

DECEMBER 16, 2014  
SACRAMENTO, CALIFORNIA

CONTRACTORS STATE LICENSE BOARD

# Board Meeting





## CONTRACTORS STATE LICENSE BOARD

9821 Business Park Drive, Sacramento, CA 95827  
Mailing Address: P.O. Box 26000, Sacramento, CA 95826  
800-321-CSLB (2752)  
[www.cslb.ca.gov](http://www.cslb.ca.gov) • [CheckTheLicenseFirst.com](http://CheckTheLicenseFirst.com)

STATE OF CALIFORNIA  
Governor Edmund G. Brown Jr.

### NOTICE OF BOARD MEETING and TELECONFERENCE LOCATIONS

The Contractors State License Board (CSLB) will hold a teleconferenced Board Meeting at 9:00 a.m. on Tuesday, December 16, 2014, in the John C. Hall Hearing Room at the CSLB Headquarters, 9821 Business Park Drive, Sacramento, CA 95827.

The following are the teleconference locations for this meeting:

851 Martin Avenue  
Santa Clara, CA 95050

100 Bush Street  
San Francisco, CA 94104

134 West 168<sup>th</sup> Street  
Gardena, CA 90248

265 Hegenberger Road # 200  
Oakland, CA 94631

Cal State Northridge – Sequoia Hall  
18111 Nordhoff Street  
Los Angeles, CA 91330

All times are approximate and subject to change. Items may be taken out of order to maintain a quorum, accommodate a speaker, or for convenience. The meeting may be canceled without notice. For verification of the meeting, call (916) 255-4000 or access the CSLB website at <http://www.cslb.ca.gov>. Action may be taken on any item listed on this agenda, including information-only items. Public comments will be taken on agenda items at the time the item is heard. Total time allocated for public comment may be limited.

TELECONFERENCE NOTICE (pursuant to Government Code section 11123(b)): One or more Board members may participate in this meeting via teleconference for the benefit of the Board. The public teleconference locations are as specified in this notice. The meeting is open and the public is invited to attend. Meetings are accessible to the physically disabled. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by calling (916) 255-4000 or by sending a written request to Erin Echard in the CSLB Executive Office, 9821 Business Park Drive, Sacramento, CA 95827. Providing your request at least five (5) business days prior to the meeting will help ensure accommodation of the request.

**AGENDA**  
**December 16, 2014**  
**9:00 a.m. – 10:00 a.m.**

- A. Call to Order – Establishment of Quorum
- B. Chair's Remarks and Report of Appointment Pursuant to Gov. Code section 11125.2
- C. Board Member Comments
- D. Public Comment Session – Items **Not** on the Agenda
- E. Licensing
  - 1. Review and Potential Adoption of the Regulatory Proposal to Adopt Class C-22 – Asbestos Abatement Contractor (California Code of Regulations [CCR] Section 832.22) and Asbestos Classification and Certification Limitations and Examination Requirement (CCR Section 833); Comments received after 15-day notice of modified text.
- F. Adjournment

# AGENDA ITEM A

## Call to Order Establishment of Quorum

Roll is called by the Board Chair or, in his/her absence, by the Board Vice Chair or, in his/her absence, by a Board member designated by the Board Chair.

Eight members constitute a quorum at a CSLB Board meeting, per Business and Professions Code section 7007.

### Board Member Roster

KEVIN J. ALBANESE

AGUSTIN BELTRAN

LINDA CLIFFORD

DAVID DIAS

SUSAN GRANZELLA

JOAN HANCOCK

PASTOR HERRERA JR.

ROBERT LAMB

ED LANG

JOHN O'ROURKE

BRUCE RUST

FRANK SCHETTER

PAUL SCHIFINO

NANCY SPRINGER



## AGENDA ITEM B

# Chair's Remarks and Report of Appointment Pursuant to Gov. Code section 11125.2



# AGENDA ITEM C

## Board Member Comments



# AGENDA ITEM D

## Public Comment Session - Items Not on the Agenda



# AGENDA ITEM E

## Licensing

Review and Potential Adoption of the Regulatory Proposal to Adopt Class C-22 – Asbestos Abatement Contractor (California Code of Regulations [CCR] Section 832.22) and Asbestos Classification and Certification Limitations and Examination Requirement (CCR Section 833); Comments received after 15-day notice of modified text.







### **REVIEW AND POTENTIAL ADOPTION OF THE REGULATORY PROPOSAL TO ADOPT CLASS C-22 – ASBESTOS ABATEMENT CONTRACTOR LICENSE**

(California Code of Regulations [CCR] Section 832.22) and Asbestos Classification and Certification Limitations and Examination Requirement (CCR Section 833); Comments Received After 15-Day Notice of Modified Text

At its September 6, 2013 meeting, the Board gave preliminary approval of the proposed language for a new asbestos abatement classification.

Applicants for the C-22 Asbestos Abatement contractor license would be required to satisfy experience and examination requirements, and C-22 licensees would be required to be registered by the Department of Industrial Relations' Division of Occupational Safety and Health (DOSH). The new stand-alone asbestos classification would not take the place of the existing CSLB asbestos certification that is established in Business and Professions Code Section 7058.5. Contractors who perform asbestos work within their licensed trade(s) would not need to obtain a separate C-22 license if they hold the CSLB certification and are DOSH-registered.

A public comment hearing regarding the proposed regulatory action for the C-22 Asbestos Abatement classification was held on March 25, 2014 at CSLB's Sacramento headquarters. Multiple comments were received both in support of and in opposition to the proposed language. Staff reviewed and responded to the public comments, which was reviewed by the Board at its April 24, 2014 meeting. At the Board's direction, as a result of a vote at the April Board meeting, staff released a 15-Day Notice of Modified Text on May 20, 2014 to make minor, clarifying changes to the originally proposed language as a result of some of the public comments. These changes included the clarification of the training and experience requirements for the classification.

At this meeting, staff will distribute the 15-Day Notice of Modified Text that reflects the final language of the proposed regulation, the three comments received in response to the 15-Day Notice of Modified Text, and the Draft Revised Final Statement of Reasons that addresses the issues presented in the comments.

The Board is asked to review and consider the public comments that were received in response to the 15-Day Notice of Modified Text. The Board is also asked to grant final approval of the regulatory proposal to adopt the regulations relating to the new asbestos classification (CCR Section 832.22 – Asbestos Abatement Contractor and Section 833 – Asbestos Classification and Certification Limitations and Examination Requirement) and to delegate authority to the Registrar to make minor non-substantive changes to the language, if necessary.

Following Board action, the C-22 proposal will be reviewed by the Department of Consumer Affairs and the Office of Administrative Law.

**CALIFORNIA CONTRACTORS STATE LICENSE BOARD  
15-DAY NOTICE OF MODIFIED TEXT**

**Title 16, Division 8  
Article 3. Classification**

NOTICE IS HEREBY GIVEN that the California Contractors State License Board has proposed modifications to the text of Sections 832.22 and 833 of the California Code of Regulations, which was the subject of a regulatory hearing on March 25, 2014. A copy of the modified text follows below. Any person who wishes to comment on the proposed modifications may do so by submitting written comments **on or before June 5, 2014 at 5:00 p.m.** to the following:

Contractors State License Board  
9821 Business Park Drive  
Sacramento, CA 95827  
Attn: Betsy Figueira  
(916) 255-3369  
(916) 255-6335 (FAX)  
Betsy.Figueira@cslb.ca.gov

The backup contact person is:

Laura Zuniga  
(916) 255-3939  
(916) 255-6335 (FAX)  
Laura.Zuniga@cslb.ca.gov

Changes for originally proposed language are shown in black with underline for added text and in ~~black~~ with strikethrough for deleted text. Changes for the modified proposed language are shown in blue with double underline for newly added text and in ~~red~~ with underline and strikethrough for text that was originally added but is not included in the modified language.

Add Section 832.22 as follows:

§832.22. Class C-22 – Asbestos Abatement Contractor.

(a) An asbestos abatement contractor performs abatement, including containment, encapsulation, or removal, and disposal of asbestos containing construction materials, as defined in Section 6501.8 of the Labor Code, in and on buildings and structures. All work performed and all documentation prepared by an asbestos abatement contractor shall be done in accordance with regulations and requirements of the Division of Occupational Safety and Health (DOSH) of the Department of Industrial Relations.

(b) The Board shall not issue an asbestos abatement contractor license unless the applicant or contractor is duly registered with DOSH pursuant to Section 6501.5 of the Labor Code or has an active application for registration in process with DOSH. All holders of the C-22 – asbestos abatement contractor classification shall have completed

DOSH registration training requirements, as contained in Title 8, California Code of Regulations, Section 1529.

(c) Within 90 days after the asbestos abatement contractor license is issued, the contractor shall submit to the Board proof that he or she is duly registered with DOSH pursuant to Section 6501.5 of the Labor Code.

No asbestos abatement work shall be performed nor documentation prepared until the contractor has submitted proof of his or her DOSH registration to the Board.

Failure of a licensee to provide proof of current registration with DOSH within 90 days after issuance shall result in the automatic suspension of the license or removal of the C-22 – asbestos abatement contractor classification at the end of the 90 days.

(d) Every applicant for the C-22 – asbestos abatement contractor classification must have had, within the last 10 years immediately preceding the filing of the application, not less than four years of experience performing asbestos abatement duties as a journeyman, foreman, ~~or~~ supervising employee, or contractor working for or as any of the following:

(1) A licensed contractor who holds the C-22 – asbestos abatement contractor classification or the asbestos certification, as defined in Section 7058.5 of the Code, and DOSH registration;

(2) A contractor who provides asbestos abatement services and is licensed in another state or federal jurisdiction;

(3) A utility company operating under the laws of a state or federal regulatory agency;

(4) A division of a state or the federal government; or

(5) The armed forces of the United States.

(e) The Board shall require as a condition precedent to the renewal of an asbestos abatement contractor license that the licensee have on file proof of current registration with DOSH pursuant to Section 6501.5 of the Labor Code.

(f) This classification does not include any addition to or alteration, repair, or rehabilitation of the permanently retained portions of such buildings and structures. Hazardous substance removal and remediation, as defined in Section 7058.7 of the Business and Professions Code, are specifically not included in this classification.

Note: Authority cited: Sections 7008 and 7059, Business and Professions Code.

Reference: Sections 7058, 7058.5, 7058.7, and 7059, Business and Professions Code; and Sections 6501.5 and 6501.8, Labor Code.

Add Section 833 as follows:

§833. Asbestos Classification and Certification Limitations and Examination Requirement.

(a) The C-22 – asbestos abatement contractor classification shall operate as a stand-alone specialty contractor classification for asbestos abatement work, notwithstanding any other classification held by the licensed contractor.

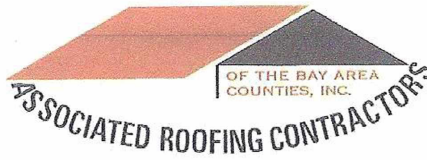
(b) No general building contractor, as defined in Section 7057 of the Code, shall contract for any project that includes asbestos abatement work unless the general building contractor holds the C-22 – asbestos abatement contractor classification or the

asbestos certification, as defined in Section 7058.5 of the Code, and DOSH registration or unless the general building contractor subcontracts with an appropriately licensed contractor.

(c) The asbestos certification, as defined in Section 7058.5 of the Code, shall operate in conjunction with other classification(s) held by the licensed contractor. No licensed contractor who holds the asbestos certification shall contract for any project that includes asbestos abatement work in a trade for which the contractor is not licensed, unless the licensee also holds the C-22 – asbestos abatement contractor classification.

(d) The Registrar may waive the trade examination, pursuant to Section 7065.3, for the C-22 – asbestos abatement contractor classification for a licensed contractor who holds the asbestos certification, as defined in Section 7058.5 of the Code, upon application and conclusive showing by the licensee that he or she possesses not less than four years journey-level experience in the C-22 – asbestos abatement contractor classification within the last 10 years immediately preceding the filing of the application. The licensee shall have obtained the asbestos certification after having passed the written asbestos certification examination and shall have held the asbestos certification in active and good standing throughout the four-year experience period at a minimum.

Note: Authority cited: Sections 7008 and 7059, Business and Professions Code.  
Reference: Sections 7057, 7058, 7058.5, 7059, and 7065.3, Business and Professions Code.



1425 TREAT BOULEVARD, SUITE C, WALNUT CREEK, CALIFORNIA 94597

TELEPHONE: (925) 472-8880 FAX: (925) 472-0258

WEBSITE: WWW.ARCBAC.ORG E-MAIL: INFO@ARCBAC.ORG

May 30, 2014

Betsy Figueira  
Contractors State License Board  
9821 Business Park Drive  
Sacramento, CA 95827

Re: 15-Day Notice of Modified Text, Proposed C-22 License Classification – OPPOSE

Dear Ms. Figueira:

This Association represents professional roofing contractors in the Metropolitan San Francisco Bay Area. On behalf of our members and the skilled union roofers they employ, we are writing today to express our objections to the proposed modifications to the text of Sections 832.22 and 833 of Title 16 of the California Code of Regulations.

The proposed changes to the training and experience requirements for the new C-22 license classification are woefully inadequate. They marginally enhance the asbestos related requirements for obtaining a C-22 license, but they do nothing to ensure that employers and workers who perform asbestos roof removal have the knowledge, training and experience to work safely at elevation, where the danger of falls is far more immediate than the long-term health effects of exposure to asbestos.

It is more than merely ironic that the CSLB proposes to close the comment period and finalize the adoption of this deeply flawed regulation during the first-ever “***national stand-down for fall prevention in construction.***” It is frankly irresponsible and may ultimately have tragic consequences.

#### Training and Experience Requirements

The CSLB proposes to modify the text of Section 833.22(b) by adding the following provision:

**All holders of the C-22 – asbestos abatement contractor classification shall have completed DOSH registration training requirements, as contained in Title 8, California Code of Regulations, Section 1529.**

The CSLB also proposes to modify the text of Section 833.22(d)(1) to expand the types of experience that qualify a contractor to apply for the new C-22 license. To the extent that these changes are intended to respond to the worker training and contractor experience concerns that I raised in my letter of March 10 and that were also voiced by the representatives of the roofing industry who testified at the March 25 public hearing, they fall very far short of the mark.

The general training requirements for asbestos related work are set forth in 8 CCR 1529(k)(9)(H). A wide range of topics must be covered, including: methods of recognizing asbestos; health effects associated with asbestos exposure; protective measures to minimize exposure to asbestos; respiratory protection; medical surveillance program requirements; and the content of the asbestos standard.

Workers who handle asbestos containing roofing, flooring, siding, ceiling tiles or transite panels must additionally receive specific training in the work practices and engineering controls applicable to their particular craft. In the case of roofing, these requirements are set forth in Section 1529(g)(7)(B) and cover such topics as intact removal, wet methods and the proper collection, labeling and disposal of asbestos containing roofing materials.

What is notable about the above training requirements is what they do not entail. A worker who takes the DOSH 8-hour roofing craft worker course will learn all about how to work safely with asbestos containing roofing materials, but he or she will learn **nothing about how to work safely on roofs and avoid such serious hazards as falls off the roof edge and through skylights.**

The DOSH registration training requirements presume -- and reasonably so -- that roofers already know about roofing safety. It is patently unreasonable, however, to apply that same presumption to employees of asbestos abatement contractors. Unfortunately, this is precisely what the modified proposal does. It allows a contractor to obtain a C-22 license, bid roof removal work and send employees into the most hazardous work environment in construction without any **showing whatsoever of appropriate knowledge, experience and training in roofing safety.**

An all-encompassing license classification must have equally comprehensive training and experience requirements. Asbestos abatement contractors who want to perform roof removal work should be required to show at least four years of roofing related asbestos abatement experience and to comply with both general asbestos and specific roofing safety training requirements. Limited training and experience requirements put workers at risk and are unacceptable.

#### A Sad Irony with Potentially Tragic Consequences

During the week of June 2-6, occupational health and safety agencies, construction industry groups, employers, workers and community organizations **will participate in a new and exciting event: the "national stand-down for fall prevention in construction"** Sponsored by Federal OSHA, this extraordinary national outreach effort is designed to raise awareness of the **dangers of falls, which are the leading cause of work related fatalities in construction. Most, if not all, of these tragic deaths are eminently preventable.**

During the stand-down, employers are encouraged to pause their workday to talk with employees about fall prevention and to discuss related topics, such as ladder, scaffolding and roofing safety. Federal OSHA has developed a web site devoted to the stand-down. Cal-OSHA has posted industry-specific fall protection fact sheets on its web site and will be partnering with Federal OSHA in a number of joint "Safety Stand-Down" events at construction sites across California. The Center to Protect Workers' Rights has developed a week-long training and discussion curriculum to guide employers and employees in getting the most out of the stand-down. Many other agencies and groups, from the National Institute for Occupational Safety and Health (NIOSH) to the American Society of Safety Engineers (ASSE) to the Associated General

Contractors of California (AGCC) are fully engaged in making this unprecedented national safety promotion effort a success.

It is a terribly sad irony that at the same time the rest of the Nation will be focused on preventing falls, the CSLB will close the comment period on a regulation that increases the exposure of asbestos abatement workers to that very hazard. Given the potentially tragic consequences of adopting the proposed regulation in its current form, **we urge the members of the Contractors State License Board to insist upon the adoption of additional modifications that will make the training and experience requirements for the C-22 license classification every bit as all-encompassing as the scope of work it encompasses.** The roof is a uniquely hazardous work environment. It is no place for the untrained and the inexperienced.

Thank you for your attention and consideration.

Sincerely,



William D. Callahan, Ph.D.  
Executive Director

enclosure

cc: *Peter Wilsey, Federal OSHA Region IX*  
*Jidiann Summ, Acting Chief, Cal-OSHA*

# OSHA Trade News Release

U.S. Department of Labor  
OSHA, Office of Communications

Date: March 19, 2014

Contact: Office of Communications

Phone: 202-693-1999

## OSHA announces national stand-down for fall prevention in construction

**WASHINGTON** The U.S. Labor Department's Occupational Safety and Health Administration today announced a national safety stand-down from June 2 to 6 to raise awareness among employers and workers about the hazards of falls, which account for the highest number of deaths in the construction industry.

"Falls account for more than a third of all deaths in this industry," said Dr. David Michaels, assistant secretary of labor for occupational safety and health. "We're working with employers, workers, industry groups, state OSH plans, and civic and faith-based organizations to host safety stand-downs that focus on recognizing hazards and preventing falls. We are getting the message out to America's employers that safety pays **and falls cost.**"

**During the stand-down, employers and workers are asked to pause their workday to talk about fall prevention in construction, and discuss topics like ladder safety, scaffolding safety and roofing work safety. OSHA has also launched an official national safety stand-down website with information on how to conduct a successful stand-down. Afterwards, employers will be able to provide feedback and receive a personalized certificate of participation.**

The stand-down is part of OSHA's ongoing Fall Prevention Campaign, which was started in 2012 and was developed in partnership with the National Institute for Occupational Safety and Health and NIOSH's National Occupational Research Agenda program. The campaign provides employers with lifesaving information and educational materials on how to plan ahead to prevent falls, provide the right equipment for their workers and train all employees in the proper use of that equipment.

"We are pleased to join again with OSHA and our NORA partners to focus on fall prevention at construction sites," said Dr. John Howard, NIOSH director.

"Preventing falls in the construction industry benefits everyone, from the worker, to the employer, to the community at large. This safety stand-down serves as an important opportunity for everyone to take the time to learn how to recognize and prevent fall hazards."

To learn how to partner with OSHA in this stand-down, visit <http://www.osha.gov/StopFallsStandDown/>. The page provides details on how to conduct a stand-down; receive a certificate of participation; and access free education and training resources, fact sheets and other outreach materials in English and Spanish.

To learn more about preventing falls in construction visit <http://www.osha.gov/stopfalls/>.

Under the Occupational Safety and Health Act of 1970, employers are responsible for providing safe and healthful workplaces for their employees. OSHA's role is to ensure these conditions for America's working men and women by setting and enforcing standards, and providing training, education and assistance. For more information, visit [www.osha.gov](http://www.osha.gov).

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U.S. Labor Department news releases are accessible on the Internet at [www.dol.gov](http://www.dol.gov). The information in this release will be made available in alternative format upon request (large print, Braille, audiotape or disc) from the Central Office for Assistive Services and Technology. Please specify which news release when placing your request. Call 202-693-7828 or TTY 202-693-7755.

OSHA News Release - Table of Contents



CSLB Proposed Regulation for Class C-22 - Asbestos Abatement Contractor

June 3, 2014

RE: Section 832.22 (d)

Original Text:

Section 832.22

(d) Every applicant for the C-22 – asbestos abatement contractor classification must have had, within the last 10 years immediately preceding the filing of the application, not less than four years of experience performing asbestos abatement duties as a journeyman, foreman, **ep supervising employee, or contractor working for or as any of the following:**

- (1) A a licensed contractor who holds the C-22 – asbestos abatement contractor classification or the asbestos certification, as defined in Section 7058.5 of the Code, and DOSH registration;**
- (2) A contractor who provides asbestos abatement services and is licensed in another state or federal jurisdiction;**
- (3) A utility company operating under the laws of a state or federal regulatory agency;**
- (4) A division of a state or the federal government; or**
- (5) The armed forces of the United States.**

Proposed Changes (highlighted sections):

Section 832.22

**(d)** Every applicant for the C-22 – asbestos abatement contractor classification must have had, within the last 10 years immediately preceding the filing of the application, not less than four years of experience performing asbestos abatement duties as a journeyman, foreman, **ef supervising employee, or contractor working for or as any of the following:**

- (1) A a licensed contractor who holds the C-22 – asbestos abatement contractor classification or the asbestos certification, as defined in Section 7058.5 of the Code, and DOSH registration;**
- (2) A contractor who provides asbestos abatement services and is licensed in another state of fedefal jurisdiction;**
- (3) A utility company operating under the laws of a state or federal regulatory agency;**
- (4) A division of a local, state, the federal, or foreign government; or**
- (5) The armed forces of the United States, or foreign governments; or**
- (6) Acceptable training in an accredited school or completion of an approved apprenticeship program in accordance with the California Labor Code (commencing with Section 3070 of the Labor Code, Chapter 4, of Division 3) or its equivalent, as approved by the Registrar, in the construction trade for which application is made will be counted as experience. In no case, however, will such training or completion of an approved apprenticeship program count for more than 3 years of the experience.**

Reasoning:

Section 832.22 (d)(2): These changes are needed to address two issues that would prevent qualified applicants from obtaining a license. First, not every state or federal jurisdiction requires a contractor's license. Likewise, those that require licenses do so for certain trades and may not provide an option to obtain a license in Asbestos abatement. The second issue is that by restricting it to state or federal jurisdictions of the United States, it prohibits immigrants and U.S. citizens who gained their experience in countries other than the United States from obtaining a contractors license in their profession. This could be interpreted as discrimination based on national origin and a violation of the 1964 Civil Rights act.

Section 832.22 (d)(3): Similar to the above, not all states or jurisdictions regulate utility companies in the same ways. Some jurisdictions may not require regulation of some specific utilities. In addition, by limiting, it to a utility company regulated by a state or the federal government of United States, large groups of qualified individuals are excluded. Locally regulated utilities are excluded, as are utilities in U.S. territories that are not states, such as Puerto Rico. Lastly, it prohibits immigrants and U.S. citizens who gained their experience in countries other than the United States from obtaining a contractors license in their profession. This could be interpreted as discrimination based on national origin and a violation of the 1964 Civil Rights act.

**Section 832.22 (d)(4): Without these changes, school district, city, and county government workers would be excluded from the ability to obtain a license. As previously stated, it would also exclude qualified individuals who obtained their experience in countries other than the United States from obtaining a contractors license in their profession. This could be interpreted as discrimination based on national origin and a violation of the 1964 Civil Rights act.**

Section 832.22 (d)(5): The United States armed forces operates side by side and trains with many armed forces around the world. These foreign armed forces include, NATO, and coalition partners such as Canada, Australia, and the United Kingdom, to name a few. Without these changes, qualified applicants who gained their experience while working for non-United States armed forces would be denied the ability to obtain a contractor's license due to their national origin. This could be interpreted as discrimination based on national origin and a violation of the 1964 Civil Rights act.

Section 832.22 (d)(6): As established by the existing regulations section 825 (d), the CSLB should recognize formal education and apprenticeship programs which apply to the field of asbestos abatement. For example, an individual that holds a PhD and whose applicable area of study are chemistry, engineering, hazardous substances, or asbestos abatement, should be able to include at a minimum part of their formal education towards the experience requirement to obtain a license. By excluding education in fields related to asbestos abatement, some of the most qualified experts on asbestos will be prevented from obtaining a contractor's license. There is no public benefit to excluding formal

education from the requirements towards obtaining a C-22 classification. Instead, excluding this group has the potential to hurt public safety by preventing development of new asbestos abatement procedures by preventing researchers. Additionally, it will exclude the most qualified and well-educated applicants with degrees related to asbestos abatement from obtaining a contractors license.

In order to ensure the ability for all qualified individuals such as veterans, government and utility employees, out of state applicants, contractors and employees, as well as experience gained outside of the United States; these portions of the proposed regulation should be removed and altered as indicated.

Sincerely,

A handwritten signature in blue ink that reads "Daniel Cohen". The signature is written in a cursive style with a clear, legible font.

Daniel Cohen

Email: [dan@televisioneducation.com](mailto:dan@televisioneducation.com)

Phone: 530-756-4991

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California Professional Association of Specialty Contractors

June 4, 2014

Contractors State License Board  
Attn.: Betsy Figueira  
9821 Business Park Road  
Sacramento, CA 95827

Sent by email only to Betsy.Figueira@cslb.ca.gov

RE: 15 day notice of modified text for Proposed C-22 License Class

**OPPOSE**

Dear Ms. Figueira,

CALPASC is a non profit trade association of specialty contractors and suppliers, operating throughout California. Our members operate in most segments of construction, and are both signatory and non-signatory.

The word Professional in our name means we stand for high quality, safety for our workers, and a level playing field in the competitive arena that is construction.

We appreciate the attempt to modify the language of the original proposal. Unfortunately, it does not go far enough to address the concerns expressed in our March 24, 2014 letter to you. Performing removal and repair work across multiple construction classifications requires substantial expertise and experience. The modified proposal has not set enough strong criteria to ensure that quality, safety, and professionalism in construction will be maintained.

This 15 day modified text proposal also continues to tilt the competitive playing field in favor of these inexperienced and unqualified parties, to perform the work.

For these reasons, CALPASC remains **OPPOSED** to the proposal for a C-22 licensee.

Sincerely,

Bruce Wick  
Director of Risk Management  
1150 Brookside Avenue, Suite Q.  
Redlands, CA 92373  
909-793-9932  
bwick@calpasc.org

**CALIFORNIA CONTRACTORS STATE LICENSE BOARD**  
**DRAFT REVISED FINAL STATEMENT OF REASONS**

**Hearing Date:** March 25, 2014

**Subject Matter of Proposed Regulations:** Class C-22 – Asbestos Abatement Contractor and Asbestos Classification and Certification Limitations and Examination Requirement

**Section(s) Affected:** Title 16, California Code of Regulations (CCR), Sections 832.22 and 833

**Updated Information**

The Initial Statement of Reasons is included in this rulemaking file. The information contained therein is updated, as a result of a 15-Day Notice of Modified Text, as follows:

16 CCR Section 832.22 (b) was revised to clarify that all holders of the C-22 – asbestos abatement contractor classification shall have completed training required by the Division of Occupational Safety and Health (DOSH) for asbestos registration, as contained in Title 8, CCR Section 1529.

This change is necessary to respond to a public comment received during the initial 45-day comment period and to clarify that applicable DOSH training requirements that are in place for DOSH registration must be met by all applicants for the C-22 – asbestos abatement contractor classification. The training detailed in 8 CCR Section 1529 is required for DOSH registration; therefore, it should in turn also be required for the C-22 classification. This regulatory action is needed to help ensure that applicants for the C-22 classification have appropriate training and an understanding of the licensure requirements for the classification.

16 Section 832.22 (d) was revised to clarify experience requirements of and to detail scenarios under which experience may be gained by applicants for the C-22 – asbestos abatement contractor classification.

This change is necessary to respond to a public comment received during the initial 45-day comment period and to clarify that applicants for the C-22 classification can gain work experience in various settings that are also allowable for the other classifications. The specific scenarios listed, including #2 through 5, are scenarios under which an individual could lawfully perform asbestos abatement work and are, therefore, valid avenues through which an individual may gain work experience in the asbestos abatement trade. This regulatory action is needed to help ensure that applicants for the C-22 classification have appropriate work experience and an understanding of the licensure requirements for the classification.

## **Local Mandate**

A mandate is not imposed on local agencies or school districts.

## **Small Business Impact**

This action will not have an adverse economic impact on businesses, because it simply establishes a specialty classification for an asbestos abatement contractor, including the related scope of work, and sets forth limitations and requirements for the new asbestos abatement contractor classification and the existing asbestos certification. The proposed changes to this regulation place no requirements on businesses.

## **Consideration of Alternatives**

No reasonable alternative which was considered or that has otherwise been identified and brought to the attention of the Contractors State License Board (CSLB) would be more effective in carrying out the purpose for which the action is proposed, as effective as and less burdensome to affected private persons, or more cost effective in implementing the statutory policy or other provision of law than the proposed regulation.

## **Objections or Recommendations/Responses**

### **Originally Proposed Language**

In response to the originally proposed language, CSLB received a number of comments in opposition to and in support of the proposed regulatory action (see attached Summary of Comments). Due to the large volume of comments received and the repeated themes in the comments, the common issues are responded to below.

### **Issue #1 – Safety in Relation to Asbestos Abatement on Roofs**

Nearly all of the comments in opposition to the new C-22 asbestos abatement contractor classification came from those in the roofing industry and referenced the issue of safety in relation to performing asbestos abatement work at elevation on roofs. They cite the hazardous environment that exists on roofs that could result in falls, as well as putting the worker to work in close proximity to roof-mounted gas lines, electrical conduits, overhead power cables, and HVAC units. They express the concern that the C-22 asbestos abatement contractors would be operating without proper training for roof work and would not make use of appropriate safety equipment or measures.

### **Response to Issue #1**

The comments relating to Issue #1 are rejected. As indicated in some of the supporting statements, as well as in the opposing argument itself, the roof is currently not the sole realm of roofers. Multiple other contractor classifications regularly perform trade duties in rooftop environments, including the C-10 electrical, C-36 plumbing, C-20 HVAC, and C-46 solar, just to name a few. CSLB has no restrictions or limitations for performing work on roofs for any of these or any other classification. For many years, asbestos abatement contractors have been performing roof removals that involve asbestos-containing materials under CSLB's existing asbestos certification.

The legal opinions submitted in opposition to the proposed regulatory action (see Comment #17 on the Summary of Comments) do not conflict with the proposed new C-22 classification. In 1998 and 1999, the Division of Labor Standards Enforcement (DLSE) indicated that tear-offs that **include** re-roofing require a roofing contractor; however, DLSE's historical position has been that "any removal of roofing material that contains asbestos material be done by a worker who is properly trained in asbestos removal." Their analysis focused more on collective bargaining agreements, but their conclusion was consistent with CSLB's licensing classifications.

In addition, CSLB's examination for the asbestos certification that will be modified to be used for the new C-22 asbestos abatement classification currently contains several questions on asbestos abatement in a roofing environment. Based on future occupational analyses conducted during examination development, the number and focus of the roof-related questions could be increased and strengthened, if appropriate.

### Issue #2 – Workers' Compensation Insurance Requirements

Another significant issue of concern to the roofing industry is the workers' compensation insurance requirements for the proposed new C-22 classification. Pursuant to Business and Professions Code (BPC) Section 7125, C-39 roofing contractors must submit proof of workers' compensation insurance coverage to CSLB in order to be issued or to maintain an active license. All other contractor classifications can file an exemption from workers' compensation coverage if they have no employees that would require such coverage. The roofing industry supported the mandatory workers' compensation requirement for their contractors based on apparent widespread fraud among roofers who claimed to have no employees and who were able to charge lower rates for their work due to not having the added expense of paying for workers' compensation coverage. The roofers in opposition to the proposed regulatory action are concerned that there could be similar workers' compensation fraud among the C-22 asbestos abatement contractors.

### Response to Issue #2

The comments relating to Issue #2 are rejected. DOSH requires proof of workers' compensation insurance coverage from all of its registration holders, both at the time of registration and annually thereafter when the registration is renewed. Therefore, C-22 contractors will be required to obtain and maintain workers' compensation insurance.

### Issue #3 – Level of DOSH Training

Several commenters refer to the class level of the required DOSH training and specify that Class I should be required, as opposed to Class II.

### Response to Issue #3

The comments relating to Issue #3 (i.e., the concept of clarifying the DOSH training requirement in the regulatory language) are accepted, and a 15-Day Notice of Modified Text was prepared in order to clarify the required DOSH training. According to DOSH, the class levels relate to the level and criticality of asbestos abatement work, not

specifically the type of training required. The class levels are also relevant in determining whether or not there is a need for registration, as is the disturbance of 100 sq. ft. or more of asbestos containing construction materials that contain greater than 0.1% asbestos. DOSH registration is required for Class I and Class II asbestos abatement work that involves the *removal* of asbestos-containing materials, which is higher-level, more critical work. Class III or Class IV asbestos-related work involves *repair, maintenance, and custodial* activities around asbestos-containing materials.

The requirements for the asbestos abatement training with DOSH are contained in Title 8, CCR, Section 1529 (k)(9). While there is a difference in the type of work that constitutes Class I and Class II, there may be no difference in the training administered by DOSH or in the registration – the registration covers both classes (I and II).

In relation to training for Class I operations and for Class II operations that require the use of critical barriers (or equivalent isolation methods) and/or negative pressure enclosures, Section 1529 (k)(9)(C) references the EPA Model Accreditation Plan (MAP) for the curriculum training method and length for asbestos abatement workers. The MAP is contained in Appendix A of Title 8 CCR Section 341.16 and specifies under I.B. that there is a 32-hour training requirement for workers and a 40-hour supervisor training for the “competent person.”

Pursuant to Section 1529 (k)(9), for those involved in Class II work that covers specific specialties (involving roofing materials, flooring materials, siding materials, ceiling tiles, or transite panels), the “hands-on” portion of the training shall be at least 8 hours in that specific trade.

Furthermore, for Class II operations not involving the above specialty categories, the training covers the elements included in Section 1529 (k)(9)(H), the specific work practices and engineering controls set forth in subsection (g) that specifically relate to the category of material being removed, and include “hands-on” training in the work practices applicable to each category of material that the employee removes and each removal method that the employee uses.

In addition, the C-22 – asbestos abatement classification and the DOSH registration will operate hand-in-hand. As indicated in Section 832.22 (a) of the proposed regulatory language, all asbestos abatement work shall be performed in accordance with DOSH regulations and requirements. Someone not authorized by DOSH to perform specific asbestos-related work will not gain the ability to do so simply because they hold the C-22 classification – all of DOSH’s rules will still apply. However, a DOSH registrant in Class II non-specialty work could be as qualified as a registrant in Class I work to hold the C-22 classification and perform asbestos abatement work in any part of a building or structure.

#### Issue #4 – Experience Requirement

One of the comments expresses concern that the experience requirements proposed in 16 CCR Section 832.22 (d) may be too restrictive and inhibit some valid experience



from being accepted toward licensure in the new C-22 asbestos abatement classification.

#### Response to Issue #4

The comment relating to Issue #4 is accepted, and a 15-Day Notice of Modified Text was prepared in order to allow other acceptable experience settings, including under or as a C-22 asbestos abatement contractor, an out-of-state asbestos abatement contractor, a utility company, a governmental agency, or the armed forces. All of these settings are comparable to acceptable experience scenarios for other classifications.

#### Issue #5 – Necessity of New Classification

Two of the comments question the necessity of the new classification, particularly since few contractors are anticipated to apply for it.

#### Response to Issue #5

The comments relating to Issue #5 are rejected. Regardless of the number of people who will seek the new asbestos abatement classification, it is appropriate for this distinct trade to be a stand-alone specialty classification. As indicated in the Initial Statement of Reasons, at its February 26, 2013 Board meeting, CSLB considered the appropriateness of and agreed to the need to develop a separate specialty classification that would be all-inclusive and would allow asbestos-related work in or on any portion of a structure, regardless of any other classification(s) held by the contractor. By implementing the new C-22 asbestos abatement classification, CSLB will ensure that contractors who perform asbestos abatement work under the C-22 classification will have had four (4) years of acceptable work experience in the trade and will have successfully completed a comprehensive examination on the trade duties as a stand-alone classification. Whether ten (10) or 1,000 applicants apply for the new classification, it remains a valid separate trade that has significant public health, safety, and welfare implications and that requires appropriate licensing.

#### Issue #6 – “Asbestos Abatement” Definition

Several of the comments ask for “asbestos abatement” to be more clearly defined.

#### Response to Issue #6

The comments relating to Issue #6 are rejected. Section (a) of Section 832.22 states, “An asbestos abatement contractor performs *abatement*, including *containment*, *encapsulation*, or *removal*, and *disposal of asbestos containing construction materials*, as defined in *Section 6501.8 of the Labor Code*, in and on buildings and structures.” (Emphasis added.)

Labor Code Section 6501.8 reads as follows:

- (a) For purposes of this chapter, “asbestos-related work” means any activity which by disturbing asbestos-containing construction materials may release asbestos fibers into the air and which is not related to its manufacture, the

- mining or excavation of asbestos-bearing ore or materials, or the installation or repair of automotive materials containing asbestos.
- (b) For purposes of this chapter, “asbestos containing construction material” means any manufactured construction material that contains more than one-tenth of 1 percent asbestos by weight.
  - (c) For purposes of this chapter, “asbestos-related work” does not include the installation, repair, maintenance, or nondestructive removal of asbestos cement pipe used outside of buildings, if the installation, repair, maintenance, or nondestructive removal of asbestos cement pipe does not result in asbestos exposures to employees in excess of the action level determined in accordance with Sections 1529 and 5208 of Title 8 of the California Code of Regulations, and if the employees and supervisors involved in the operation have received training through a task-specific training program, approved pursuant to Section 9021.9, with written certification of completion of that training by the training entity responsible for the training.

In addition, the Labor Code uses the term “abatement” in Section 6501.5 (e) in its reference to the Asbestos Abatement Fund.

Common dictionary definitions of the term “abatement” include the ending, reduction, diminution, or lessening of something.

Therefore, “asbestos abatement” is a term of use by the industry and is sufficiently defined so that it should be understandable to both industry and the general public.

#### Issue #7 – CSLB 1990 Roof Tear-Off Article

One of the comments presents a 1990 CSLB newsletter article that states that a C-39 roofing contractor license is required to perform roof tear-offs, as opposed to allowing a C-61 limited specialty D-63 construction clean-up contractor to do the work.

#### Response to Issue #7

The comment relating to Issue #7 is rejected. The presented article was making a distinction between the duties that could be performed by a C-39 roofing contractor and by a D-63 construction clean-up contractor, which is a limited specialty classification that has no examination requirement for licensure.

The new C-22 asbestos abatement classification would not operate in opposition to the information discussed in the article. A C-22 licensee would similarly not be allowed to tear off a roof for the sole purpose of tearing off the roof. However, if the roofing material contained asbestos, a C-22 licensee would be able to perform asbestos abatement work on the roof, up to and including the tear off of the roof, if so needed – all of which would be acceptable under the new C-22 classification description.

### Issue #8 – Construction Industry Economy

One comment expresses concern that the construction industry economy would be impacted as competition would be added to the workforce under the new classification proposal, as opposed to the existing overlay nature of the BPC Section 7058.5 asbestos certification.

### Response to Issue #8

The comment relating to Issue #8 is rejected. The economic impact is addressed in the Std. 399 – Economic Impact Statement that is contained under tab J in the rulemaking file.

### Issue #9 – Prevailing Wage Rules

One comment expresses concern that there could be compliance difficulties due to different prevailing wage rules for roofers and asbestos abatement workers.

### Response to Issue #9

The comment relating to Issue #9 is rejected. CSLB has no jurisdiction over prevailing wage rules. The proposed regulatory action does not address wage issues and does not change current circumstances under which similar difficulties could theoretically arise with an existing BPC Section 7058.5 asbestos certification holder or with a B – general building contractor.

There is a clear distinction between the two trades – roofing and asbestos abatement. If someone is performing asbestos abatement work on a roof, the work is still asbestos abatement. If someone is installing a roof on a building, the work is still roofing. If an existing C-39 roofing contractor holds the Section 7058.5 asbestos certification and performs asbestos abatement work on a roof, the asbestos abatement portion is just that... asbestos abatement, and any reroofing would be roofing.

Similarly, B – general building contractors who contract for multiple trades could theoretically have some employees who work on both roofing and other general building trades. They too would currently be in a situation to have to resolve the prevailing wage issue for those employees under applicable prevailing wage rules.

Such contractors should address the wage issue as they currently do under the applicable prevailing wage rules. This is no different than how it would be under the new C-22 asbestos abatement classification.

### Comments in Support of the Proposed Regulatory Action

In addition to the comments above, CSLB received eight (8) comments in support of the proposed regulations. The supporters praise the proposal as a legal means by which asbestos abatement contractors could perform comprehensive asbestos abatement work as their sole focus. They indicate that the stand-alone classification would improve safety by allowing such focused, specialized, full-time work in asbestos abatement, as

opposed it being a part-time function of those licensed in the individual classifications. One of the supporting comments states that workers' compensation for C-22 license holders would be monitored by DOSH as part of their asbestos abatement work.

### Response to Comments in Support of the Proposed Regulatory Action

CSLB acknowledges and appreciates the support of the commenters on this rulemaking proposal.

### **15-Day Notice of Modified Text**

In response to the 15-Day Notice of Modified Text, CSLB received three (3) comments in opposition to the proposed modified regulatory language (also included on the attached Summary of Comments).

### Modified Text Comment #1 – Associated Roofing Contractors (William D. Callahan, Ph. D.) – Oppose

William Callahan opposes the proposed modified language, saying that it does not address the roofing safety issues that he presented in his original letter (see Issue #1 above and Comment #1 on the attached Summary of Comments). He references the “national stand-down for fall prevention in construction” as a national outreach effort sponsored by Federal OSHA as he stresses that the additional training clarification in the modified text does not include roofing safety. Callahan contends that asbestos abatement in a roofing setting should require four years of roofing-related asbestos abatement experience and roofing safety training. He also questions the adequacy of the modified text relating to the DOSH training requirement, citing different sections of law that cover different specialties of asbestos-related work.

### Response to Modified Text Comment #1

This comment is rejected. See Response to Issues #1 relating to safety and #3 relating to DOSH training above.

### Modified Text Comment #2 – Daniel Cohen – Oppose

**Daniel** Cohen opposes the revised experience requirements contained in the modified language. He proposes alternative modified language that would broaden the experience requirements further **by** allowing credit for experience as or under “a contractor who provides asbestos abatement,” eliminating the licensure requirement altogether. Cohen also suggests deletion of the requirement that utility companies, under which experience could be gained, must be “operating under the laws of a state or federal regulatory agency.” He proposes expansion of **the** government division category to include local and foreign and of the armed forces category to include foreign. Cohen further recommends inclusion of accredited school training or apprenticeship credit up to three (3) years of credit. He claims that failure to **add** specific provisions for foreign experience credit “could be interpreted **as** discrimination based on national origin and a violation of the 1964 Civil Rights act [*sic*].”

## Response to Modified Text Comment #2

This comment is rejected. Regarding Cohen's suggested language that broadens the experience requirements by eliminating licensure and legal operation requirements, CSLB contends that it is appropriate to require such work experience be gained through reputable and legal means, given the specialized and potentially hazardous nature of asbestos abatement work. The CSLB Registrar currently has authority, under the provisions of 16 CCR Section 826, to grant credit for comparable experience that he/she deems is appropriate. Therefore, if an applicant applies for the C-22 asbestos abatement contractor classification and documents acceptable work experience that has been obtained, for example, in a state that does not have contractor licensing but that does have comparable asbestos abatement registration as California DOSH requirements, CSLB would have the ability to grant credit for such work experience pursuant to 16 CCR Section 826, if appropriate. The same provision of law could allow credit to be granted for comparable circumstances involving legitimate work experience obtained under local and foreign governments and foreign armed forces, if appropriate. As these experience scenarios would likely be rare and would fall outside the norm and known rules on asbestos abatement requirements, it is reasonable and appropriate to address them under the provisions of 16 CCR Section 826, where the applicant can be asked to provide proof that the experience is comparable to the given experience settings contained in the proposed regulatory language. The majority of qualified applicants for the C-22 asbestos abatement classification would have experience that would fall under the provisions of the proposed regulatory language. Acceptable exceptions to the rule would fall under the provisions of the existing 16 CCR Section 826.

In relation to Cohen's addition of language for school training or apprenticeship credit, that exact provision of law is already contained in 16 CCR Section 825 (d). There is nothing in the original or modified proposed language that invalidates this provision of law. However, given the precise, technical, and potentially hazardous nature of asbestos abatement work, it would be of limited value for an applicant for the C-22 asbestos abatement classification to possess a degree in chemistry as Cohen suggests. Such degree may help demonstrate that the applicant has knowledge of the chemical makeup and lethality of asbestos, but it does not mean that the applicant has any practical understanding about or hands-on experience in the safe abatement or removal of asbestos in a construction setting. Based on the provisions of 16 CCR Section 825 (d), "acceptable training in an accredited school or completion of an approved apprenticeship program... in the construction trade for which application is made will be counted as experience," for up to three (3) years of experience.

The Civil Rights Act of 1964 cited by Cohen relates primarily to discrimination in voting, public accommodation, and employment based on race, color, religion, sex, and national origin, as well as related desegregation. CSLB has no national origin requirement or limitation for licensure, and there is nothing in the proposed regulatory language that would discriminate against an individual based on his/her national origin, as Cohen claims. Nothing prohibits an individual of any national origin from obtaining acceptable experience as outlined in the proposed regulatory language, or under

16 CCR Section 826 as discussed above, and applying for and obtaining licensure in the C-22 asbestos abatement contractor classification.

Modified Text Comment #3 – Bruce Wick – Oppose

Bruce Wick remains opposed to the provisions contained in the modified language. He reiterates the safety and quality issues he addressed in his original letter (Comment #9 on the Summary of Comments).

Response to Modified Text Comment #3

This comment is rejected. See Response to Issue #1 above.

# AGENDA ITEM F

Adjournment

