

Energy Storage Systems Meeting

Meeting Summary

May 8, 2019 – 10:00 a.m.
Contractors State License Board
Executive Conference Room

Invited Attendees (in person, phone)

Bob Raymer (CBIA)

Scott Wetch (CWA / CCUE)

Eddie Bernacchi (NECA)

Bernadette Del Chiaro (Cal SSA)

Ben Davis (Cal SSA)

Cindi Christenson (consultant)

Phone Noemi Gallardo (Cal SSA / Sunrun)

Phone Will Gonzalez (Cal SSA / Cal Advisors LLC)

Phone Matt Klopfenstein (Cal SSA / Cal Advisors LLC)

Phone Barry Cinnamon (Cal SSA / Cinnamon Energy)

Phone Richard Markuson (WECA / Pacific Advocacy)

CSLB Staff

David Fogt, Registrar

Tonya Corcoran, Chief Deputy Registrar

Mike Jamnetski, Chief of Legislation

Meeting Commenced Approximately 10:00 a.m.

Energy Storage Systems (ESS) Background

The meeting participants were reminded that at the March 2019 board meeting in San Diego, the Board approved the following motion:

- Consider battery energy storage system size, complexity, voltage and potential risk
- Draft a proposed regulatory package for board consideration that would prohibit or restrict certain contractor classifications from performing the installation of battery energy storage systems
- Assign this to the appropriate board committee or committees and provide updates at each board meeting.

The update on ESS at the **May 13 Legislative Committee meeting** is in your attached materials (a printout from the May 13 committee packet) and is available on page 225 of the [May 2019 Committee Meeting Packet](#). There will be limited discussion of the topic on May 13 (unless there are questions) and no action is being taken and no decisions are being made. The agenda is [located here](#). Agenda item F reads, "Update on Steps

Taken to Develop Proposed Text on the Appropriate License Classification(s) to Install Energy Storage Systems (Status Update only)".

The **June 6 and 7** meeting of the full board in South Lake Tahoe will include the Board's approval of the May 13 Legislative Committee meeting minutes and include a brief ESS update that will be substantially similar to the type of update on the ESS topic that is anticipated for the May 13 committee meeting. The agenda will not provide for decision making or voting on ESS.

Future Committee/Board Meeting

CSLB staff initially planned to bring the draft regulatory text/language on the appropriate classification(s) to install ESS to the full Board for approval at a special meeting in late summer devoted solely to the ESS issue. However, the fact was discussed at the meeting today that the Board's March 2019 motion was indeed to assign this issue to its committee(s) to address first. Therefore, a legislative committee meeting will be scheduled this summer after the South Lake Tahoe board meeting in June, at which time staff will present to the committee the draft regulatory language for approval to send to the full board (or if the committee is dissatisfied, return the language to staff for further work).

Regulatory Rule Making Overview

Relevant Board regulations were provided to meeting participants and are available here: [California Code of Regulations \[CCR\] sections 832.10 \(Electrical Contractor\); 832.46 \(Solar Contractor\); and 832.62 \(Solar System Work in Other Classes\)](#)

The regulatory (or rulemaking) process is a multi-phase process. Descriptions of that process are in your attached packet. Generally, the steps are (in chronological order) (1) Board staff work with the Department of Consumer Affairs (DCA) Legal Office (Legal) to draft proposed text for Board review; (2) Board staff and Legal prepare a package (including draft text of the regulation) for Board review; (3) multiple parties (representing multiple agencies) review the package; (4) the package is filed with the Office of Administrative Law (OAL) which triggers the public participation process that involves CSLB responding to public comments, prior to a final approval of the package by the Board; (5) DCA, agency, and the Department of Finance (DOF) perform a final review before the package is sent to OAL for final decision and filing with Secretary of State to become law. The process can take up to 24 months.

Note that the process of the Board approving text (step (1)) and the regulatory package (step (2)) may itself require more than one Board meeting.

Development of Regulatory Language

This involves the process of CSLB staff reviewing existing resources (e.g., the ESS Study, records of various ESS meetings, stakeholder meetings and input, and interagency meetings on this issue over the years) and working with legal counsel to draft language that effectuates the Board's March 2019 motion that can be presented to the Board for review.

Possible Legislation

The Board has traditionally authorized four classifications – the A General, the B General, the C-10, and the C-46 to install ESS within the scope of their classifications. The “A” and the “B” classifications are in statute and require legislation to amend.

In contrast, the C-10 and C-46 are in regulation and require executive action (the rulemaking process described above) to amend. However, regulations can be used to clarify or make specific existing statutes. For example, the CCR 832.62 regulation in your packet clarifies the manner in which the statutory “A” and “B” classifications can perform solar work.

In deciding which direction staff should take on the ESS issue, the Board’s March 2019 motion chose the rulemaking process only. The Board was presented with – but did not select – a legislative option (which presented the option of clarifying by statute when certified electricians – as defined in the Labor Code – are required to install ESS). However, legislation remains a topic now because a determination may need to be made whether the scope of the “A” or “B” classifications will be limited in their authorization to install ESS, and if so, if this would be done in statute or by a clarifying regulation like CCR 832.62. Meeting participants expressed concern that a legislative proposal to amend the A and or B classification(s) in a manner that would restrict the A and or B classifications from performing ESS may not receive legislative support.

Roundtable (Discussion of Group off-agenda)

As detailed in the ESS update in the legislative packet, as part of its review prior to drafting proposed regulatory text, CSLB staff plans in the coming weeks to meet with the Department of Finance, Public Utilities Commission, Governor’s Office of Business and Economic Development (GOBiz), the California Building Industry Association, and the California Building Officials Association, to examine the scope of anticipated effect of limiting the classifications authorized to install ESS.

It was recommended at the meeting that staff extend its meeting efforts to the California Energy Commission (in light of newly established compliance credits available for the installation of battery ESS beginning 2020) and the State Fire Marshall (in light of the installation of ESS as it relates to fire safety and building codes).

It was mentioned that if there are going to be requirements that affect local authorizing jurisdictions, that the Office of Planning and Research should be included in the discussions. It was then suggested that if OPR was included in discussions, that necessarily involves inclusion of Housing and Community Development and the Building Standards Commission and other possible agencies.

It was mentioned that some building official(s) have expressed the following concern(s) with Board staff:

- (1) “B” General licensees are not the appropriate classification for the installation of ESS;

- (2) If classifications other than C-10 were to install ESS, there should be a requirement that the plans be drafted by or signed off by an electrical engineer.

There was a discussion that should the Board limit the installation of ESS to C-10s, that it also take steps to make the process of obtaining a C-10 easier for existing C-46s who currently install ESS (i.e., a “grandfathering in”). This discussion was followed by a concern from solar industry representatives that eliminating the ability to install ESS entirely from the C-46s would be met with strong opposition from the solar industry; i.e., that the future of solar includes installation of an ESS with the PV system.

It was discussed that the Chair of the CSLB Legislative Committee, Linda Clifford, would be “termining out” at the end of June, and that therefore, at the June Board meeting, Board Chair Marlo Richardson would need to appoint a temporary Chair of the Legislative Committee. The chair selected at the June Board meeting will need to select a chair for the next fiscal year.