minutes of previous board meeting.)

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Action: The Board voted to approve the minutes for the October 22, 2025, as amended.
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: Karen Halbo shared that the Legislator is still on recess until January of 2026.

Chairperson's Report:

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

Action: No report.

Board Members' Reports:

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

Action: Judith Freyman discussed a local news story regarding the police department. Marvin Kropke shared a news article from the New York Times regarding jurisdictions for firefighters.

Executive Officer's Report:

(Report regarding administrative matters.)

Action: Scott Pease reported that the Board is still finalizing payment for the contract with the May Lee Complex for the Stakeholder's Conference. Scott Pease and Ed Lowry toured the May Lee Complex. The Senior Legal Typist (SLT) position has been re-opened through November 16, 2025. The interviews for the Attorney III (Limited Term) position are still ongoing. Interviews for the Attorney III position will take place in November.

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 shared that DIR Legal has exceeded the advised 30 days to review the Prehearing and Hearing regulations before sending it on for the Director's signature (and then on to Agency). She is following up with the Director's Office of Legislative and Regulatory Affairs for an update.

2. Ligation Update

Action: Aaron Jackson provided the following updates: In the Uber case (1594663), the matter has been stayed. Uber has filed a motion to lift the stay, and the hearing will be in January of 2026. In the Geo Group case (1609228), there will be a hearing on the Board's demurrer in January. On the Baldi/Arana case (1568252) the Board is currently waiting to receive an opposition to the Board's demurrer. In the General Dynamics NASSCO appeal case (1300984), the matter has been fully briefed, and the Board is waiting to find out the date set for oral argument.

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 Denise Cardoso regarding the Divisions hiring new attorneys in both their Northern and Southern California DOSH offices and shared her appreciation for the Board's patience during these changes.

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

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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.)

1529748 Los Angeles Department of Water and Power
Action: The Board discussed this matter.

1487520 Security Paving Company, 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.)

1811001 Advanced Textile Manufacturing
Action: The Board discussed this matter

1721063 FEI Enterprises Inc.
Action: The Board voted to issue an order reinstating and remanding.
It was moved by Marvin Kropke.
It was seconded by Judith Freyman
The vote was 3-0

1599318 LA Police Department
Action: The Board discussed this matter.

1581944 Marques General Engineering, Inc.
Action: The Board voted to take this matter under submission.
It was moved by Marvin Kropke.
It was seconded by Judith Freyman.
The vote was 3-0

Orders Dismissing Appeal:

1773017 Haykingdom Inc.
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.)

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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.

- 1360156 CA Forest and Fire Protection
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.
- 1545777 Entact, LLC
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.
- 1488312 Indiana Finish Line, Inc.
Whether the cited employer established procedures adequate to protect employees from COVID-19.
- 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.
- 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)

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[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.
- Action: The Board discussed this matter.
- 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)

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3. Western Oilfields Supply Company, 24WM000169 (1498595)
4. The Geo Group, Inc., 25WM000023 (1609228)

Action: The Board discussed this matter
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.)

1745815	Agresti Dairy Farms, LLC
1817037	Alliance for Workforce Development, Inc.
1693658	Amazon.com, Services LLC
1608009	Anderson Logging, Inc.
1811868	Aramark Facility Services, LLC.
1786701	Atlas Peak Construction
1811254	Avalon Tent & Party Corporation
1738087	Avalonbay Communities, Inc.
1818474	Bakersfield Renewable Fuels, LLC
1793092	Billie Vang
1778428	Brix Masonry, Inc
1758770	Brock Electric
1778174	C&B Marble
1804836	Cardenas Markets
1815071	Cedar Avenue Recycling & Transfer Station
1246527	Cemex
1573866	Chedraui USA, Inc.
1796649	Chedraui USA, Inc.

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1712240	Conceptual Management, Inc.
1755569	Conrad Ruiz, Jr. DBA Ruiz Farm Labor
1489670	Conserve Landcare, LLC
1783198	County of San Mateo Sheriff's Dept.
1804741	Creative Services, Inc.
1785935	Custom Wood Products
1832847	D L Masonry
1633371	D S Baxley Inc
1667527	DBAC Inc.
1766681	DSW Designer Shoe Warehouse, Inc.
1754030	Duran Contracting Inc.
1493396	Durant Harvesting, Inc.
1748563	East Bay Tire Co.
1779169	Empire Farm Labor Contractors LLC
1664089	Enterprise Rent A Car
1718343	Estrada's AG Services, Inc.
1755313	Exquisite Cabinet and Counter-top Corp.
1698372	F Frausto Building & Development, LLC
1820218	Family Ranch Inc.
1649074	Ferreira Construction Co., Inc.
1682862	Fleetwash, Inc.
1806977	Fontaine Weatherproofing, Inc.
1826843	GDT Framing, Inc.
1843608	Giles Excavating & Paving, Inc.
1814570	Gless Ranch, Inc.
1842803	Goodwill Industries of SF/SM
1695301	Guy Yocum Construction, Inc.
1795915	HF & SJ Inc.
1775931	J.Hellman Frozen Foods Inc.
1797668	Jacks Urban Eats
1781342	JHN, Inc.
1473542	Jobsource North America, Inc.
1484808	Jobsource North America, Inc.
1582312	Kaiser Permanente Central Refill Pharmacy
1738588	Kevin M. Sullivan and Associates Inc.
1754409	LA Labor Services Corporation
1823337	Lafayette Textiles Corp.
1756146	Lendlease (US) Construction Inc.
1620475	Loomis Armored US
1809074	Los Angeles County Department of Health Services
1792264	M & M Bakery Products, Inc.
1781248	MHS Customer Services, Inc.
1779762	Nature Joy Harvest, LLC
1626045	Newhouse Construction Services, Inc.
1785153	Nor Cal Siders
1795119	Northgate Gonzalez, Inc.

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1656301	Novin Construction, Inc.
1845459	Pacific Gas and Electric Company
1701522	Pacific West Builders, Inc.
1546749	Precision Framing Systems Inc.
1779378	R.E. Maher, Inc.
1798225	Real Time Staffing Services
1809695	Recycling Zone Inc.
1833479	RH Kiggins Construction Inc.
1827848	Rustin LLC
1774687	Rykam Corporation
1816451	Security Paving Company, Inc.
1835560	SLR Construction and Remodeling Inc.
1815541	Solid Property Services Inc.
1690860	Sony Pictures Entertainment
1690857	Span Construction & Engineering, Inc.
1707143	Spectrum Alloys, LLC
1747900	Target
1723362	Templeton Feed and Grain
1821793	Tesla, Inc.
1820212	The Growers Company, Inc,
1730335	The Regents of the University of California- Santa Cruz
1817056	Titan AG Services, Inc.
1826678	Trans- Continental Manufacturing, Inc.
1599160	Tree Pros, Inc.
1792403	Triumph Beverage Company LLC
1812286	TRM Manufacturing Inc
1789066	Vaca Valley Excavating & Trucking Inc
1827747	Walmart, Inc.
1778143	West Covina Fairfield LP
1788388	Winston Peterson

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

Personnel:

(Issues regarding staff)

The Closed Session adjourned at 10:58 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 10:59 a.m.