

**Fall Protection Rulemaking Stakeholder Meeting 7.11.16**  
**L&I Tukwila Office**  
**WAC 296-155**

**Occupational Safety and Health Administration (OSHA) Staff:**

Jordan Barab- Deputy Assistant Secretary of Labor  
Jeff Erskine- Acting Director, Directorate of Construction  
Ashley Briefel- Regulatory Analyst, Directorate of Construction  
David J. Baker- Assistant Regional Administrator, Cooperative and State Programs  
Ed Delach- Regional Labor Liaison

**Division of Occupational Safety and Health (DOSH) Staff:**

Anne Soiza- Assistant Director  
Craig Blackwood- Deputy Assistant Director  
Alan Lundeen- Senior Program Manager  
Chris Miller – Standards Program Manager  
Josefina Magana - Administrative Regulations Analyst  
Dave Conley - Construction Technical Specialist

**Attendees:**

Tom Armstrong- Multicare Health Systems	Mark Lawless- CSMI
Todd Baker- L&I	Fred Leyba- L&I
Steve Heist - Approach Management	Juan Martell- Port of Seattle
Ericka Bean- W.G. Clark Construction Co	Chris McClain- Ironworkers Local 86
Will Beatie- Seattle Parks and Recreation Safety Office	Tim Mitchell- Port of Seattle
Nancy Bell- L&I	Stephen Moon-T- Mobile
Travis Brock-Director of Safety CAC- Business Co-chair	Cathy- T- Mobile
Doug Buman- Liuna Trifunds	Richard Nadolny- L&I
Jonathan Burr- Attorney K-Solutions Law	Mike O'Neil- Lakeside Industries
Chad Cabe- City of Everett	Mike Shute- Lakeside Industries
Dan Cabot- McClone Construction	Kevin Peterson- PCI
Steven Cant- IBEW Local 77	Randy Paddock- PCI
Damian Dominique- WFB Retro/SafetyProgram	Lee Pyfrom- MacDonald-Miller Facility Solutions
Brian Ducey- SMART Association	Brian Sahli- L&I
Gary J. Fassio- Pacific Northwest Regional Council of Carpenters	Tonny Sasse- Westharbor Homes/Port Ludlow Associates LLC
Robert Gallagher - Pioneer Human Services	Dale Sharp- Skis Quality Commercial Painting
Gregg Gibeau- Seattle Area Roofers Apprenticeship Program	Matthew Thompson- UURWAW Local 153 AFL-CIO
Jay Herzmark - SafeWork Washington	Matt Uhrich- Legacy Telecommunications Inc.
Mandi Kime - AGC of Washington	Terry Walley- L&I
	Jacob Ewin
	Mark P. Martinez

**Introductions:**

- Senior Program Manager of the Division of Occupational Safety and Health welcomes attendees and briefly explains the agenda for the day.
- L&I Assistant Director for Occupational Safety and Health (DOSH) thanks stakeholders and OSHA representatives for visiting Washington State.
- Deputy Assistant Secretary of Labor for Occupational Safety and Health introduces staff from OSHA, gives brief history of Fall Protection and appreciates that Washington State is taking steps forward to be in line with OSHA.
- Acting Head of the Directorate of Construction indicates OSHA's concerns were laid out on the October 2015 letter to the Division of Occupational Safety and Health.

**Main topics of discussion:**

- This meeting is to discuss potential rulemaking; no specific decisions have been made at this point regarding changes to the standards.
- Commercial versus Residential Fall Protection
  - OSHA policy issue focuses on residential construction
  - DOSH regulates both commercial and residential with same fall rule
- Fall Arrest/Fall Restraint/Warning line

**Highlights of Technical issues:**

The Department of Labor and Industries technical specialist indicates that a direct comparison between DOSH and OSHA's standards is difficult when it comes to Fall Protection. Additionally, highlights that there is no differentiation between residential and commercial fall protection. Furthermore, indicates that rulemaking will take place to involve stakeholders every step of the process. Finally, specialist discusses the following topics and invites audience to comment.

- Ambiguous Language with regards to Skylights and Wall Openings
  - OSHA believes our language is conditional and subjective
  - DOSH enforcement case law –no issue
- Warning Lines - Use and strength
  - When 200 lbs. is placed it cannot deflect more than 3 inches.
  - Guardrail is OSHA mirrored.
  - Change language in this standard.
- Alternatives to Conventional Fall Protection – Catch Platforms and Safety Watch System.
  - Comments from audience: Audience made no comments regarding catch platforms.
  - Safety Watch System generated much discussion.
- Trigger Height – OSHA 6' vs. DOSH 4' with 10' limited exemption and Definition of Walking Working Surface. OSHA issue is the 10' exemption under current national rules
- When part C-1 was revised, the trigger height for working from the face of formwork in Part O was inadvertently left at 6'. This should say 4' and will be updated as part of our revisions.

- The Department of Labor and Industries is currently considering developing a vertical standard that covers fall protection for all industries.
- Right now nothing is off the table this is an opportunity to discuss options
  - Option one: change existing 10' to 6' exemption, leave 45 in. dimension for Walking Working Surface.
  - Option two: remove 10' exemption leaving 4' protection trigger.

**Issues that generated more discussion:**

- Warning Lines
- Trigger Height  
4', 6', 10'

**Some questions that were raised:**

- Does Washington State have higher fall injury rates than the national average?
  - Response from DOSH- Washington State has lower than average injury rates from falls from elevation covered by the OSHA trigger height issue.
  - Response from OSHA-Cannot take into account injury statistics as a justification for being less than OSHA's rules. Rules are taken section by section and must be equivalent topic by topic.
- Are there statistics regarding chronic injuries if the trigger height is lowered?
- Does DOSH recognize 6ft free fall?
- Can we find out if employers are cited for skylights and from there have statistics to determine whether or not to focus on this?
  - Employers are issued violations for skylights and floor holes regularly and successfully under the DOSH wording in the rule

**Concerns/comments from the audience:**

- Eliminate reference to width- the 45 in. direction.
- Issue of skylights should be fixed.
- Calculation of harness system.
- Footage of trigger height should be consistent.
- Existing 6ft should not be altered.

**Comments from DOSH:**

- As rulemaking continues it will be decided whether or not to incorporate commercial fall protection as well.
- In order to issue a citation, a hazard must be identified.
- The department has outreach resources that highlight hazards associated with skylights.

**Conclusion:**

- Deputy Assistant Secretary of Labor for Occupational Safety and Health concludes indicating that OSHA is confident Washington State will make necessary changes to the rule. Washington is a national leader in occupational safety and health.

- L&I Assistant Director for DOSH thanks the audience for voicing their questions and concerns to OSHA, encourages feedback and suggested language as rulemaking progresses.
- Senior Program Manager, Division of Occupational Safety and Health, reminds audience to:
  - Sign in
  - ListServ for Fall Protection
  - Time and date for next meeting will be provided promptly