STATE OF CALIFORNIA - DEPARTMENT OF INDUSTRIAL RELATIONS GAVIN NEWSOM, *Governor*

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AMENDED PROPOSED PETITION DECISION OF THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD (PETITION FILE NO. 570)

INTRODUCTION

The Occupational Safety and Health Standards Board (Board) received a petition on August 8, 2018, from Don Zampa of the District Council of Iron Workers and Greg McClelland of the Western Steel Council (Petitioner). The Petitioner requests that the Board amend Title 8, California Code of Regulations, Section 1710, Structural Steel Erection.

Labor Code Section 142.2 permits interested persons to propose new or revised regulations concerning occupational safety and health and requires the Board to consider such proposals and render a decision no later than six months following receipt. Further, as required by Labor Code Section 147, any proposed occupational safety or health standard received by the Board from a source other than the Division of Occupational Safety and Health (Division) must be referred to the Division for evaluation. The Division has 60 days after receipt to submit an evaluation regarding the proposal.

SUMMARY

The Petitioner requests that the Board amend Subsections 1710(b) and (l) to include new definitions, change decking installation requirements, change fall protection requirements, and incorporate the use of a cone and bar barricade (CBB) system around floor openings in lieu of temporary railings or coverings required by Section 1632. The proposed changes would:

- Allow both planking and decking to be of sufficient strength to carry the working load and be equivalent to structural plank.
- Delete the requirements that planking shall be not less than 2 inches thick full size undressed, and shall be laid tight.
- Allow the employer to secure planking and decking [over the floor opening] as soon as practicable, rather than immediately.
- Amend existing requirements for perimeter safety cable by adding an alternative if fall protection is engineered by a registered California State Structural Engineer.
- Delay the installation of midrail protection to after metal decking is installed and the floor is ready for turnover to the controlling contractor.
- Define the terms "cone and bar barricade" and "access opening".
- Make various technical amendments pertaining to the cutting of metal floor decking to create openings and guarding of openings.
- Regulate the use of cone and bar barricades around floor openings.

The Petitioner asserts that the proposed amendments have been thoroughly tested through years of experience, supported by extensive track record of worker hours demonstrating their safety, and do not require vetting by an advisory committee process.

DIVISION EVALUATION

In its report concerning the Petition, dated December 17, 2018, the Division favors the convening of an advisory committee to discuss the proposed addition of Subsection 1710(l)(8), but believes the proposed changes to Subsections 1710(l)(1) and 1710(l)(3) through 1710(l)(6) should not be considered.

Subsection 1710(b) Definitions.
The proposed new definitions for "access opening" and "cone and bar barricade (CBB)" are not necessary. The terms "access" and "openings" are currently defined separately in Title 8 Section 1504. The proposed definition for CBB provides no additional substantive information that is not in their proposed Subsection 1710(l)(8).

Subsection 1710(l)(1) Temporary Flooring – planking and decking.
The Petitioner proposes changes which would reduce employee safety, are contrary to Labor Code Section 7254 and are not as effective as the federal OSHA regulation. The deletion of the minimum thickness requirements for floor planking and decking would make the requirements unclear for employers. The deletion of the requirement that planking be laid tight would allow gaps to exist between planks and create fall hazards for employees. By delaying the requirement for planking and decking to be secured "as soon as practical," the time employees are exposed to unstable work surfaces would increase and create additional fall hazards for employees.

Subsection 1710(l)(3) Fall protection at the periphery of buildings.
The proposed change, allowing the use of personal fall protection in lieu of wire rope guardrails at exposed edges of buildings, is not as effective as the federal OSHA regulation and weakens employee protection by exposing employees to an increased risk of falling.

Subsection 1710(l)(4) Midrail protection.
The proposed change would delay the installation of midrail protection until after the steel erector employer determines the decking process is finished and inspected. The proposed change is less effective than the federal OSHA regulations and would weaken employee protection by increasing the time employees work without midrail protection.

Subsection 1710(l)(5) Installation of Metal Decking.
The Petitioner proposes delaying the securing of metal decking from "immediately" to "as soon as practicable." The proposed change is less effective than the federal OSHA regulation and would weaken employee protection by increasing the time employees are exposed to unstable work surfaces.

Subsection 1710(l)(6) Holes and openings.
While the Petitioner proposes several non-substantive language clarifications, they also propose deleting the strength requirement for filling deck openings and holes. The proposed change is less effective than the federal OSHA regulation and the deletion of the strength requirements would weaken employee protection.

New Subsection 1710(l)(8) Cone and bar barricade system.
The Petitioner proposes the addition of a new subsection to expressly allow the use of the CBB system to warn employees of access openings in lieu of providing guardrails around openings or providing coverings over openings. Currently, the CBB system is permitted under Subsection 1635(c), which allows barricades around holes (in lieu of covers or guardrails) only where work is in progress that requires floor openings to be uncovered. The use of CBB systems should be limited to situations where work is in progress that requires floor openings to be uncovered. The proposals to specify the distance of barricades from openings, require warning labels on CBB systems, and require training of employees should be considered. The proposal to clarify that the provisions of Subsection 1635(c) apply to decking and planking during structural steel erection work should also be considered.

BOARD STAFF EVALUATION

The Board staff evaluation dated December 19, 2018, recommends convening an advisory committee to confirm the necessity for CBB (new Subsection 1710(l)(8)) and to discuss amending the Note for Subsection 1710(l)(3).

Board staff recommends denying the proposed amendments to Subsections 1710(b), 1710(l)(1), 1710 (l)(3), and 1710(l)(4) to 1710(l)(6) that would render the California standards to be inconsistent with the Labor Code or be not as effective as the federal standards.

Subsection 1710(l)(1) Temporary Flooring – planking and decking.
Board staff does not agree with the Petitioner's proposed amendment but supports amending Subsection 1710(l)(1) to state verbatim Labor Code Sections 7254 and 7258. If amended as proposed, the economic cost impact of replacing two inches thick full size undressed planks with structural planks would have to be considered. The proposal to remove the requirement that planking shall be laid tight overlooks Labor Code Sections 7253 and 7258 and is not as effective as 29 CFR 1926.754(e)(5)(i). The Petitioner also proposes to modify the timeline for securing planking and decking by adding "as soon as practicable," which conflicts with the 29 CFR 1926.754(e)(5)(i) requirement that securing needs to take place immediately.

Subsection 1710(l)(3) Fall protection at the periphery of buildings.
Board staff disagrees with two of the proposed changes in this subsection. Eliminating the peripheral top rail safety cable requirement if the fall protection system was engineered by a registered structural engineer does not assure that the fall protection system meets all applicable existing regulations. By changing the text to "Guardrail protection may also be used if equal protection is provided," the Petitioner is changing the meaning of the standard.

Board staff does not object to amending the Note to change the reference from Subsection 1710(m)(4) to Section 1670, which refers to fall protection.

Subsection 1710(l)(4) Midrail protection.
The proposal to require midrail installation after the metal decking installation is complete would not be as effective as the federal standard which requires that perimeter safety cables be installed after metal decking installation. In addition, the timeline for the installation of midrails should not be dependent on the arrival of the inspector of record.

Subsection 1710(l)(5) Installation of Metal Decking.
The Petitioner's proposal to remove the requirement for the metal decking to be immediately secured and replace the timeline to "as soon as practicable," would not be as effective as the 29 CFR 1926.754(e)(5)(i) requirement that metal decking be secured immediately after it is placed over the opening.

Subsection 1710(l)(6), Holes and openings.
The Petitioner's proposal would allow floor openings to be created and filled with temporary equipment or structure, which might not have the structural integrity of the permanent structure or equipment.

New Subsection 1710(l)(8), Cone and bar barricade system.
The Petitioner proposes a new subsection regarding the use of CBB, a new concept with no comparable federal standard. The CBB is a communication tool that alerts workers of the presence of a floor opening and where fall protection is required. As such, CBB should not be used without a fall protection component. Board staff is in support of adding CBB as a method of communicating the location of hazards (floor openings) and where control measures are required. Board staff recommends establishing an advisory committee to confirm necessity and assist in staff development of proposed language for the use of the CBB for work covered under Subsection 1635(c).

CONCLUSION AND ORDER

~~Having considered Petition 570 and evaluations of it by the Division and Board staff, the Board hereby GRANTS the Petitioner's request to the limited extent that an advisory committee of stakeholders, inclusive of the Petitioner, is convened to consider: 1) amendment to the Note for Subsection 1710(l)(3) and; 2) the development of language for use of the Cone and Bar Barricade system for work covered under Subsection 1635(c).~~

Motion, as adopted:

The Petition is GRANTED to the limited extent that Board staff is to convene an advisory committee to consider the issues raised by the Petition.

Date: 1-17-2019

Christina Shupe

Christina Shupe, Executive Officer