

State of California
California Occupational Safety and Health Appeals Board
Minutes of the Public Meeting & Closed Session
Held on August 19, 2026
Sacramento, California
Zoom Platform

Present:

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
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
Carina Miller, Staff Counsel, DOSH
Katera Rutledge, Staff Counsel, DOSH
David Wiseman, Staff Counsel, Cal Fire
Adam Crane, Olgetree Deakins
Kathryn Tanner, Conn Maciel Carey, LLP
Karin Umpfrey, Worksafe
Matt Smylie, Ford Construction Company, Inc.

Absent:

Ed Lowry, Public Member, Chair

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 September 2nd and September 23rd Board meetings remotely pursuant to Government Code section 11123.2, subdivision (j)(2)(A).
This motion was seconded by Judith Freyman.
The Board voted to approve the remote attendance request 2-0.

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Minutes of August 5, 2026, Meeting:

(Approve or amend minutes of previous Board meeting.)

Action: The Board voted to approve the minutes of the August 5, 2026, meeting.
This was moved by Marvin Kropke.
It was seconded by Judith Freyman.
The vote was 2-0.

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 for review and further discussion.

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: No report.

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 our new Administrative Law Judge (ALJ) has started and is currently at the Fair Hearing classes for training. He is reviewing applications for the Analyst I and Analyst II positions.

Staff Reports:

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(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 Prehearing and Hearing rulemaking documents have come back with Agency's signature. The Notice will be published in the California Regulatory Notice Register on Friday, August 21, starting the 45-day public comment period, which will close at midnight on October 5. At the October 7th Board meeting, the Board will hold a hearing for additional public comments regarding the proposed rulemaking.

Ligation Update

Action: Aaron Jackson provided the following litigation update: The Court issued a Statement of Decision in the Board's favor regarding the matter of Drill Tech (1420923). In Metropolitan News Company (1689021), Employer has filed an Appeal to the Court's order sustaining the Board's demurrer, after the Court denied Employer's Motion for Reconsideration. The Board has filed its opposition briefs in the matters of L&S Framing, Inc. (1692964) and Employbridge Holding Company (14991374). On August 18, 2026, the Board participated in oral argument in the matter of Waterproofing and Roofing (1690885). The parties are now awaiting the Appellate Court's opinion which may be issued in the next month or more. A hearing is scheduled for August 20, 2026, in the matter of Los Angeles Police Department (1599318). The Court has continued the hearing on Petitioner's Motion to Strike in the matter of Bald/Arana Residential and Commercial Painting, Inc. (1568252). The hearing will now be heard concurrently with the Board's Motion for Demurrer to Petitioner's Fourth Amended Petition on October 22, 2026.

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.)

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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.)

There are no Decision 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.)

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| 1801688 | Jose Firman, An Individual
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 2-0. |
| 1731627 | City of Los Angeles Department of General Services
Action: The Board voted to issue an Order taking the Petition for Reconsideration under submission.
This was moved by Marvin Kropke.
It was seconded by Judith Freyman.
The vote was 2-0. |
| 1701872 | Costco Wholesale
Action: The Board discussed this matter. |
| 1531603 | San Francisco Bay Area Rapid Transit District
Action: The Board voted to issue an Order Extending Time.
This was moved by Marvin Kropke.
It was seconded by Judith Freyman.
The vote was 2-0. |
| 1869449 | Sodexo America LLC
Action: The Board discussed this matter. |

Orders Dismissing Appeal:

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| 1744696 | Commercial Waterproofing Systems, Inc
Action: The Board discussed this matter. |
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- 1844415 J.R. Stevens Mechanical, Inc.
Action: The Board discussed this matter.
- 1851234 KC Landscape Development, Inc.
Action: The Board discussed this matter.
- 1860154 Stucco Specialties, Inc.
Action: The Board discussed this matter.

Orders Denying Leave to File Late Appeal:

- 1852051 Amrock Construction Inc.
Action: The Board discussed this matter.
- 1863003 JRT Roofing & Waterproofing
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

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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.
- 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)?
- 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)
- 1460783 Otis Elevator (ER)
- 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)
- 1552002 Tesla, Inc.
- 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.)

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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)
9. L & S Framing, Inc. 26CV011326 (1720076)
10. M.C.M Construction, Inc. 26WM000146 (166693)
11. Fontenoy Engineering, Inc. (1847651)

Appellate Court:

1. Waterproofing and Roofing Solutions, Inc. 24STCP03693 (1690885)
2. Metropolitan News Company, 25STCP04455 (1689021)

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.)

1868391	Accelerated Global Solutions Inc.
1865766	Akal Sahi, Inc.
1865767	Akal Sahi, Inc.
1845150	Alta Los Angeles Hospitals, Inc.
1858782	ALZ Construction Inc
1588821	Apex Construction Group, Inc.
1800040	Ati Restoration LLC
1848539	Atticlean Insulation Inc.

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1867508	Baco Realty Corporation
1758755	Bal Seal Engineering, LLC
1853148	Berco Ex Inc
1863000	Bravo Contracting Inc
1835816	Brookdale Senior Living, Inc.
1880027	Calvary Chapel of Costa Mesa
1850514	Caruso Management Company, LTD/Caruso
1852530	City of Los Angeles Department of Water and Power
1865236	CLCA-3-091218 LLLC
1856567	Colt Builders Corporation
1879179	Corona Nissan
1845534	CRD Machining, Inc.
1850663	Dad's Mobil Inc. (#305360)
1874609	Detherage Roofing Inc
1803018	Diana's Mexican Food Products, Inc.
1869125	Dreyer's Grand Ice Cream, Inc.
1782882	Ecology Control Industries, Inc.
1843872	Employee Force Provider Inc.
1866254	Enco Structural Builders
1849454	Escalette LLC
1655182	Esparza Enterprises, Inc.
1854911	Excel Property Management Services, Inc.
1817518	Federal Express Corporation
1612546	Foster Poultry Farms, LLC
1826311	Free Creation Inc.
1778019	General Production Service of California, Inc.
1857351	George Jue Manufacturing Company, Inc.
1833886	Hacienda Contracting LLC
1863169	Holiday AL Management Sub LLC
1864579	JFG Plastering, Inc.
1846792	JSV Farm Labor, Inc.
1849346	Kumar Management Corp. II, Inc
1774105	McKesson Medical Surgical
1837638	Mesa Energy Systems, Inc.
1888637	Milan Corporation
1747060	Miller Environmental, Inc.
1762585	Mitsui Home America, LLC
1838144	Mr. Crane, Inc.
1769313	Nevada County-Department of Public Works
1854536	Oil Changer Inc
1768894	Pacific Crane Maintenance Company, LLC
1857348	Pasta Piccinini, Inc.
1789944	Professional Asbestos & Lead Services, Inc.
1850308	Quikrete California, LLC.
1855016	Red Label Enterprises, Inc.
1565436	Sierra Wes Wall Systems, Inc.

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1795329	Silverline Construction
1831188	Star Window Cleaner
1838141	Sun Valley Hay Inc.
1693853	Tejon Constructors Inc.
1852634	True North Designs
1791257	TXRH National City LLC
1751490	Tyko Sign Group
1605626	United Parcel Service, Inc
1859826	Urethane Products Corporation
1746425	Vertical Access Inc.
1853083	WBGC Inc DBA Western Banks General Contractors
1858396	Western Precooling Systems

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

Personnel:

(Issues regarding staff)

The Closed Session adjourned at 10:36 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 10:37 a.m