

Good Morning, My name is Anne Rugens and I'm an attorney with the Department of Labor's Office of Program Policy. Today is October 25, 2012; time is approx. 9:14 a.m.

This hearing is taking place in our IT conference room here on the 1st floor of the CT Department of Labor. The hearing this morning is regarding the department's proposed regulations for pertaining to the supplemental refresher training course. Notice of the Proposed Regulations and of this public hearing was published in the September 25, 2012 edition of the CT Law Journal. Notice was further provided that interested parties would be able to submit data facts, use, facts, orally or in writing and would have 30 days from the publication of the standard to submit written arguments to my attention in the Office of PP in DOL.

We have 5 parties here today. Two representatives from the Dept of Labor's CONN-OSHA division, Ken Tucker, Director, Tom Retano. We have Victor Mitchell from Tunxis Community College, Larry Vallieres from IECNE and Faith Gavin Kuhn from Associated Builders and Contractors. At this time I'll turn to the parties and I believe that Faith from ABC you have a written statement to present.

Kuhn: I have a written statement that I sent over yesterday and I hope you are in receipt of that. If not I would certainly email it to you.

Rugens: Perfect, Thank you.

Kuhn: ABC represents about 200 contractors and subcontractors many of whom are electricians and plumbers so they will be impacted by this proposed regulation of the 4 hour and close to the 10 hour refresher every 5 years and we realize that the statute was enacted in 2011 and was to take effect July 1, 2012 meaning that plumbers and electricians would be able to take the 4 hour refresher. We have a couple of questions and we'd like to propose to be considered before the proposed regulation is final. One as in the proposal it says we could request a copy of the fiscal note and request a fiscal analysis of the cost benefit analysis, In particular our members are interested in the cost of implementation of the 4 hour OSHA refresher versus the cost of the 10 hour OSHA refresher to electricians and plumbers. Second, we have the concern because we were reading over their proposal we noticed that primarily it is the statute itself and there are no real regulations that we can comment as to what the current deal actually is and what segments of OSHA standards would be covered in the curriculum and we know obviously that there are specific topics that plumbers and electricians would be interested because their distinctive trades. So we need a little more information as what to this specific curriculum would be with regards to the OSHA standards covered in the curriculum. We also would like to ask who is implementing the proposed regulations. Currently we understand that Wage and Hour Division of the CTDOL implements the OSHA 10 hour requirement as part of the certified payroll. It is not clear in these regulations as proposed as whether CONN OSHA or still Wage and Hour and the clarification on that I think would help the industry. We also are interested in knowing

whether the plumbers and electricians continue to take the OSHA ten every five years would they remain in compliance or are they required to take the 4 hour and also continuing education units that are required of licensed plumbers and licensed electricians. And this is something that is probably as I say inside electricians and plumbers training but we have apprentices we refer to as journeyman and the contractors for electricians and plumbers and would be for a requirement applied to contractor level meaning the P1's for plumbers and the E1's for electricians and the P2's and E2's which are the journey people would they be required to take the 10 hour as opposed to the 4 hour. I know that's a lot to take down so I'll give you a minute. One other in this I know that of this room had questions too that the regulation refers to Chapter 392 of the CT General Statutes which is actually the real estate license holders and its Chapter 392 that refers to the plumbers and electricians license. So I'm sure that's probably an administrative although real estate license holders may be interested in checking out the form electrician so in some we have many questions as to the specific standards that will be covered in a 4 hour curriculum and we want to make sure that our plumbers and electricians are working safe and we realize that when the work safe is for the public safety of everyone so if we could have a little more help as to what the curriculum would be and as to whom is implementing it that would be grateful. Thank you.

Rugens: Mr. Mitchell or Mr. XXXXXX do you have anything that you want to say?

Mitchell: Sure. My name is Victor Mitchell and I the Director of Business and Industry services for Tunxis Community College. We've been involved with the continuing education for electricians since its inception. We've also been involved in a wide variety of safety programs and other programs associated with that. To echo some the words of the question has always been what is the curriculum. This has been an ongoing issue especially this last year with the electricians who are continuing our program. I don't think anyone has a problem with safety; I don't think that is the question or concern but what does it really mean. I know that (inaudible) but what the board has done, the electric board has done to improve the quality of electricians and improve the industry. This ties right into that to make some logical sense. In a sense you never can be too safe but what does it mean, what record keeping will be utilized with this. I understand that there is really no system in place now, OSHA 10 is really processed through the federal government. We're assuming people would step forward (inaudible) OSHA 10 card and why would they come forward for an OSHA 4 class for lack of better word. Those are some of the issues I can list that have to be worked out (inaudible) be the same. But again the safety issue I don't think there is really a question of how you are going to implement all this. The only time it becomes an issue and this was an issue a couple of years with the electricians when the economy goes sour and since most of the individuals pay for this training themselves it does cause some impact on the individual. Not all companies, very few companies, actually pay for continuing education of electricians. Most of it is paid by the individual. Every OSHA 10 program that we have done is always been paid by the individual. Nothing has been paid by the company. So

there is that concern that this has to be looked at too and given the tough economy makes it a little worse. That's about it.

Thank you.

Rugens: Mr. Vallieres?

Vallieres: My name is Larry Vallieres and I'm board member of IUC Electrical Contractors of New England which represents the (inaudible) job electrical contractors in CT, MA and Rhode Island. We were also an electrical contractor for 4 years in the state through the State's apprenticeship program (inaudible) and certainly recognize the safety in particular our industry and certainly in the plumbing industry. I also share with the state electrical licensing board here in CT and have been on the board for a number of years and was one of the originators of continuing for electricians in the State of CT. Some of my questions or comments have been indicated already by other people but are just for the record and also for the record I'm representing myself as a contractor today and I am not representing the opinion of the state electrical board. One of the things that I noticed in this regulation because I am so close to because of the licensing board is that the (inaudible) indicator the definition of the plumber and the definition of the electrician means any person licensed in accordance with Chapter 392. As previously stated Chapter 392 deals with real estate brokers and salespersons. Chapter 393 that deals with plumbers. Although it is a typo and I read further in the regulation it references Section 20-314 of Chapter 393 relative to continuing education. Although it's a typo I think it is something that needs to be cleaned up and just a (inaudible) item that some person out there in the industry needs to challenge that. The other item is, is references 4 hours of this refresher course, course if you will, 4 hours in duration doesn't really indicate what that duration is. Is it 4 continuous hours, is it one hour every year for four years, skip year, repeat it? The reason I raise that question is because in our continue education for electricians the state as well as I believe plumbers would we provide specific times to (inaudible) safety as part of the curriculum as part of the statute, regulation. So if it was a situation where one hour a year accumulated over four years would satisfy that it would be certainly a less encumbrance on the people involved with taking to additional training. I think it is good to keep people up to date. I think it is important to refresh people. I think taking a 10 hour course and then never taking it again is not the best thing to do. You need to refresh it. That's why we do continuing education for electrical side of things. Again it is hard to comment on any type of curriculum there is no curriculum set forth yet as to what would be covered in the four hour period of time. I think that while the 10 hour requirement is there for all people I'm not so sure that I totally understand the logic and reasoning behind extrapolating particularly plumbers and electricians in their four hours and particularly since it's a part of something that is already basically done but not necessarily in the consistent four hour block of period of time. It's not over one hour periods or less as termed by the board (inaudible). Different periods of time to keep people up to date on the OSHA training that is required. It is not a repeat every year of the same thing..... Likewise one of my concerns is well is that this I believe went into effect July 1st and

what concerns me is we have the industry pretty well confused out there what really needs to be done because there is no four hour course developed yet anywhere that I'm aware of. There is no curriculum (inaudible) and it means that they need to take the ten hour refresh the ten hour in a five year period well then so be it but I think it is a little bit gray out there. I think the industry is very confused about that. I could tell you that even sitting in chair of the electrical board we've talked about this and we're confused about it. I think it's a great thing to keep refresher courses going, I think it's important to do that. I kind of guess that maybe the reason why they are singling out plumbers and electricians is because we did do continuing education but it kind of like doesn't make sense that they would take us and (inaudible) because we already do it. Whereas there are other trades and license trades that have no continued education and consequently have no need to refresh their safety with OSHA training.

I do have one other comment. This is in regards to the instructor that would be presenting and training four hour course. It said it has to be an instructor has federal approval by OSHA and/or and I am wondering how that would play in when federal OSHA does not have a four hour refresher course and wondering just the administrator of getting the trainers approved and working with federal OSHA as to what would be a four hour course for the plumbers and electricians if there is going to be any kind because I know of several people who are interested in doing the instruction and they don't know where to go. They don't know whether to go to CONN OSHA; they don't know whether to go to Wage and Hour; they don't know whether to go to Federal OSHA. So I think from the instructors perspective that has to be considered also.

Comment to the regarding plumbers. OSHA is also built into their curriculum. That much I do know. They already have a component plus the word on the street is that there are people who are certified people in four hour OSHA classes. It's not us but no one can seem to tell me whom but apparently there are some voices out there who are waving this flag and we could (inaudible) and made it very clear that electricians who come to our program that there is no one. But apparently some people have put out some money for something. That doesn't surprise me. We've had similar questions. We are telling our members to stay in compliance with the 10 hour, every 5 years.

Rugens: Off record. Back on record.

We've had one more individual joining us at the hearing. Andy Markowski with Garat Markowski, LLC. Will you be presenting any oral testimony?

Markowski: I will not today.

Rugens: Or any written testimony?

Markowski: Not at the moment.

Tucker: Ken Tucker, Director of CONN OSHA for the State Labor Dept. I had a couple of follow-up questions so when we go back to look at comments presented today then we can best answer these questions and then determine our best course of action. The first question Faith is for you, you question that ask whose implemented the proposed regulations, CONN OSHA or Wage and Hour. As it stands now with the current law Wage and Hour pretty much does prevailing wage and because of that when they go on job sites they check obviously for the cards to determine whether or not folks are current. Other than that CONN OSHA has done a lot of the training Wage and Hour has put out a question and answer document, some of that on their website. You are basically saying that it would be beneficial for the folks impacted by this particular statute to kind know who that person is or who that group is to be able to best answer the questions that you guys have or how to best implement the regulations.

I don't know in the past with the other and with the original one and a couple of the changes that came along the way whether that has been actually been (inaudible) any more than the prevailing wage aspect of it for that. We just got to the way it's been done and Wage and Hour took the bulk of it and I don't even think we advertised that it kind of morphed over time. That's something we'll take into consideration on that it does make some sense with that but we'll cut the (inaudible) here. The other person I had for you was the four hours versus one hour. At this point in time from what I'm hearing from you the electricians and I don't know about the plumbers because I don't recall exactly whether you referenced both of those. On a continuing (inaudible) electricians and plumbers both that have continued ed courses; that is correct; and both of those there is a one hour block that you devote to safety at this point in time. For the regulation there is a requirement to include safety in your program and at least from the electricians standpoint, we can't speak through plumbers at this part, every year the electrical board determines how much time is spent on different topics including that particular topic of safety. So in some cases maybe an hour, right now we have reduced it down from 7 hour requirement of training every year to a four hour because of some code issues for all continuing ed from electricians. However there is no problem as far as I'm concerned in keeping an hour in there every year for electricians for safety training.

That was going to be my second call to that is it sounded like a preference from you and the folks that you represent having the refresher instead of a four hour block one hour would be more beneficial for the teaching curriculum you guys do for your refresher. I understand where you come from on that. In other ways becomes a redundancy but it becomes an added burden in my opinion on the electrician and probably the plumber to have to do their safety that they normally do by continuing education requirements and than also do an addition for this four hour requirement here. And without that particular change and the electrician that is licensed for in fact a plumber would either have to take a four hour block or ten hour block depends on which aspect of the law their looking at to comply with so that would be separate from the continuing. Would

that be something that your organization would provide or would that something that they do on their own?

Well, contractors will probably provide that offering class materials but it is something that I think is open to the entry to provide that type of training, whether it's four hours or ten hours. Independent electrical contractors that you represent are they organized labor or not or a mixture of both? No, it is not. All members (inaudible).

? : One other little piece of (inaudible) just to make it stickier, plumbers only receive CEU or are responsible for CEU's only every other year. One year is the contractor P1 and the other year is the journeyman P2. Which means they are training with the concept that Larry had that possibly be for 2 hours every other year. That would be the rationale that would be (inaudible).

? :That is up to the plumbing board. The plumbing board has to decide that curriculum. Hearing that comment I'm not sure that was the intent of the statute. We shouldn't take those considerations in the way I read the statute we'd have to look at the intent was four hour in duration is the way the language is (inaudible).

Hearing closed at 10:02 a.m. by Atty. Anne Rugens.

**TO: ALL PARTIES COMMENTING ON THE LABOR DEPARTMENT'S PROPOSED
AMENDMENTS TO REGULATIONS PERTAINING TO THE SUPPLEMENTAL
REFRESHER TRAINING COURSE**

On September 25, 2012, the Connecticut Department of Labor (CTDOL) published in the Connecticut Law Journal its Notice of Intent to Adopt regulations pertaining to individual development accounts. A thirty-day public comment period commenced on that date and a public hearing was held in CTDOL's Wethersfield office October 25, 2012. The following parties attended the public hearing and provided written or oral or otherwise provided written comments to the proposed regulations within the thirty-day public comment period:

Victor Mitchell
Tunxis Community College
Mitchell@txcc.commnet.edu

Larry Vallieres
IECNE
larry@state-wideelectric.com

Faith Gavin Kuhn
Associated Builders and Contractors, Inc.
Faith@ctabc.org

Andy Markowski
Garat Markowski, LLC
markowski@gmlobbying.com

CTDOL has considered the comments received and has made modifications to the proposed regulations. A copy of the final draft of the regulations is attached. The following is a summary of the comments received and the action taken in response to those comments. The Agency response to each comment appears in bold immediately following the comment.

- (1) What is the estimated cost of the Supplemental Refresher Training Course?

The Agency is bound by the language of section 31-53b of the Connecticut General Statutes and cannot exceed such statutory authority. Under the language of CGS § 31-53b, the course is to be offered – and developed – by a trainer authorized to perform the training by the federal Occupational Safety and Health Administration. CTDOL is not aware of any training offered at this time, and is unable to gauge the cost of the training. Therefore, no changes have been made to the regulation based upon this comment.

- (2) Is there any information on the curriculum for the Supplemental Training Refresher Course?

Similar to Question (1), above, the Agency is bound by the language of section 31-53b of the Connecticut General Statutes and cannot exceed such statutory authority. Under the language of CGS § 31-53b, the course is to be taught by a trainer authorized to perform the training by the federal Occupational Safety and Health Administration. CTDOL is not aware of any training offered at this time, and is unable to comment on the curriculum. No changes have been made to the regulation based upon this comment.

- (3) Who is responsible for the implementation of the program – CTDOL's Wage & Hour Division, CTDOL's CONN-OSHA Division, or federal OSHA?

Various units within CTDOL are responsible for the implementation of the program; enforcement of the statute and regulations resides within the Wage & Hour Unit of the Agency. No changes have been made to the regulation based upon this comment.

- (4) Is there a distinction between what level of electricians or plumbers may take the Refresher Course, as opposed to the 10 hour course? For example, apprentices referred to as journeyman? Contractors?

The governing statute, CGS § 31-53b, does not distinguish between classifications. However, the statute does provide that any plumber or electrician subject to the continuing education requirements of CGS § 20-334d may take the refresher training course. No changes have been made to the regulation based upon this comment.

- (5) The typo in the regulations regarding the number of the relevant chapter of the Connecticut General Statutes needs to be corrected.

The regulations have been modified in response to this comment.

- (6) Is there any available information on any record keeping requirements associated with the regulation?

Record-keeping requirements pertaining to CGS § 31-53b and, by extension, this regulation, would align with CTDOL's wage laws – in particular, section 31-60-12 of the Regulations of Connecticut State Agencies. No changes have been made to the regulation based upon this comment.

- (7) Regarding the four hours associated with the Supplemental Refresher Training Course – does the four hours need to be earned in one block period of time, or can the hours be spread out – for example, one hour per year?

Similar to Question (1), above, the Agency is bound by the language of section 31-53b of the Connecticut General Statutes and cannot exceed such statutory authority. Under the language of CGS § 31-53b, the course is to be taught by a trainer authorized to perform the training by the federal Occupational Safety and Health Administration. CTDOL, therefore, is unable to specify the manner in which the course is to be offered. No changes have been made to the regulation based upon this comment.