

State of California
California Occupational Safety and Health Appeals Board
Minutes of the Public Meeting & Closed Session
Held on August 5, 2026
Sacramento, California
Zoom Platform

Present:

Ed Lowry, Public Member, Chair
Judith Freyman, Management Member
Marvin Kropke, Labor Member
Scott Pease, Executive Officer
Kerry Lewis, Presiding Administrative Law Judge
Sam E. Lucas, Presiding Administrative Law Judge
Les Murad II, Administrative Law Judge
Jennie Culjat, Administrative Law Judge
Aaron Jackson, Chief Counsel
Jeffrey Mojcher, Chief Counsel Emeritus
Karen Halbo, Staff Counsel
Brian Nichols, Staff Counsel
Camille Dixon, Staff Counsel
Amy N. Lara, Supervisor
Maria Rios, Legal Analyst
Beth Reiken, Executive Secretary
Ina Fitzgibbon, Office of the Director, DIR
Jordan Davis, DOSH Staff Counsel
David Cremins, California Rural Legal Assistance, Inc.
Jordan Uter, Worksafe
Matt Smylie, Ford Construction Company, Inc.
Mona Fran

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 request.

Minutes of July 22, 2026, Meeting:

(Approve or amend minutes of previous Board meeting.)

Action: The Board voted to approve the minutes of the July 22, 2026, meeting.
 This was moved by Marvin Kropke.

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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.)

1. Discussion of comments received at the Stakeholder's Roundtable.

Action: Scott Pease reported that the analysis of the Stakeholders Roundtable comments has been distributed to the Board. The Board is pleased with the comments received from the Stakeholders' meeting and will get back to public regarding action steps.

Legislation:

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

Action: No report.

Chairperson's Report:

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

Action: Ed Lowry thanked Judith Freyman for chairing the July 22, 2026, meeting in his absence. Judith will also host the upcoming Board meeting on August 19, 2026. Ed also thanked Scott Pease and Amy Lara for all their hard work filling open OSHAB positions.

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: Scott Pease reported that he is scoring the 160 applications received for the Analyst I position and will then coordinate interviews. A new Administrative Law Judge (ALJ) will be starting on August 10, 2026. They will be taking a Fair Hearing class in Reno at the National Judicial College before

starting at the West Covina office. Applications have been received for the Analyst II and are being scored.

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: The Board voted to adopt the text of the Prehearing and Hearing Regulations as revised in the review process and proceed with a notice of publication.
It was moved by Marvin Kropke.
It was seconded by Judith Freyman.
The vote was 3-0.

Presiding ALJ, Sam E. Lucas, shared that they are preparing for the new ALJ to start, and answered questions regarding her upcoming classes in Reno.

Litigation Update

Action: Aaron Jackson provided the following litigation update: The Board has filed its (Proposed) Statement of Decision as ordered in the matter of Drill Tech (1420923). In Metropolitan News Company (1689021), Employer has filed an Appeal to the Court's order sustaining demurrer, after the Court denied Employer's Motion for Reconsideration. The Board will be filing opposition briefs in the matters of L&S Framing, Inc. (1692964) and Employbridge Holding Company (1499134) in the coming weeks. In Waterproofing and Roofing (1690885), the parties recently filed supplemental briefs on the topic of whether the appeal of the Court's ruling denying Employer's writ petition was timely. A hearing is scheduled for August 20, 2026, in the matter of Los Angeles Police Department (1599318). This week, the Board received a Motion to Strike filed by Petitioner in the matter of Bald/Arana Residential and Commercial Painting, Inc. (1568252).

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.

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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 may, in their discretion, decide to reconsider the ALJ Decision on their own motion.)

1808018 Cotti Foods California, Inc.
Action: The Board discussed this matter.

1551180 General Dynamics Nassco
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.)

1801688 Jose Firman, An Individual
Action: The Board discussed this matter.

1784640 Innovation Construction Inc.
Action: The Board voted to issue a Denial of Petition for Reconsideration.
This was moved by Marvin Kropke.
It was seconded by Judith Freyman.
The vote was 3-0.

Orders Dismissing Appeal:

1838813 Allsquare Roofing LLC
Action: The Board discussed this matter.

1798888 California Access Scaffolding
Action: The Board discussed this matter.

1770193 S & H Glass Systems
Action: The Board discussed this matter.

1837633 Tall Construction and Roofing
Action: The Board discussed this matter.

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1765132 Timo's Air Conditioning & Heating, Inc.
Action: The Board discussed this matter.

Orders Denying Leave to File Late Appeal:

1853604 Custom Slab Works 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.

- 1296297 Alliance Diversified Enterprises, Inc.
Whether Employer committed the violations alleged in the citations, including alleged violations of section 1509, subdivision (b) [failure to adopt code of safe practices]; section 1511, subdivision (b) [failure to survey the worksite]; and (3) section 1541.1 [failure to provide adequate protective system in excavation], and whether the Division established the repeat classification for one of the citations.
- 1625267 Boulay Construction
- 1573582 CA Department of Corrections & Rehab
Whether several of the ALJ's findings of fact are supported by the record, and whether those findings support the decision.
- 1360156 CA Forestry 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?
- 1446266 Creative Packaging
Whether the employer violated hazard energy control regulations as alleged.
- 1314977 Empire Equipment Service, Inc.

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- 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?
- 1644980 Herman Weissker Power, Inc.
Was the ALJ correct in granting employer's appeal of an alleged violation of electrical safety order section 2943, subdivision (e)?
- 1488312 Indiana Finish Line, Inc.
Whether the cited employer established procedures adequate to protect employees from COVID-19.
- Action: The Board voted to issue the Decision After Reconsideration as amended.
This was moved by Marvin Kropke.
It was seconded by Judith Freyman.
It was voted 3-0.
- 1518442 JT2, Inc.
How should the term "issue" or "issued" as used in Labor Code section 6317, subdivision (e)(1) be interpreted. How should the notice requirements of Labor Code 6319 be interpreted?
- 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.
- 1692164 L & S Framing, Inc.
- 1642084 Los Angeles County Probation Department
- 1652861 Los Angeles County Probation Department
Did the evidence support the finding that it was appropriate for Employer not to report an incident causing a serious injury where a guard received facial cuts that left him with visible scarring? Did the evidence support the finding that Employer implemented its established IIPP procedures?
- 1529748 Los Angeles Department of Water & Power
Did the Division cite the correct regulation section when it cited Employer for violating 8 CCR 2940.14, and was it established that under the stipulated facts that Employer violated that section?

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- 1401587 Los Angeles Department of Water and Power
- 1469097 Lowe's Home Centers, LLC
Whether there was exposure to foot injuries from falling objects, crushing, or penetrating actions. If so, whether the employer required appropriate foot protection.
- 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 (15)(B) [safe use of ladders], and whether Employer established its affirmative defense.
- 1460783 Otis Elevator (ER)
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- 1547223 Perry C. Thomas Construction, Inc.
Did employer commit a serious violation of section 1541, subdivision (j)(2) [trenching], as alleged?
- 1458699 Primula Mozzarella LLC.
Whether the Employer's petition for reconsideration was timely.
- 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?
- Action: The Board discussed this matter.
- 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).
- Action: The Board voted to issue the Decision After Reconsideration as amended.
This was moved by Judith Freyman.

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It was seconded by Marvin Kropke.
It was voted 3-0.

1552002 Tesla, Inc.

1486176 Tutor Perini Corporation and O&G Industries, Inc.
Whether the Employer committed a serious accident-related violation of section 3328, subdivisions (a).

Action: The Board voted to issue the Decision After Reconsideration as amended.
This was moved by Marvin Kropke.
It was seconded by Judith Freyman.
It was voted 3-0.

1626309 Universal Dust Collector MFG. & Supply Corp.

1660543 West Coast Drywall & Paint

1563307 XL Concrete Masonry, LLC

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. Below is a list of active court cases filed against the Board in the Superior Court and Court of Appeal. Pursuant to Government Code section 11126, subdivision (e), the Appeals Board may confer with its Legal Unit for the purposes of receiving legal advice regarding the pending litigation and confer on litigation strategy.)

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. Employbridge Holding Company, 25CHCP00143 (1499137)
5. Sun Belt Rentals, 25CU041526C (1465119)
6. Drill Tech Drilling & Shoring, Inc. N25-1793 (1420923)
7. Los Angeles Police Department 25STCP05034 (1599318)
8. L & S Framing, Inc. S-CV-0057345 (1692964)

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9. L & S Framing, Inc. 26CV011326 (1720076)

10. M.C.M Construction, Inc. 26WM000146 (1666933)

Appellate Court:

1. Waterproofing and Roofing Solutions, Inc. 24STCP03693 (1690885)

2. Metropolitan News Company, 25STCP04455 (1689021)

Prehearing Matters:

(Per Labor Code section 6605, the Appeals Board may defer, remove to itself, or transfer to a hearing officer the proceedings on any appeal.)

1. Fontenoy Engineering, Inc. (1847651)

Action: The Board voted to issue the Order Directing Perfection of the Appeal.

This was moved by Marvin Kropke.

It was seconded by Judith Freyman.

It was voted 3-0.

Other Items:

There are no Other Items.

Orders Of Administrative Law Judges:

(Written orders 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 may, in their discretion, decide if they will reconsider or remand the issued order.)

1879079	Adept HR, Inc.
1787902	Andronico's Community Markers
1716614	Berkeley Unified School District- Berkeley High
1550342	C & K Form Fabrications
1817737	CA Glatt Center, Inc
1850083	CA Water Resources
1822187	Cali Landscape
1853605	Century Western Development, LLC.
1691245	Charter Communications
1805340	CMC Steel Fabricators, Inc.
1848676	CNC Distributions, Inc.
1831254	CNC Stoneworks Inc.
1813953	Core Contracting, Inc.
1854923	County of Los Angeles Agricultural Commissioner Weights
1878855	Craco, LLC
1896477	Crane Exteriors, Inc.

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1873115	Cropsland Company, Inc.
1860848	Crystal Clean of California, LLC
1841566	Decker Electric Co Inc
1850872	DLiu Construction
1812911	ECC Constructors LLC
1885872	Elain Wen-Shang Ton D.O., Inc
1865994	Farmers International, Inc.
1853549	Frank J. Coelho, Jr., Frances Coelho, John D. Coelho,
1816464	Free Creation Inc
1829759	Fremont Sales and Services, LLC
1825956	GM Contracting, Inc.
1853968	Good Eggs, LLC
1835305	Helios HVACR Services LLC
1855155	Holiday By Atria
1863832	Hornet Acquisitionco, LLC
1855808	HS Framing Inc.
1830905	Janus Corporation
1781093	Kehe Distributors, LLC
1841567	LaBrucherie Produce, LLC
1852917	Lenwood Lodging LLC
1791052	Lindsey Systems
1843568	Livermore Auto Group, Inc.
1879785	M.A. Medina Farm Labor Services, Inc.
1760458	Maggiora Bros. Drilling, Inc.
1741059	Martinez Refining Company LLC
1897405	Michael A Roberts
1893780	Modern Building, Inc.
1774674	Nova West Energy Solutions Inc.
1863139	One Priority Roofing Inc
1762757	Orco Block and Hardscape
1821453	Pacific Gas and Electric Company
1857149	Paragon Personnel
1897308	Pavlo Builder Inc
1873109	Pistacia Global, Inc.
1858563	PMR Pacific Sealants, LLC
1770833	Priority Workforce Inc
1845435	Pruden Roofing
1765085	Quality Craft Floor Coverings Inc.
1773044	Quemetco, Inc./Ecobat Quemetco
1820056	R & R Framing, Inc.
1854710	R&R Builders LLC
1854000	R-Bros Painting Inc
1866264	Real Time Staffing Services, LLC
1868336	Renn Construction, Inc.
1847707	Roque Drywall LLC
1480110	Rubin Seeds, LLC

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1875573	Sennza Construction LLC
1872995	Sequoia Forest Products LLC
1851786	Sewer and Pipeline Contractor Inc.
1866893	Shwe Min Thar Corp
1844332	Sierra Pacific Industries
1852038	Sol-Ti, Inc.
1848128	Staggs Construction Inc.
1850490	Sunrise Solar Roofing, Inc.
1854004	Superior Wall Systems
1586477	Surecraft Door & Hardware, Inc.
1814867	T & C Roofing Inc.
1829132	The Metropolitan Water District of Southern
1821074	Tinco Sheet Metal, Inc.
1845221	Top Built Inc.
1694139	Toro Enterprise, Inc.
1751482	Universal Building Maintenance, LLC
1869985	Upstate Roofing LLC
1640326	V- Grid Energy Systems, Inc.
1862751	Wonderful Citrus Packing, LLC

Action: The Board has reviewed the Settlement Orders issued by the ALJs.

Personnel:

(Issues regarding staff)

The Closed Session adjourned at 10:55 a.m. and the Board returned to the Public Meeting. The Appeals Board incorporated, by reference, its actions taken in the Closed Session as indicated above. The Board meeting was adjourned at 10:56 a.m.