



# California Regulatory Notice Register

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The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

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**PROPOSED ACTION ON REGULATIONS**

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**TITLE 2. CALIFORNIA COLLABORATIVE FOR EDUCATIONAL EXCELLENCE**

**NOTICE OF INTENTION TO AMEND THE CONFLICT-OF-INTEREST CODE OF THE CALIFORNIA COLLABORATIVE FOR EDUCATIONAL EXCELLENCE**

NOTICE IS HEREBY GIVEN that the California Collaborative for Educational Excellence (“CCEE”), pursuant to the authority vested in it by section 87306 of the Government Code, proposes amendment to its conflict-of-interest code. A comment period has been established commencing on April 3, 2020, and closing on May 18, 2020. All inquiries should be directed to the contact listed below.

The CCEE proposes to amend its conflict-of-interest code to include employee positions that involve the making or participation in the making of decisions that may foreseeably have a material effect on any financial interest, as set forth in subdivision (a) of section 87302 of the Government Code. The amendment carries out the purposes of the law and no other alternative would do so and be less burdensome to affected persons.

Changes to the conflict-of-interest code include: (1) addition of the Deputy Executive Director as a designated position; (2) revising the titles of the three Director positions to reflect their current titles: Director, Systems Improvement and Innovation; Director, Systems Improvement and Leadership Development; Director, Continuous Improvement; (3) listing the Administrative Agent instead of Fiscal Agent as a designated position; (4) providing for electronic submission of the statements of economic interests, and (5) other technical changes.

The proposed amendment and explanation of the reasons can be obtained from the agency’s contact.

Any interested person may submit written comments relating to the proposed amendment by submitting them no later than May 18, 2020, or at the conclusion of the public hearing, if requested, whichever comes later. At

this time, no public hearing is scheduled. A person may request a hearing no later than May 3, 2020.

The CCEE has determined that the proposed amendments:

1. Impose no mandate on local agencies or school districts.
2. Impose no costs or savings on any state agency.
3. Impose no costs on any local agency or school district that are required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.
4. Will not result in any nondiscretionary costs or savings to local agencies.
5. Will not result in any costs or savings in federal funding to the state.
6. Will not have any potential cost impact on private persons, businesses or small businesses.

All inquiries concerning this proposed amendment and any communication required by this notice should be directed to: Erika Barragan, Executive Assistant, (916) 619-7480, ebarragan@ccee-ca.org

**TITLE 2. FAIR POLITICAL PRACTICES COMMISSION**

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, pursuant to the authority vested in it by Sections 82011, 87303, and 87304 of the Government Code to review proposed conflict-of-interest codes, will review the proposed/amended conflict-of-interest codes of the following:

**CONFLICT-OF-INTEREST CODES**

**AMENDMENT**

**MULTI-COUNTY:**

Central Sierra Child Support Agency  
Public Entity Risk Management Authority (PERMA)

A written comment period has been established commencing on April 3, 2020 and closing on May 18, 2020. Written comments should be directed to the Fair Political Practices Commission, Attention Amanda Apostol, 1102 Q Street, Suite 3000, Sacramento, California 95811.

At the end of the 45-day comment period, the proposed conflict-of-interest code(s) will be submitted to the Commission’s Executive Director for his review, unless any interested person or his or her duly authorized representative requests, no later than 15 days prior to the close of the written comment period, a public hearing before the full Commission. If a public hearing is requested, the proposed code(s) will be submitted to the Commission for review.

The Executive Director of the Commission will review the above-referenced conflict-of-interest code(s), proposed pursuant to Government Code Section 87300, which designate, pursuant to Government Code Section 87302, employees who must disclose certain investments, interests in real property and income.

The Executive Director of the Commission, upon his or its own motion or at the request of any interested person, will approve, or revise and approve, or return the proposed code(s) to the agency for revision and re-submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict-of-interest code(s). Any written comments must be received no later than May 18, 2020. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

#### COST TO LOCAL AGENCIES

There shall be no reimbursement for any new or increased costs to local government which may result from compliance with these codes because these are not new programs mandated on local agencies by the codes since the requirements described herein were mandated by the Political Reform Act of 1974. Therefore, they are not "costs mandated by the state" as defined in Government Code Section 17514.

#### EFFECT ON HOUSING COSTS AND BUSINESSES

Compliance with the codes has no potential effect on housing costs or on private persons, businesses or small businesses.

#### AUTHORITY

Government Code Sections 82011, 87303 and 87304 provide that the Fair Political Practices Commission as the code reviewing body for the above conflict-of-interest codes shall approve codes as submitted, revise the proposed code and approve it as revised, or return the proposed code for revision and re-submission.

#### REFERENCE

Government Code Sections 87300 and 87306 provide that agencies shall adopt and promulgate conflict-of-interest codes pursuant to the Political Reform Act and amend their codes when change is necessitated by changed circumstances.

#### CONTACT

Any inquiries concerning the proposed conflict-of-interest code(s) should be made to Amanda Apostol, Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California 95811, telephone (916) 324-5854.

#### AVAILABILITY OF PROPOSED CONFLICT-OF-INTEREST CODES

Copies of the proposed conflict-of-interest codes may be obtained from the Commission offices or the respective agency. Requests for copies from the Commission should be made to Amanda Apostol, Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California 95811, telephone (916) 322-5660.

### TITLE 4. CALIFORNIA HORSE RACING BOARD

#### AMEND RULE 1688. USE OF RIDING CROP

The California Horse Racing Board (Board) proposes to amend the regulation described below after considering all comments, objections, or recommendations regarding the proposed action.

#### PROPOSED REGULATORY ACTION

The Board proposes to amend Board Rule 1688, Use of Riding Crop, to place new restrictions on the use of the riding crop during a race and in training. The proposed amendment describes the correct use of the riding crop and limits the number of times the crop may be used during a race. The proposed regulation provides for penalties for jockeys or exercise riders who use the riding crop in a manner contrary to the regulation. If in the opinion of the stewards the use of the crop was necessary for the safety of the horse or rider, however, the rider will not be penalized.

#### PUBLIC HEARING

The Board will hold a public hearing starting at **9:30 a.m., Thursday, May 21, 2020**, or as soon after that as business before the Board will permit, at the **Department of Consumer Affairs, 1625 N. Market Blvd, 1st Floor Hearing Room, Sacramento**, California. At the hearing, any person may present statements or arguments orally or in writing about the proposed action described in the informative digest. It is requested, but not

required, that persons making oral comments at the hearing submit a written copy of their testimony.

#### WRITTEN COMMENT PERIOD

Any interested persons, or their authorized representative, may submit written comments about the proposed regulatory action to the Board. The written comment period closes on **May 18, 2020**. The Board must receive all comments at that time. However, written comments may still be submitted at the public hearing. Submit comments to:

Rick Pimentel, Regulation Analyst  
 California Horse Racing Board  
 1010 Hurley Way, Suite 300  
 Sacramento, CA 95825  
 Telephone: (916) 274-6043  
 Fax: (916) 263-6022  
 E-mail: [rpimentel@chr.ca.gov](mailto:rpimentel@chr.ca.gov)

#### AUTHORITY AND REFERENCE

Authority cited: Sections 19420, 19440, and 19562, Business and Professions Code (BPC). Reference: Sections 19440, 19481, and 19562, BPC.

BPC sections 19440, 19562, and 19580 authorize the Board to adopt the proposed regulation, which would implement, interpret, or make specific sections 19440, 19481, and 19562 of the BPC.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

BPC section 19420 provides that the Board shall have jurisdiction and supervision over meetings in California where horse races with wagering on their results are held or conducted and over all persons or things having to do with the operation of such meetings. BPC section 19440 states the Board shall have all powers necessary and proper to enable it to carry out fully and effectually the purposes of Chapter 4, BPC. Responsibilities of the Board shall include, but not be limited to, adopting rules and regulations for the protection of the public and the control of horse racing and pari-mutuel wagering. BPC section 19580 provides that the Board shall adopt regulations to establish policies, guidelines, and penalties relating to equine medication to preserve and enhance the integrity of horse racing in the state. BPC section 19481 provides that in performing its responsibilities, the Board shall establish safety standards governing equipment for horse and rider. BPC section 19562 provides that the Board may prescribe rules, regulations, and conditions consistent with Chapter 4 of the BPC,

under which all horse races with wagering on their results shall be conducted in this State.

The proposed amendment to Board Rule 1688 will add a new subsection 1688(b)(1) to provide that the rider may not use the riding crop during training except when necessary for the safety of horse or rider. Training occurs in the mornings generally between 6:00 a.m. and 10:00 a.m. Training sessions can include walking, trotting, galloping, and working (running). The trainer schedules workouts depending on the horse's level of fitness and the distance it is training to race. Training sessions can also be used to get younger horses used to other horses on a track, where they may be bumped or have dirt flying up in their face. Training also allows younger horses to learn to be guided to the rail by their rider. During training sessions, there are ways, other than using a riding crop, to let the horse know it is time to perform. If an exercise rider is trying to encourage a horse to go forward, changes in posture, shaking the reins, nudging at the withers, and vocalizations such as a whistle or chirp may be used to encourage the horse. Subsection 1688(b)(1), however, allows exercise riders to use a riding crop as necessary for the safety of horse or rider. Safety is paramount on the racetrack. Exercise riders are required to wear safety helmets and safety vests, and the racing association is required to provide ambulance services during racing and training. These safety precautions are necessary because many things can happen during training sessions to put horse and rider at risk. There can be problems with equipment, such as saddles slipping or reins snapping. Horses can stumble or panic. A horse that unseats its rider can cause chaos.

The Board has determined that at such times, the use of the riding crop may be necessary for the safety of horse and rider. The crop can be used for guiding and communicating with the horse when circumstances cause other methods of control to prove ineffective.

The existing subsection 1688(b)(1) has been renumbered and is now subsection (b)(2).

Subsection 1688(b)(2) has been renumbered and is now subsection (b)(3). The subsection has been amended to allow the use of the riding crop after the finish of the race when it is necessary to control the horse. Horses are powerful animals that may become fractious after the excitement of a race. At such times, the jockey may not be able to control the horse, and it may be appropriate and necessary to use the riding crop.

The existing subsections 1688(b)(3) through (b)(6) have been renumbered for the purposes of clarity and are now subsections 1688(b)(4) through (b)(7).

Subsection 1688(b)(7) has been amended to provide that the jockey may not use the riding crop on a horse more than two times in succession without giving the horse a chance to respond before using the crop again.

The reduction in the number of times the crop may be used in succession is consistent with the industry's initiative to set reasonable basic riding crop guidelines and place restrictions on its unnecessary use.

A new subsection 1688(b)(8) provides that the jockey may not use the riding crop on a horse more than six times during a race, excluding showing or waiving the crop or tapping the horse on the shoulder as defined in subsection (d)<sup>1</sup>. Under the current subsection 1688(b)(6) (renumbered as subsection (b)(7)), the jockey is prohibited from using the riding crop more than three times in succession without giving the horse time to respond before using the crop again. However, the current version of the rule has no restriction on the total number of times the crop may be used during a race. The proposed addition of subsection 1688(b)(8) and the amendment of subsection (b)(7) are necessary to place restrictions on the use of the crop during a race to prevent abuse of the horse, to ensure the appropriate and proper use of the crop as a means of guidance and encouragement, and to keep the rider and horse out of trouble.

Subsection (c) has been amended to reflect the renumbering of the subsections that do not apply to jockeys and exercise riders during training.

Subsection 1688(d) has been amended to provide the correct uses of the riding crop. The amended subsection 1688(d)(1) states the jockey may show or waive the crop without touching the horse. During a race, a horse may lose focus or become distracted by other horses running in the race. This is especially true for younger, inexperienced horses. In these instances, showing or waiving the riding crop is a way to get the horse to pay more attention to the jockey. Subsection 1688(d)(2) provides how the jockey is to hold the riding crop (except when showing or waiving the crop). The jockey must hold the crop in an underhanded position at or below the shoulder level of the jockey. Holding the crop in this manner is consistent with the Association of Racing Commissioners International Model Rules of Racing, which are used in racing jurisdictions throughout the United States and is the rule in other racing jurisdictions such as Canada and England. The underhanded position and the inability to raise the riding crop above shoulder level is necessary to help ensure the jockey cannot use the crop with enough force to cause welts or breaks in the horse's skin. Subsections 1688(d)(3) through (d)(3)(B) provide that the jockey may tap the horse on the shoulder with the crop in a down position while having both hands holding onto the reins and touching the

neck of the horse. This position is natural to the jockey and horse during the race, so requiring the jockey to have both hands holding the reins and touching the horse's neck is not unreasonable. Subsections 1688(d)(3) through (d)(3)(B) are necessary, however, to prevent the jockey from raising the crop to even shoulder level height; all the jockey can do with the crop is tap the horse on its shoulders.

A new subsection 1688(e) provides for penalties should a jockey or exercise rider use a riding crop in violation of the regulation. The subsection states that absent mitigating circumstances, the jockey or exercise rider who rides in a manner contrary to the rule shall receive a fine and shall be suspended by the stewards. The maximum fine has been set at \$1,000. The maximum fine is designed to be sufficiently punitive to encourage compliance. However, the stewards may impose a lesser fine in consideration of the severity of the violation. The stewards shall also suspend the jockey, with a minimum suspension set at three days. If the violation occurred during a trial heat<sup>2</sup>, the suspension shall include the subsequent related stakes race<sup>3</sup>. Suspension of license for a jockey means a loss of income, as he or she cannot work. A suspension for a jockey who violates Rule 1688 during a trial heat will mean that he or she also cannot participate in the related stakes race and so forfeits the related jockey riding fee. The Board has determined that the penalties provided under subsection 1688(e) are necessary to ensure that riders understand there are consequences for the unwarranted or excessive use of the riding crop.

Subsection 1688(f) provides that if in the opinion of the stewards the use of a riding crop was necessary for the safety of horse and rider, the jockey or exercise rider shall not be penalized. Safety is paramount on the racetrack, and no jockey or exercise rider should be penalized for use of a riding crop to control a fractious or unmanageable horse. An out-of-control horse is a danger to itself, the rider, and other horses and riders on the track.

#### POLICY STATEMENT OVERVIEW OF ANTICIPATED BENEFITS OF PROPOSAL

The proposed amendment of Board Rule 1688 promotes the safety and welfare of all horses and riders participating in recognized race meetings. The proposed amendment provides a guide to the acceptable use of the riding crop during racing and training. It describes the correct use of the riding crop and limits the number of

<sup>1</sup> In effect, the jockey may only use the riding crop on the horse's hind quarters two times in succession, giving the horse a chance to respond before using the crop again, for a total of six times during a race.

<sup>2</sup> Trial heat: a race run in preparation for a more important race, usually held a week in advance and at a different distance.

<sup>3</sup> Stakes race: a horse race in which the purse offered consists in part of monies such as subscriptions, and entry and starting fees paid by the owners of the horses nominated to run in the race.

times the crop may be used during a race or in training. The regulation provides for penalties for jockeys or exercise riders who use the riding crop in a manner contrary to the regulation. If in the opinion of the stewards the use of the crop was necessary for the safety of the horse or rider, however, the rider will not be penalized. The proposed regulation will encourage an acceptable use of the riding crop, which will promote animal welfare and good horsemanship and will help to create a positive image of horse racing.

#### CONSISTENCY EVALUATION

During the process of developing the amendment, the Board has conducted a search of any similar regulation on this topic and has concluded that the regulation is neither inconsistent nor incompatible with existing state regulations.

#### DISCLOSURES REGARDING THE PROPOSED ACTION/RESULTS OF THE ECONOMIC IMPACT ANALYSIS

Mandate on local agencies and school districts: none.

Cost or savings to any state agency: none.

Cost to any local agency or school district that must be reimbursed in accordance with Government Code (GC) sections 17500 through 17630: none.

Other non-discretionary costs or savings imposed upon local agencies: none.

Cost or savings in federal funding to the state: none.

The Board has made an initial determination that the proposed amendment to Board Rule 1688 will not have a significant statewide adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses in other states.

The following studies/relevant data were relied upon in making the above determination: none.

Cost impact on representative private persons or businesses: none.

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Significant effect on housing costs: none.

#### RESULT OF ECONOMIC IMPACT ANALYSIS

The adoption of the proposed amendment to Board Rule 1688 will not (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; (3) result in the expansion of businesses currently doing business with the

state. The proposed amendment of Board Rule 1688 promotes the safety and welfare of horses and riders participating in recognized race meetings. The proposed amendment provides a guide to the acceptable use of the riding crop during racing and training. It describes the correct use of the riding crop and limits the number of times the crop may be used during a race or in training. The regulation provides for penalties for jockeys or exercise riders who use the riding crop in a manner contrary to the regulation. The Board takes its responsibilities in relation to animal welfare seriously. As such, the Board believes that high standards of animal welfare and good horsemanship are central to the sport of horse racing. The proposed amendment to Board Rule 1688 will encourage a judicious, more careful use of the riding crop, which will promote animal welfare and good horsemanship and will help to create a positive image of horse racing.

The proposed amendment to Board Rule 1688 will benefit worker safety in that it will allow the use of the riding crop when necessary for control of the horse and the safety of horse and rider.

The proposed amendment to Board Rule 1688 will not benefit the state's environment.

Effects on small businesses: none. The proposal to amend Board Rule 1688 does not affect small businesses because horse racing is not a small business under GC section 11342.610.

#### CONSIDERATION OF ALTERNATIVES

In accordance with GC section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative considered by the Board, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the scheduled hearing or during the written comment period.

#### CONTACT PERSON

Inquiries concerning the substance of the proposed action and requests for copies of the proposed text of the regulation, the initial statement of reasons, the modified text of the regulation, if any, and other information upon which the rulemaking is based should be directed to:

Rick Pimentel, Regulation Analyst  
California Horse Racing Board  
1010 Hurley Way, Suite 300  
Sacramento, CA 95825  
Telephone: (916) 274-6043  
Fax: (916) 263-6022  
E-mail: [rpimentel@chrb.ca.gov](mailto:rpimentel@chrb.ca.gov)

If the person named above is not available, interested parties may contact:

Amanda Drummond, Manager  
Policy and Regulations  
Telephone: (916) 263-6033  
Email: [amdummond@chrb.ca.gov](mailto:amdummond@chrb.ca.gov)

#### AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its offices at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation, and the initial statement of reasons. Copies of these documents, or any of the information upon which the proposed rulemaking is based, may be obtained by contacting Rick Pimentel or the alternative contact person at the address, phone number, or e-mail address listed above.

#### AVAILABILITY OF MODIFIED TEXT

After holding a hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulation substantially as described in this notice. If modifications are made that are sufficiently related to the originally proposed text, the modified text, with changes clearly marked, shall be made available to the public for at least 15 days prior to the date on which the Board adopts the regulation. Requests for copies of any modified regulation should be sent to the attention of Rick Pimentel at the address stated above. The Board will accept written comments on the modified regulation for 15 days after the date on which it is made available.

#### AVAILABILITY OF FINAL STATEMENT OF REASONS

Requests for copies of the final statement of reasons, which will be made available after the Board has adopted the proposed regulation in its current or modified form, should be sent to the attention of Rick Pimentel at the address stated above.

#### BOARD WEB ACCESS

The Board will have the entire rulemaking file available for inspection throughout the rulemaking process at its website. The rulemaking file consists of the notice, the proposed text of the regulation, and the initial statement of reasons. The Board's website address is: [www.chrb.ca.gov](http://www.chrb.ca.gov).

#### TITLE 5. EDUCATION AUDIT APPEALS PANEL

Supplement to Audits of K-12  
Local Education Agencies  
Fiscal Year 2019-2020 as of March 1, 2020

The Education Audit Appeals Panel (EAAP) proposes to adopt an Audit Guide for Fiscal Year 2019-20, Supplemented as of March 1, 2020, as well as the Guide's incorporating regulation, as described below, after considering all comments, objections, and recommendations regarding the proposed action.

#### PUBLIC HEARING

A public hearing regarding this proposal is not currently scheduled. Not later than 15 days prior to the close of the written comment period, any interested person, or his or her authorized representative, may make a written request for a public hearing pursuant to Government Code section 11346.8, and a public hearing will be held. Requests for a public hearing should be addressed to Mary Kelly.

#### WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action. The written comment period closes on **Monday, May 18, 2020**. EAAP will consider only written comments received by that time.

Written comments for EAAP’s consideration should be directed to:

Mary Kelly  
 Education Audit Appeals Panel  
 770 L Street, Suite 1100  
 Sacramento, CA 95814

Fax: (916) 445-7626  
 e-mail: mkelly@eaap.ca.gov

**AUTHORITY AND REFERENCE**

Authority cited: Section 14502.1, Education Code.  
 Reference: Sections 14501, 14502.1, 14503, 42010, and 46146(h) of the Education Code.

**INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

This rulemaking amends title 5, California Code of Regulations, section 19810 to clarify the incorporation by reference language and make reference to the audit guide. It also adopts the Audit Guide for 2019–20, Supplemented as of March 1, 2020, which makes technical revisions and addresses legislative changes that will affect audits and possibly the conditions of apportionment of school funding.

This rulemaking meets the requirements of Education Code section 14502.1, which mandates that an annual audit guide be adopted by the EAAP, and the additional laws and Constitutional provisions listed under “Authority cited” below the proposed amended text of Section 19810 as shown below. The purpose of the audit guide is to define terms and specify procedures to guide accountants in the conduct of statutorily required financial and compliance audits of K–12 local education agencies. The Controller, in a letter dated December 13, 2019, pursuant to Education Code section 14502.1, proposed supplemental changes to the 2019–20 audit guide to be reflected in the 2019–20 audit guide. (Later, the Department of Education proposed, and the stakeholders discussed in a January 13, 2020 meeting, changes to Sections P [Transportation Maintenance of Effort] and T [Clean Energy Jobs Act], both of which are technical changes included in this Rulemaking). The proposed changes derive from the Controller’s proposals and also contain changes designed to clarify audit steps.

EAAP does not anticipate that these proposed amendments would create specific benefits for the protection of public health and safety, worker safety, or the environment, the prevention of discrimination, the promotion of fairness or social equity, nor the increase in openness and transparency in business and govern-

ment. EAAP has determined that the proposed amendments will ultimately benefit the welfare of California residents by ensuring that local education agencies are in compliance with regulatory requirements, and that educational funds are being properly utilized, which would ultimately affect the quality of students’ educational experiences. In developing the rulemaking, EAAP evaluated the proposed changes to regulations and determined that they are not inconsistent or incompatible with existing regulations, state or federal.

A description of proposed changes to section 19810, and a discussion of revisions to the audit guide, follow.

**Title 5, Division 1.5  
 Chapter 3. Audits of California  
 K–12 Local Education Agencies  
 Article 1. General Provisions**

**§ 19810. Annual Audit Guides.**

The “2019–20 Guide for Annual Audits of K–12 Local Education Agencies and State Compliance Reporting,” (July 1, 2019 ~~March 1, 2020~~), adopted by the Education Audit Appeals Panel, is incorporated by reference. The guide provides the audit steps, reporting requirements, and other guidance, for the required annual financial and compliance audits, subject to auditor judgment where alternative or additional audit steps may be appropriate. The annual guide is superseded by a supplemental audit guide, if needed, adopted before March 1 of each fiscal year. Each annual guide and any applicable supplement are available on [www.eaap.ca.gov/audit-guide](http://www.eaap.ca.gov/audit-guide), with paper or electronic copies available on request.

Note: Authority cited: Sections 14502.1 and 47612, Education Code; California Constitution, Article XIII, Section 36, subdiv. (e), subpara 7, and Article XIII A, Section 1, subdiv. (b), subparas 3(C) and 3(D). Reference: California Constitution Article XIII B, Section 1.5; and Sections 2574(b)(3)(C), 8482.3(f)(5), 14501, 14502.1, 14503, 14509, 15286, 41020, 41024, 42238.02(b)(3)(B), 47612.5, 47634.2 and 48000, Education Code.

**INFORMATIVE DIGEST**

This rulemaking adopts the supplemental Audit Guide for 2019–20, as required by Section 14502.1, through incorporation by reference in Section 19810. The purpose of the Audit Guide is to define terms and specify procedures to guide accountants in the conduct of statutorily required financial and compliance audits of K–12 local education agencies. This supplemental filing ensures that audits include subjects pertinent to and/or required by Legislation through January 1, 2020.

AUDIT GUIDE AMENDMENTS

The proposed supplemental 2019–20 Audit Guide includes the following changes:

- *Section E. Continuation Education*, changes to this procedure relocates procedure 6(c) to new step 7, as the requirement that no more than 10% of continuation high school ADA at P2 (excluding pupils who are pregnant or a child’s primary caregiver) was generated through independent study applies to all continuation high school pupils, and not just those from whom the step 6 requires a sample, i.e., regardless of which pupils are earning work experience credit. As a result, the step requiring a finding is renumbered to Step 8.
- *Section F. Instructional Time*, recognizes the exemption from the ordinary minimum instructional days requirement for the three districts named in Ed. Code section 37700, and potentially others pursuant to subdivision (c) of that section, to operate on a four days per week schedule; and provides, in a sentence added to Step 9, that those districts are only subject to penalties for insufficient instructional days if they fail to offer the required number of educational minutes required by Ed. Code section 46208.
- *Section O. K–3 Grade Span Adjustment* deletes language applicable only to the period when some or all districts had not met their Local Control Funding Formula (LCFF) target, thus making the requirement for each schoolsite’s average class enrollment no greater than 24 unless a collective bargaining agreement provides a different limit. Consequently, the reference to Education Code section 42238.02(d)(3)(B) or (C) is replaced with a reference to section 42238.02(d)(3)(D). Previously, this audit guide section referenced “maximum average class enrollment” as adjusted by section 15498.1(g) of this Title.
- *Section P. Transportation Maintenance of Effort* technically amend Item 2 to make clearer the steps auditors can follow to access the exhibit on the California Department of Education’s website, which details pupil transportation revenue received by the LEA during the benchmark fiscal year of 2012–13.
- *Section T. California Clean Energy Jobs Act* takes language requiring a finding and disallowance of construction project funds when there has been no timely final completion report of expenditure from Step 6, which applies only in specific circumstances and restates that requirement to apply to all projects failing this requirement. In

Step 6 a technical amendment changes “include a finding” to “report a finding,” for clarity.

- *Section U. After School Education and Safety Program* is amended to provide an exception to the release time requirement (5:00 p.m. rather than 6:00 p.m.) for schools located in an area with population density of less than 11 persons per square mile, because many pupils in such areas will travel relatively greater distances after the after school program. The change implements amendments effective January 1, 2019 to Education Code section 8483(a).
- *Section W. Unduplicated LCFF Pupil Counts* makes a technical amendment to update the references to date maintained on the California Department of Education web site which reflects LEA reporting of the numbers of students applicable to the Unduplicated LCFF Pupil Count. Specifically, it defines “certified” data as data satisfying the “SELPA approved” filter, available only if both the LEA and the SELPA approved their data.

NOTE: The changes described above are already in effect on an emergency basis.

DISCLOSURES REGARDING THE PROPOSED ACTION

1. Mandate on local agencies and school districts: None.
2. Cost to any local agency or school district which must be reimbursed: None.
3. Cost or savings to any state agency: None.
4. Other non–discretionary cost or savings imposed upon local agencies: None.
5. Cost or savings in federal funding to the state: None.
6. Significant effect on housing costs: None.
7. Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None.
8. The Economic Impact Assessment found that adoption of these regulations will not:
  - create or eliminate jobs within California;
  - create new businesses or eliminate existing businesses within California; or,
  - affect the expansion of businesses currently doing business within California.

As stated in the Informative Digest/Policy Statement Overview above, EAAP has determined that the proposed amendments will ultimately benefit the welfare of

California residents by ensuring that local education agencies are in compliance with regulatory requirements, and that educational funds are being properly utilized, which would ultimately affect the quality of students' educational experiences.

9. Cost impact on a representative private person or business: EAAP is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
10. Business report requirements: None.
11. Effect on small businesses: The proposed regulations will have no effect on small businesses because they do not materially alter the requirements for LEA audits.

#### CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), EAAP must determine that no reasonable alternative it has considered or that has otherwise been identified and brought to the EAAP's attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

#### CONTACT PERSONS

Inquiries concerning the substance of the proposed action, requests for a copy of the proposed text of the regulations, the Initial Statement of Reasons, the modified text of the regulations, if any, and other technical information upon which the rulemaking is based, and questions on the proposed administrative action may be directed to Timothy Morgan, Staff Attorney III, at (916) 445-7745 or by e-mail: [tmorgan@eaap.ca.gov](mailto:tmorgan@eaap.ca.gov), or Mary C. Kelly, Executive Officer, at (916) 445-7745.

#### AVAILABILITY OF RULEMAKING FILE

The entire rulemaking file will be available for inspection and copying throughout the rulemaking process at EAAP's office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, the initial statement of reasons, and the Economic Impact Assessment. A copy may be obtained by contacting Timothy Morgan at the above address. The bill analyses are also available online at

<http://leginfo.legislature.ca.gov/faces/billSearchClient.xhtml>.

#### AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the comment period, a hearing, if requested, and consideration of all timely and relevant comments received, EAAP may adopt the proposed regulations substantially as described in this notice. If EAAP makes modifications that are sufficiently related to the originally proposed text, the modified text (with changes clearly indicated) will be available to the public for at least 15 days before EAAP adopts the regulations as revised. Requests for copies of any modified regulations should be sent to the attention of Timothy Morgan at the address stated above. EAAP will accept written comments on the modified regulations for 15 days after the date on which they are made available.

#### AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Rulemaking, Initial Statement of Reasons, text of the regulations in underline and strikeout, any changed or modified text, and the Final Statement of Reasons will be accessible through the EAAP website: [www.eaap.ca.gov](http://www.eaap.ca.gov).

### TITLE 8. OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

General Industry Safety Orders  
New Section 5141.1

#### PROTECTION FROM WILDFIRE SMOKE

NOTICE IS HEREBY GIVEN that the Occupational Safety and Health Standards Board (Board) proposes to adopt, amend, or repeal the foregoing provisions of Title 8 of the California Code of Regulations in the manner described in the Informative Digest, below.

#### PUBLIC HEARING

The Board will hold a public hearing starting at 10:00 a.m. on **May 21, 2020** in the **Council Chambers** of the **Rancho Cordova City Hall, 2729 Prospect Park Drive, Rancho Cordova, California**. At this public hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest.

### WRITTEN COMMENT PERIOD

In addition to written or oral comments submitted at the public hearing, written comments may also be submitted to the Board's office. The written comment period commences on **April 3, 2020** and closes at 5:00 p.m. on **May 21, 2020**. Comments received after that deadline will not be considered by the Board unless the Board announces an extension of time in which to submit written comments. Written comments can be submitted as follows:

By mail to Sarah Money, Occupational Safety and Health Standards Board, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833; or

By e-mail sent to [oshsb@dir.ca.gov](mailto:oshsb@dir.ca.gov).

### AUTHORITY AND REFERENCE

California Labor Code section 142.3 establishes the Board as the only agency in the State authorized to adopt, amend, or repeal occupational safety and health standards. In addition, Labor Code section 142.3 requires the adoption of occupational safety and health standards that are at least as effective as federal occupational safety and health standards. Section 142.3 permits the Board to prescribe suitable protective equipment and control or technological procedures to be used in connection with occupational hazards and to provide for monitoring or measuring employee exposure for the protection of employees.

Additionally, California Labor Code section 144.6 requires the Board, when dealing with standards for toxic materials and harmful physical agents, to "adopt that standard which most adequately assures, to the extent feasible, that no employee will suffer material impairment of health or functional capacity even if such employee has regular exposure to a hazard regulated by such standard for the period of his working life." Section 144.6 also requires that the Board base standards on research, demonstrations, experiments and other appropriate information, taking into consideration the latest scientific literature, the reasonableness of the standards, and the experience gained under the health and safety laws.

Authority: Labor Code section 142.3.

Reference: Labor Code sections 142.3 and 144.6.

### INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW

During its March 21, 2019 meeting, the Board considered Petition 573, submitted by Mitch Steiger, California Labor Federation; Douglas Parker, Worksafe; and Anne Katten, California Rural Legal Assistance

Foundation (Petitioners) on December 10, 2018, which requested an emergency rulemaking to address the potential harm posed to outdoor workers by wildfire smoke. The Petition sought an emergency standard that would apply to outdoor occupations including agriculture, construction, landscaping, maintenance, commercial delivery, and "other activities not considered to be 'first response'," such as work performed by "nurses, caregivers, and school staff evacuating patients, residents, and students."

The Board voted to grant the petition in part, stating that it found "specific grounds for considering exposure of outdoor workers to wildfire smoke events to constitute the basis for an emergency regulation." The Board requested that the California Division of Occupational Safety and Health (Division) draft an emergency rulemaking proposal; the subsequent proposed section 5141.1 was approved by the Board on July 18, 2019. The emergency regulation became effective on July 29, 2019.

### Summary of Existing Regulation and the Effect of the Proposed Regulation

Existing law, Title 8, section 3203, "Injury and Illness Prevention Program (IIPP)," establishes a general framework for the identification, evaluation, and correction of unsafe or unhealthy work conditions; communication with employees; and employee safety and health training.

Existing law, Title 8, section 5140, "Definitions," states that a "harmful exposure" is an "exposure to dusts, fumes, mists, vapors, or gases" which is either "(a) In excess of any permissible limit prescribed by section 5155; or (b) Of such a nature by inhalation as to result in, or have a probability to result in, injury, illness, disease, impairment, or loss of function." No permissible limit for PM2.5 is prescribed by section 5155, and no existing Title 8 regulation specifies when wildfire smoke may result in injury, illness, disease, impairment, or loss of function.

Existing law, Title 8, section 5141, "Control of Harmful Exposures to Employees," lists the hierarchy of controls that employers must follow to address employee exposure to harmful air contaminants. Employers must first rely on engineering controls whenever feasible, but if engineering controls are not feasible or do not achieve full compliance, administrative controls must be implemented "if practicable." When engineering and administrative controls fail to achieve full compliance, then respiratory protective equipment shall be used.

Existing law, Title 8, section 5144, "Respiratory Protection," establishes that respirators "applicable and suitable for the purpose intended" must be provided "when such equipment is necessary to protect the health of the employee." To determine when respiratory



**New Section 5141.1(c). Identification of harmful exposures.**

This proposed subsection requires employers to obtain the current AQI for PM<sub>2.5</sub> for their workplaces at the start of each shift and periodically thereafter, as needed to protect the health of employees. An employer may acquire this information by checking specified government agency websites, obtaining the current AQI for PM<sub>2.5</sub> directly from listed government agencies, or by measuring the PM<sub>2.5</sub> levels at the worksite. This subsection encourages compliance by listing reputable resources for employers to easily find AQI forecasts for current AQI for PM<sub>2.5</sub>, while allowing employers to also identify other effective methods that may be more suitable for their work environment.

The subsection is necessary to ensure that employers regularly check the AQI levels during wildfire events so they will be able to determine when protective measures are needed.

An exception is provided for employers who *assume* the AQI is over 500 and comply with subsection (f), control of harmful exposures to employees, using that assumption. This exception is included because there is no need for an employer to monitor the current AQI for PM<sub>2.5</sub> if the employer is already complying with the maximum respiratory protection requirements of the regulation.

For the same reason, there is an exception for employers in an emergency subject to subsection (f)(4). If they *assume* an AQI of 151 or greater and comply with (f)(3)(A) using that assumption, there is no need to monitor the AQI because they are already providing the maximum protection required by the regulation in emergency situations.

**New Section 5141.1(d). Communication.**

The proposed subsection refers to section 3203, Injury and Illness Protection Program (IIPP), which requires employers establish a system for communicating wildfire smoke hazards with employees in a language and manner readily understandable by employees. This subsection clarifies the application of that requirement in the context of wildfire smoke. Under the proposed subsection, employers must communicate the current AQI for PM<sub>2.5</sub> and related protective measures in a language and manner that employees can understand. The subsection also requires employers to encourage employees to inform their employer about worsening air quality or possible adverse symptoms of wildfire smoke exposure. This subsection identifies minimum items to be communicated to employees for compliance with the communication requirement of 5141.1, and guidelines for when employees should report to employers conditions that may indicate 5141.1 triggering events exist.

The subsection is necessary both to ensure employees receive accurate and timely information and to ensure the employer receives necessary feedback from employees at their work location.

**New Section 5141.1(e). Training and instruction.**

The proposed subsection refers to section 3203, Injury and Illness Protection Program (IIPP), which requires employers to provide effective training and instruction. The training shall contain, at a minimum, the information contained in Appendix B, described below, and must be presented in a language and manner readily understandable by employees.

The subsection is necessary to ensure that employees understand various topics necessary to protect their health during wildfire events, including the hazards posed by wildfire smoke and the appropriate use of respirators.

**New Section 5141.1(f). Control of harmful exposures to employees.**

The proposed subsection requires employers to protect employees using the hierarchy of controls set forth in existing section 5141. In order of priority, these are: engineering controls, administrative controls, and control by respiratory protective equipment.

Proposed subsections (f)(1), (f)(2), and (f)(3) clarify the application of the hierarchy of controls to the specific context of wildfire smoke exposure.

Subsections (f)(1) and (f)(2) give examples of engineering and administrative controls that may reduce employees' exposure to PM<sub>2.5</sub> from wildfire smoke. Engineering controls should be used to the extent feasible and include providing enclosed structures or vehicles where the air is filtered. If engineering controls are not feasible, employers shall implement administrative controls, if practicable. Administrative controls can include relocating work, changing work schedules, reducing work intensity, or providing additional breaks. Proposed subsections 5141.1(f)(1) and (f)(2) are similar to existing subsections 5141(a) and (b).

Subsections (f)(1) and (f)(2) are necessary to clarify for employers that engineering and administrative controls (already required in existing section 5141) are appropriate to reduce employees' exposure to PM<sub>2.5</sub> from wildfire smoke.

Subsection (f)(3)(A) mandates that employers provide a sufficient number of respirators consistent with Title 8, section 5144 for employees' voluntary use when the current AQI for PM<sub>2.5</sub> is 151 or greater, but not exceeding 500. Subsection (f)(3)(A) specifically states that N95 filtering facepiece respirators are appropriate for these conditions and provides requirements for the selection, maintenance, and replacement of respirators. It also explains that employers shall provide

training about respirator use in accordance with section 5141.1 Appendix B rather than section 5144 Appendix D.

This subsection is necessary because it provides clarity for those employers who may be uncertain about what type of respiratory protection is appropriate for wildfire smoke.

Under section 5144(c)(2), if respirators are provided but not required, employers may give filtering face-piece respirators such as N95s to their workers without completing medical evaluations or fit testing as required under section 5144(c)(1) when respiratory use is mandatory. A Note to the proposed subsection (f)(3)(A) ensures that employers understand this.

Under the proposed subsection (f)(3)(B), respirator use would be required when the AQI for PM2.5 exceeds 500. The U.S. EPA AirNow program has occasionally published AQI levels above 500 within California, but that occurs so rarely that the EPA's AQI categories, depicted in the chart in proposed subsection (b), only go up to 500.

This subsection is necessary to address conditions that are so infrequent, and pose such a serious potential health risk, that more protective measures are necessary. Subsection (f)(3)(B) also states that respirators provided for mandatory use should have an assigned protection factor in accordance with section 5144. The existing section 5144 provides a method for employers to determine which respirators will reduce the current AQI for PM2.5 within the respirator to 151 or less.

Proposed subsection (f)(4) states that only voluntary respiratory protection per subsection (f)(3)(A) is required during emergencies, including rescue and evacuation, for all AQI levels of 151 or above. Emergencies include utilities, communications, and medical operations, when they are directly aiding firefighting or emergency operations.

This subsection is necessary to allow employers and workers responding to an emergency to act quickly, without evaluating the possible application of engineering or administrative controls, and without performing medical evaluations and fit testing for mandatory respirator use. Under this subsection, respirators for voluntary use can be provided quickly and easily to emergency personnel and other employees directly assisting emergency response.

**New Appendix A to New Section 5141.1: Measuring PM2.5 Levels at the Worksite (Mandatory if an Employer Monitors with a Direct Reading Instrument)**

This appendix sets forth the requirements for measuring the PM2.5 levels using a direct-reading particulate

monitor for employers who elect this option to determine PM2.5 levels. The appendix also states how such measurements can be used to determine the equivalent current AQI for the purposes of proposed section 5141.1, using a table adapted from Title 40 Code of Federal Regulations, Part 58, Appendix G, Table 2. The appendix also states that a person with the necessary training or experience shall conduct and evaluate the monitoring and the interpretation of the results, so that exposures are not underestimated.

This appendix is necessary to ensure that employers who elect to perform their own PM2.5 monitoring do so using accurate equipment and methods.

**New Appendix B to New Section 5141.1: Information to Be Provided to Employees (Mandatory)**

The appendix provides information about the health effects of wildfire smoke, medical treatment, how to obtain the current AQI for PM2.5, the requirements of the proposed regulation, the employer's two-way communication system, employer's methods to protect employees from wildfire smoke, the benefits and limitations of respirators when exposed to wildfire smoke, and how to properly use and maintain employer provided respirators.

This appendix is necessary in order to assist employers with training regarding wildfire smoke hazards and to ensure that employees have information critical for protecting their health.

Employers addressing the potential hazard of wildfire smoke for the first time may be uncertain about what training should be provided. This appendix provides a convenient method for ensuring that critical information is conveyed to employees, including the health effects of wildfire smoke, available protections, and the appropriate use of respirators. For ease of use, the appendix includes blank lines to allow employers to easily customize the information.

FEDERAL REGULATIONS AND STATUTES

Code of Federal Regulations, Title 29, section 1910.134 is similar to the existing respiratory protection regulation in California Code of Regulations, Title 8, section 5144.

Code of Federal Regulations, Title 29, subsection 1910.1000(e) is similar to the existing regulation to control harmful exposures to employees in California Code of Regulations, Title 8, section 5141.

No federal law or regulation exists or has been promulgated that specifically addresses occupational exposure to either wildfire smoke or PM2.5.

POLICY STATEMENT AND  
ANTICIPATED BENEFITS

Wildfires in California became dramatically worse in 2018, causing deaths and economic damage that dwarfed previous years. The catastrophic Camp Fire was the deadliest and most destructive wildfire in state history, killing 86 people and destroying 18,804 structures. On January 8, 2019, Governor Gavin Newsom issued Executive Order N-05-19, declaring that 2018 was the most destructive fire season in California history, with over 7,600 wildfires burning across 1,846,445 acres. Consistent with the Governor’s Order, research conducted by the U.S. Environmental Protection Agency (U.S. EPA) found that fires are increasing in frequency, size, and intensity, creating the potential for greater smoke production and chronic smoke exposures in the United States, particularly in the West.

While thousands of chemical compounds are present in wildfire smoke, the principal harmful pollutant of concern for persons not in close proximity to the flames is particulate matter with an aerodynamic diameter of 2.5 micrometers or smaller, known as PM2.5. The adverse health effects of PM2.5 include, but are not limited to, increased local lung and systemic inflammation, acute and chronic cardiovascular effects, and acute and chronic respiratory effects. Epidemiological studies also show that short-term exposures to PM2.5 can cause stroke, heart failure, and arrhythmias, as well as myocardial ischemia and infarction.

Occupational safety and health standards within Title 8 of the California Code of Regulations protect workers from harmful respiratory hazards in general, but there is currently no regulation that specifically addresses either PM2.5 or wildfire smoke. The primary measurement of air quality is the Air Quality Index (AQI) established by the U.S. EPA, but AQI standards are not mentioned anywhere in Title 8. Current regulations are not sufficiently specific as to what employers are required to do during wildfire events. This results in confusion on behalf of both employers and employees, leaving many employees unprotected.

The Board is proposing this regulation, Title 8, new section 5141.1, to preserve worker safety and health, and to clarify employers’ existing obligations, making compliance easier and more straightforward. As wildfire seasons worsen, the proposed regulation will avoid a potential increase in debilitating and sometimes life-threatening illnesses faced by workers exposed to wildfire smoke. This will reduce the financial costs caused by medical care and lost workdays, costs that may be borne by employees, their families, employers, insurers, and public benefits programs.

EVALUATION OF  
INCONSISTENCY/INCOMPATIBILITY WITH  
EXISTING STATE REGULATION

The Board evaluated the proposed regulations pursuant to Government Code section 11346.5(a)(3)(D) and has determined that the regulations are not inconsistent or incompatible with existing state regulations. This proposal is part of a system of occupational safety and health regulations. The consistency and compatibility of that system’s component regulations is provided by such things as: (1) the requirement of the federal government and the Labor Code to the effect that the State regulations be at least as effective as their federal counterparts, and (2) the requirement that all state occupational safety and health rulemaking be channeled through a single entity (the Standards Board).

To the extent that there may be any unforeseen conflict between the proposed section 5141.1 and existing sections 5141 Control of Harmful Exposures to Employees and 5155 Airborne Contaminants, that has been resolved by proposed section 5141.1(a)(3). This subsection expressly states that an employer following section 5141.1 will be considered compliant with sections 5141 and 5155 for the limited purpose of exposures to a current AQI for PM2.5 of 151 or greater from wildfire smoke.

DISCLOSURES REGARDING THE  
PROPOSED ACTION

**Mandate on Local Agencies or School Districts:**

The Board has determined that proposed section 5141.1 does not impose a mandate on local agencies or school districts requiring reimbursement by the State pursuant to Part 7 of Division 4 of the Government Code (commencing with section 17500).

**Cost or Savings to State Agencies:**

State agencies, like other employers, should already be providing respirators to employees exposed to unhealthy levels of PM2.5 from wildfire smoke, under existing law. Likewise, under existing law, public employers should be using engineering and administrative controls when appropriate, for instance by moving tasks indoors or delaying non-critical tasks until the smoke clears, and should provide effective training and communication as required in the proposed regulation.

However, the proposed regulation includes some newly *prescriptive* elements that simplify and clarify existing performance standards, so the cost of these portions of the proposed regulation have been estimated below.

These calculations assume that *all* covered state entities unable to limit employee exposure to unhealthy

PM2.5 from wildfire smoke through feasible administrative or engineering controls — i.e. those public employers which cannot readily postpone work during a wildfire or move work indoors to enclosed buildings — will incur *new* costs when complying with the requirements for respiratory protective equipment and training. In fact, the Division believes that the majority of state entities with workers who may be exposed to wildfire smoke during the 2020 fire season are already compliant with the proposed section 5141.1. In addition, state entities should already provide respirators for employees when the air quality is unhealthy under existing Title 8, sections 5141, 5144, and Labor Code sections 6400, 6401, 6402, 6403, and 6404. The numbers below have not been reduced to account for this; however, because of the difficulty in ascertaining the percentage of state entities that already provide N95s in response to wildfire smoke.

California Department of Forestry and Fire Protection (CalFire) employees have not been included in the estimates below. Nearly all CalFire employees exposed to wildfire smoke are engaged in wildland firefighting. That activity is expressly excluded from proposed section 5141.1.

Among other large state agencies, the California Department of Transportation (CalTrans) and the California Highway Patrol (CHP) are the entities with the most workers subject to the proposed regulation. Although a large number of the individuals working on outdoor CalTrans projects are actually employed by private entities, the Division estimated that about half of CalTrans' own workforce could possibly be covered during a wildfire smoke event. The Division also estimated that about 70% of the CHP workforce (the percentage of CHP employees who are sworn officers) could possibly be covered by the proposal, even though employees in enclosed vehicles are exempt. For other state entities, the Division estimates that about 15% of employees could also be covered, taking into account that state employees in office buildings, most other buildings, and vehicles are exempt from the proposed regulation.

The cost per N95 filtering facepiece respirator was estimated by the Public Agency Safety Management Association (PASMA) to be approximately \$0.75 per respirator. Based on 2018 data from the California Air Resources Board, in the worst-case scenario, one third of the California population would be exposed to unhealthy levels of PM2.5 from wildfire smoke for ten days over the course of year. The proposed regulation also includes a training requirement specific to the hazard of PM2.5 from wildfire smoke. The training required in Appendix B of the proposed regulation, plus the time required for distributing and donning N95 masks, is estimated to take about 20 minutes to com-

plete. Cost has been estimated based on average hourly earnings as reported by EDD.<sup>1</sup>

**Number of possible public employees per year, worst-case scenario**

*Entity<sup>2</sup>: CalTrans* — Total employees: **22,209** — % of employees possibly covered by regulation: **50%** — # of employees possibly covered by regulation: **11,104** — Possible per year (Total \* 1/3): **3,702**

*Entity<sup>2</sup>: CHP* — Total employees: **11,491** — % of employees possibly covered by regulation: **70%** — # of employees possibly covered by regulation: **8,044** — Possible per year (Total \* 1/3): **2,681**

*Entity<sup>2</sup>: University of California* — Total employees: **306,007** — % of employees possibly covered by regulation: **15%** — # of employees possibly covered by regulation: **45,901** — Possible per year (Total \* 1/3): **15,300**

*Entity<sup>2</sup>: California State University* — Total employees: **123,717** — % of employees possibly covered by regulation: **15%** — # of employees possibly covered by regulation: **18,558** — Possible per year (Total \* 1/3): **6,186**

*Entity<sup>2</sup>: All other state departments, excluding CalFire* — Total employees: **209,752** — % of employees possibly covered by regulation: **15%** — # of employees possibly covered by regulation: **31,463** — Possible per year (Total \* 1/3): **10,488**

*Total employees: 673,176* — Total # of employees possibly covered by regulation: **115,070** — Total Possible per year (Total \* 1/3): **38,357**

<sup>1</sup> Statewide average wage in California for Q1 2019, the most recent data available as of this writing, at <https://www.labormarketinfo.edd.ca.gov/data/oes-employment-and-wages.html#OES>

<sup>2</sup> Number of employees taken from the State Controller's Office, December 2019.

CalTrans: <https://publicpay.ca.gov/Reports/State/StateEntity.aspx?entityid=3854&year=2018>

CHP: <https://publicpay.ca.gov/Reports/State/StateEntity.aspx?entityid=3743&year=2018>

All State Departments: <https://publicpay.ca.gov/Reports/State/State.aspx>

University of California: <https://publicpay.ca.gov/Reports/HigherEducations/UniversityOfCalifornia.aspx>

California State University: <https://publicpay.ca.gov/Reports/HigherEducations/StateUniversity.aspx>

**Annual state government costs,  
worst-case scenario**

*Safety and Health Requirement in 5141.1: N-95 Respirator* — Total exposed employees: **38,357** — Cost per employee<sup>3</sup>: **\$0.75** — Days of wildfire exposure: **10** — Cost/year: **\$287,677**

*Safety and Health Requirement in 5141.1: Training & Use of Respirators* — Total exposed employees: **38,357** — Cost per employee<sup>3</sup>: **\$9.69** — Days of wildfire exposure: **10** — Cost/year: **\$371,679**

**Total Cost: \$659,356**

The proposed regulation may result in marginal savings to state agencies in their capacity as employers, since improved regulatory clarity could save those entities staff time that would otherwise be spent trying to understand and apply the current regulations to the specific situation of wildfire smoke exposure, and because the proposed regulation allows public employers to provide N95 filtering facepiece respirators to workers without a medical evaluation or fit testing. However, public employers with workers who are regularly exposed to smoke or other respiratory hazards, including public agencies involved in emergency response, already have fully developed respiratory protection plans with required respirator use, medical evaluations, and fit testing. Among the remaining public agencies, it is unknown how many will recognize this potential savings. Wildfires are unpredictable; the number, location, extent, and length of fires in 2020 and later years is unknown. Smoke adds another layer of uncertainty, since the people and entities affected by a given wildfire may be far from the event. The extent and intensity of wildfire smoke is dependent on multiple variable weather conditions that cannot be predicted in advance.

The Division expects that it would receive fewer queries about wildfire smoke if proposed section 5141.1 is enacted. The proposed regulation would also make it easier and faster for Division staff to respond to questions. However, this is unlikely to lead to any fiscal savings. Those staff who have been diverted from their usual duties in response to wildfire smoke-related issues would simply be returned to their usual enforcement activities, due to their full schedules before the wildfire crisis occurred.

The Division would need to train its enforcement staff about the new regulation, which would probably require a webinar lasting approximately 60 minutes for approximately 200 associate safety engineers (the

<sup>3</sup> Training costs based on the statewide average wage in California for Q1 2019. <https://www.labormarketinfo.edd.ca.gov/data/oes-employment-and-wages.html#OES>. As stated above, the per-mask cost of the N95 respirator was estimated by PASMA.

equivalent of 1 associate safety engineer for one year) and other staff. However, the Division believes this can be absorbed into the existing budget.

**Cost to Any Local Government or School District Which Must be Reimbursed in Accordance with Government Code Sections 17500 through 17630:** None.

**Other Nondiscretionary Cost or Savings Imposed on Local Agencies:**

The above analysis for state agencies' costs and savings applies to local agencies as well. The Division estimated costs for the prescription portions of the proposed regulation by assuming that these will be entirely new costs for local agency employers within the scope of the regulation, even though the Division believes that the majority of local agencies are already in compliance with the proposed section 5141.1.

The Division calculated respirator and training costs in the same manner as the estimates for state agencies, above. Affected local agency employees would include certain inspectors/code enforcement personnel and people working in parks/outdoor recreation, traffic control, public safety, some types of vehicle and building maintenance, and other fields. The Division estimated that approximately 15% of local agency employees may fall within the scope of the proposed regulation.

Applying that assumption to a total of 1,416,219 local entity employees,<sup>4</sup> the maximum possible number of local government employees who could possibly be covered by this regulation is 212,433. Using the worst-case scenario discussed above, in which a third of the California population is exposed to an AQI over 150 from wildfire smoke over the course of a year, about **70,811** local government employees could be covered by this regulation in a given year.

The total cost per year to local agencies is calculated at \$1,217,241 per year as shown below.

<sup>4</sup> Source: State Controller's Office <https://publicpay.ca.gov/>. Please note that the estimated percentage of employees possibly covered by the regulation has been changed since the 399 for the emergency regulation was submitted. This was done because the data collected by the Controller's Office, although more accurate than the previous source, included more individuals working within educational buildings with filtered air.

**Annual local government costs,  
worst-case scenario**

*Safety and Health Requirement in 5141.1: N-95 Respirator* — Total exposed employees: **70,811** — Cost per employee<sup>5</sup>: **\$0.75** — Days of wildfire smoke exposure: **10** — Cost/year: **\$531,082**

*Safety and Health Requirement in 5141.1: Training & Use of Respirators* — Total exposed employees: **70,811** — Cost per employee<sup>5</sup>: **\$9.69** — Days of wildfire smoke exposure: **10** — Cost/year: **\$686,159**

Total Cost: **\$1,217,241**

**Cost or Savings in Federal Funding to the State:**  
None.

**COST IMPACT ON A REPRESENTATIVE  
PRIVATE PERSON OR BUSINESS**

The proposal does not impose any costs on private persons who are not employers.

The number of businesses affected by wildfire smoke will vary greatly from year to year. Many workplaces are exempt from the proposal, including buildings and vehicles with air filtration, along with workers who are exposed to outdoor air for less than an hour per shift (for instance, while traveling between buildings or walking to or from a vehicle).

Based on EDD data on the average number of employees per business in California (17,624,394 employees/1,584,626 businesses) and the average number of employees per small business (13,886,430 employees/1,581,846 businesses), the per-employee costs described above [\$7.50 (respirators for 10 days) + \$9.69 (training) = \$17.19] result in an **annual cost of \$191.19 for a typical business and \$150.74 for a small business.**<sup>6</sup>

**STATEWIDE ADVERSE ECONOMIC IMPACT  
DIRECTLY AFFECTING BUSINESSES AND  
INDIVIDUALS, INCLUDING THE ABILITY OF  
CALIFORNIA BUSINESSES TO COMPETE**

The Board has made an initial determination that this proposal will not result in a significant, statewide ad-

verse economic impact directly affecting businesses/individuals, including the ability of California businesses to compete with businesses in other states. The annual cost to a typical business is very low, and there is no cost to private individuals. In addition, many California businesses affected by this regulation are already prepared to provide N95 respirators and related training to employees in the event of wildfire smoke exposure, in compliance with existing Title 8 sections.

**Significant Affect on Housing Costs:** None.

**SMALL BUSINESS DETERMINATION**

The Board has determined that the proposed regulation may affect small businesses; however, no significant impact is anticipated. Small businesses are expected to incur a cost of \$150.74 per year.

**RESULTS OF THE ECONOMIC IMPACT  
ASSESSMENT/ANALYSIS**

The proposed regulation will not have any effect on the creation or elimination of jobs within California, the creation of new businesses or the elimination of existing businesses in the state, or the expansion of existing California businesses.

The Division has estimated that, in a worst-case scenario, the costs to private business would be \$13,748,098 per year. However, the annual cost of the proposal for a typical business is very low: \$191.19 per year. This should not result in any changes to hiring practices within existing companies or to the number of new businesses in the state.

The total, statewide savings that would result from the proposed regulation cannot be quantified. The Board is not aware of a study that quantifies the effects of deaths/illnesses from *occupational wildfire smoke*-related PM2.5 as opposed to exposures to PM2.5 from other sources, such as dust and pollution, or non-occupational exposures. Despite that, there is ample evidence that reducing exposure to PM2.5 in general and wildfire smoke in particular will result in improved health for California employees and reduce the financial costs caused by medical care and lost workdays, costs which may be borne by employees, their families, employers, insurers, and public benefits programs.

In addition, there may be some unquantifiable savings to employers because compliance with the proposed regulation is simpler and less expensive than following existing section 5144(d)(1)(C), and because employers will be able to provide N95s to workers without performing medical evaluations or fit testing.

<sup>5</sup> Training costs based on the statewide average wage in California for Q1 2019.

<https://www.labormarketinfo.edd.ca.gov/data/oes-employment-and-wages.html#OES>. As stated above, the per-mask cost of the N95 respirator was estimated by PASMA.

<sup>6</sup> EDD for 2018 Q3 and Q4, the most recent data available as of this writing, Table 2A and 2B: [https://www.labormarketinfo.edd.ca.gov/LMID/Size\\_of\\_Business\\_Data\\_for\\_CA.html](https://www.labormarketinfo.edd.ca.gov/LMID/Size_of_Business_Data_for_CA.html)

### BENEFITS OF THE PROPOSED ACTION

The Board is proposing this regulation, Title 8, new section 5141.1, to preserve worker safety and health and to clarify employers' existing obligations, making compliance easier and more straightforward. As wild-fire seasons worsen, the proposed regulation will avoid a potential increase in debilitating and sometimes life-threatening illnesses faced by workers exposed to wild-fire smoke. This will reduce the financial costs caused by medical care and lost workdays, costs that may be borne by employees, their families, employers, insurers, and public benefits programs. This regulation is expected to be neutral to and will provide neither a benefit nor a detriment to the state's environment.

### CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law than the proposal described in this Notice.

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the scheduled public hearing or during the written comment period.

### CONTACT PERSONS

Inquiries regarding this proposed regulatory action may be directed to Christina Shupe (Executive Officer) or the back-up contact person, Michael Manieri (Principal Safety Engineer) at the Occupational Safety and Health Standards Board, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833; (916) 274-5721.

### AVAILABILITY OF STATEMENT OF REASONS, TEXT OF THE PROPOSED REGULATIONS AND RULEMAKING FILE

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this Notice of Proposed Action is published in the Notice Register, the rulemaking file consists of this Notice, the proposed text of the regulations, the Initial

Statement of Reasons, supporting documents, or other information upon which the rulemaking is based. Copies may be obtained by contacting Ms. Shupe or Mr. Manieri at the address or telephone number listed above.

### AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this Notice. If the Board makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public at least 15 days before the Board adopts the regulations as revised. Please request copies of any modified regulations by contacting Ms. Shupe or Mr. Manieri at the address or telephone number listed above. The Board will accept written comments on the modified regulations for at least 15 days after the date on which they are made available.

### AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Ms. Shupe or Mr. Manieri at the address or telephone number listed above or via the internet.

### AVAILABILITY OF DOCUMENTS ON THE INTERNET

The Board will have rulemaking documents available for inspection throughout the rulemaking process on its web site. Copies of the text of the regulations in an underline/strikeout format, the Notice of Proposed Action and the Initial Statement of Reasons can be accessed through the Standards Board's website at <http://www.dir.ca.gov/oshsb>.

### **TITLE 11. COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING**

Notice is hereby given that the Commission on Peace Officer Standards and Training (POST) proposes to amend regulations in Division 2 of Title 11 of the California Code of Regulations as described below in the Informative Digest. A public hearing is not scheduled. Pursuant to Government Code §11346.8, any interested person, or his/her duly authorized representative, may request a public hearing. POST must receive the written request no later than 15 days prior to the close of the public comment period.

PUBLIC COMMENTS DUE BY MAY 18, 2020

Notice is also given that any interested person, or authorized representative, may submit written comments relevant to the proposed regulatory action by fax at (916) 227-6932 or by letter to:

Commission on POST  
Attn: Cheryl Smith  
860 Stillwater Road, Suite 100  
West Sacramento, CA 95605-1630

AUTHORITY AND REFERENCE

This proposal is made pursuant to the authority vested by Penal Code §13503 (authority of Commission on POST) and Penal Code §13506 (POST authority to adopt regulations). This proposal is intended to interpret, implement, and make specific Penal Code §13503(e) which authorizes POST to develop and implement programs to increase the effectiveness of law enforcement, including programs involving training and education courses.

INFORMATIVE DIGEST/POLICY STATEMENT  
OVERVIEW

Penal Code § 13510 requires that POST develop guidelines and a course of instruction and training for law enforcement officers who are employed as peace officers, or who are not yet employed as a peace officer but are enrolled in a training academy for law enforcement officers. This proposed action will update the incorporated by reference document, Training and Testing Specifications for Peace Officer Basic Courses (revised 10/1/2020), to include the difference between sexual orientation and gender identity, the terminology used to identify and describe sexual orientation, and how law enforcement can respond effectively to domestic violence and hate crimes involving sexual orientation and gender identity minorities as described in newly added Penal Code § 13519.41. Additionally, the incorporation by reference statements in POST Regulations sections 1005, 1007, and 1008 will be revised to reflect the updated revised date for the Training and Testing Specifications for Peace Officer Basic Courses.

The benefit anticipated by the proposed amendments to the regulations will be to update the training specifications for Peace Officer Basic Courses, which will increase the effectiveness of law enforcement standards for peace officers in preserving peace, protection of public health and safety, and welfare of California.

During the process of developing these regulations and amendments, POST has conducted a search of any

similar regulations on this topic and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

All changes to curriculum begin with recommendations from law enforcement practitioners or in some cases via legislative mandates. POST then facilitates meetings attended by curriculum advisors and subject matter experts who provide recommended changes to existing curriculum. The completed work of all committees is presented to the POST Commission for final review and adoption. Upon adoption of the proposed amendments, academies and course presenters will be required to teach and test the updated curriculum. The proposed effective date is October 1, 2020.

DOCUMENT INCORPORATED BY REFERENCE

Training and Testing Specifications for Peace Officer Basic Courses, revised 10/1/2020.

ADOPTION OF PROPOSED REGULATIONS

Following the public comment period, the Commission may adopt the proposal substantially as set forth without further notice or may modify the proposal if such modifications remain sufficiently related to the text as described in the Informative Digest. If the Commission makes changes to the language before the date of adoption, the text of any modified language, clearly indicated, will be made available at least 15 days before adoption to all persons whose comments were received by POST during the public comment period and to all persons who request notification from POST of the availability of such changes. A request for the modified text should be addressed to the agency official designated in this notice. The Commission will accept written comments on the modified text for 15 days after the date that the revised text is made available.

ESTIMATE OF ECONOMIC IMPACT

Fiscal Impact on Public Agencies including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

Non-Discretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

Costs to any Local Agency or School District Affecting Government Code § 17500-17630 requires reimbursement: None.

Significant Statewide Adverse Economic Impact Directly Affecting California Businesses, including Small Business: The Commission on Peace Officer Standards and Training has made an initial determination that the amended regulations will not have a significant

statewide adverse economic impact directly affecting California business, including the ability of California businesses to compete with businesses in other states. The Commission on Peace Officer Standards and Training has found that the proposed amendments will not affect California businesses, including small businesses, because the Commission sets selection and training standards for law enforcement which does not impact California businesses, including small businesses.

**Affect on Housing Costs:** The Commission on Peace Officer Standards and Training has made an initial determination that the proposed regulations would have no affect on housing costs.

**RESULTS OF ECONOMIC  
IMPACT ASSESSMENT  
PER GOVERNMENT CODE § 11346.3(b)**

The adoption of the proposed amendments of regulations will neither create, nor eliminate, jobs in the State of California, nor result in the elimination of existing businesses or create, or expand, businesses in the State of California.

The proposed amendments of regulations will increase the effectiveness of law enforcement standards for peace officers in preserving peace, protection of public health and safety, and welfare of California. There would be no impact that would affect worker safety or the state's environment.

**COST IMPACT ON REPRESENTATIVE  
PRIVATE PERSONS OR BUSINESSES**

The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

**CONSIDERATION OF ALTERNATIVES**

To take this action, the Commission must determine that no reasonable alternative considered by the Commission, or otherwise identified and brought to the Commission, would be more effective in carrying out the purpose for which the action is proposed; or would be as effective and less burdensome to affected private persons than the proposed action; or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law than the proposed action.

**CONTACT PERSON**

Questions regarding this proposed regulatory action may be directed to Cheryl Smith, Commission on POST, 860 Stillwater Road, Suite 100, West Sacramento, CA 95605-1630 at (916) 227-0544. General questions regarding the regulatory process may be directed to Katie Strickland at (916) 227-2802, or by FAX at (916) 227-5271.

**TEXT OF PROPOSAL**

Individuals may request copies of the exact language of the proposed regulations and of the initial statement of reasons, and the information the proposal is based upon, from the Commission on POST at 860 Stillwater Road, Suite 100, West Sacramento, CA 95605-1630. These documents are also located on the POST Website at <https://www.post.ca.gov/regulatory-actions.aspx>.

**AVAILABILITY AND LOCATION OF THE  
RULEMAKING FILE AND THE FINAL  
STATEMENT OF REASONS**

The rulemaking file contains all information upon which POST is basing this proposal and is available for public inspection by contacting the person(s) named above.

To request a copy of the Final Statement of Reasons once it has been prepared, submit a written request to the contact person(s) named above.

**TITLE 11. COMMISSION ON PEACE  
OFFICER STANDARDS AND TRAINING**

Notice is hereby given that the Commission on Peace Officer Standards and Training (POST) proposes to amend regulations in Division 2 of Title 11 of the California Code of Regulations as described below in the Informative Digest. A public hearing is not scheduled. Pursuant to Government Code section 11346.8, any interested person, or his/her duly authorized representative, may request a public hearing. POST must receive the written request no later than 15 days prior to the close of the public comment period.

**PUBLIC COMMENTS DUE BY MAY 18, 2020**

Notice is also given that any interested person, or authorized representative, may submit written comments relevant to the proposed regulatory action by fax at (916) 227-4547, by email to Maria Sandoval, or by letter to:

Commission on POST  
 Attention: Maria Sandoval  
 860 Stillwater Road, Suite 100  
 West Sacramento, CA 95605-1630

AUTHORITY AND REFERENCE

This proposal is made pursuant to the authority vested by Penal Code Section 13503 (authority of the Commission on POST) and Penal Code section 13506 (POST authority to adopt regulations). This proposal is intended to interpret, implement, and make specific Penal Code section 13503(e), which authorizes POST to develop and implement programs to increase the effectiveness of law enforcement, including programs involving training and education courses.

INFORMATIVE DIGEST/POLICY STATEMENT  
 OVERVIEW

At the February 13, 2020 meeting, the Commission approved the proposed amendments to Regulation 1015, Reimbursements for Training.

The amendment was proposed in order to modify the regulation as follows:

- Update the reimbursement rate for Basic Course Subsistence for the Regular Basic Course from \$50.00 per day to \$75.00 per day.
- Update the number of hours for reimbursement for the Regular Basic Course from 664 up to 800.

On July 1, 1994, POST established 664 hours as the minimum number of hours to cover required curriculum for the RBC. A reimbursement rate of \$50.00 per day for agency sponsored trainees up to 664 hours was also implemented at that time.

For the proposed budget for FY 2019-20, POST submitted a Budget Change Proposal (BCP), which among other things, proposed an increase for local assistance/agency reimbursement for the RBC at a rate of \$75.00 per day, up to 800 hours. The BCP indicated that under this proposal, RBC reimbursement could result in expenditures of no more than \$7.5M. The BCP was approved and the FY 2019-20 budget was ultimately enacted.

The cost of living index has increased over the years. The agency reimbursement rates for the RBC have not been adjusted since 1994, nor have the number of reimbursable training hours changed since that time. As a point of reference, the lowest number of training hours currently offered by a POST academy is 720 hours, with the highest academy at 1,240 hours.

The current maximum reimbursement stands at \$4,150.00 per recruit (664 hours/8 hours per day X

\$50.00 = \$4,150.00). This amendment to the regulation will change the new maximum reimbursement to \$7,500.00 per recruit (800 hours/8 hours per day X \$75.00 = \$7,500.00).

An increase of \$25.00 for a total of \$75.00 per day, and for up to 800 hours of training, will be more reflective of the training costs for the RBC. It will increase a rate which has not been adjusted for 25 years.

The specific benefits anticipated by the proposed regulatory changes to Regulation 1015 will offer a more accurate reflection of the current cost of living index as well as accurately reflect the current amount of training hours at a POST-participating academy. Since POST is expected by governmental law enforcement agencies to implement an increase to reimbursement rates due to the FY 2019-2020 local assistance budget increase, this regulatory change will provide financial relief to agencies to assist with the rising costs of training for the RBC.

The benefits of the proposed amendments to the regulation will be the enhancement of police processes and operations through the enactment of increasing reimbursement rates for training. Thus, California law enforcement agencies can adequately maintain their standards to preserve peace; protect public the health, safety, and welfare; and interact in a positive manner with their communities. The proposed amendments will neither benefit nor harm worker safety or the State's environment.

EVALUATION OF  
 INCONSISTENCY/INCOMPATIBILITY WITH  
 EXISTING STATE REGULATIONS

POST has determined that this proposed regulation amendment is not inconsistent nor incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, POST has concluded that these are only regulations that concern Training and Testing Specifications.

ADOPTION OF PROPOSED REGULATIONS

Following the public comment period, POST may adopt the proposal substantially as set forth without further notice, or POST may modify the proposal if such modifications remain sufficiently related to the text as described in the Informative Digest. If POST makes changes to the language before the date of adoption, the text of any modified language, clearly indicated, will be made available at least 15 days before adoption to all persons whose comments were received by POST during the public comment period and to all persons who request notification from POST of the availability of such changes. A request for the modified text should be

addressed to the agency official designated in this notice. POST will accept written comments on the modified text for 15 days after the date that the revised text is made available.

### ESTIMATE OF ECONOMIC IMPACT

Fiscal Impact on Public Agencies including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

Non-Discretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

Costs to any Local Agency or School District for which Government Code sections 17500-17630 requires reimbursement: None.

Significant Statewide Adverse Economic Impact Directly Affecting California Businesses, including Small Business: The Commission on Peace Officer Standards and Training has made an initial determination that the amended regulations will not have a significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states. The Commission on POST has found that the proposed amendments will not affect California businesses, including small businesses, because the Commission sets selection and training standards for law enforcement which does not impact California businesses, including small businesses.

Cost Impacts on Representative Private Persons or Businesses: The Commission on POST has determined that there should be little to no cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

POST is not aware of any cost impact that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: The Commission on POST has made an initial determination that the proposed regulation would have no effect on housing costs.

### RESULTS OF ECONOMIC IMPACT ASSESSMENT PER GOV. CODE SECTION 11346.3(b)

The adoption of the proposed amendments of regulations will neither create nor eliminate jobs in the State of California, nor result in the elimination of existing businesses or create or expand businesses in the State of California.

The benefits of the proposed amendments of the regulation to the health and welfare of California residents would be improved community/police relations, enhanced police processes, and operations by the enactment of increasing reimbursement rates for training. Thus, the law enforcement standards and missions of the organizations are maintained and will be effective in preserving peace, protection of public health, safety, and welfare in California. There would be no impact that would affect worker safety or the State's environment.

### CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), to take this action, POST must determine that no reasonable alternative considered, or that has otherwise been identified and brought to the attention of POST, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective as and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of the law.

### AVAILABILITY OF MODIFIED TEXT

Following the written comment period, and the hearing, if one is held, the department may adopt the proposed regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the fully modified text of this regulation, with changes clearly indicated, pursuant to Section 11346.8, shall be made available to the public for at least 15 days prior to the date on which the department adopts, amends, or repeals the resulting regulations. Requests for copies of any modified regulations should be addressed to the department contact person in this notice. The department will accept written comment on the modified regulation for 15 days after the date on which they're first made available to the public.

### CONTACT PERSONS

Questions regarding this proposed regulatory action may be directed to [Maria Sandoval](#), Commission on POST, 860 Stillwater Road, Suite 100, West Sacramento, CA 95605-1630 at (916) 227-2808. General questions regarding the regulatory process may be directed to [Katie Strickland](#) at (916) 227-2802.

TEXT OF PROPOSAL

Individuals may request copies of the exact language of the proposed regulations and of the initial statement of reasons, and the information the proposal is based upon, from the Commission on POST at 860 Stillwater Road, Suite 100, West Sacramento, CA 95605-1630. These documents are also located on the [POST website](#).

AVAILABILITY AND LOCATION OF THE RULEMAKING FILE AND THE FINAL STATEMENT OF REASONS

The rulemaking file contains all information upon which POST is basing this proposal and is available for public inspection by contacting the person(s) named above.

To request a copy of the Final Statement of Reasons once it has been approved, submit a written request to the contact person(s) named above.

**TITLE 11. COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING**

Notice is hereby given that the Commission on Peace Officer Standards and Training (POST) proposes to amend regulations in Division 2 of Title 11 of the California Code of Regulations as described below in the Informative Digest. A public hearing is not scheduled. Pursuant to Government Code section 11346.8, any interested person, or his/her duly authorized representative, may request a public hearing. POST must receive the written request no later than 15 days prior to the close of the public comment period.

PUBLIC COMMENTS DUE BY MAY 18, 2020

Notice is also given that any interested person, or authorized representative, may submit written comments relevant to the proposed regulatory action by fax at (916) 227-4547, by email to [Anita Finner](mailto:Anita.Finner@post.ca.gov), or by letter to:

Commission on POST  
 Attention: Anita Finner  
 860 Stillwater Road, Suite 100  
 West Sacramento, CA 95605-1630

AUTHORITY AND REFERENCE

This proposal is made pursuant to the authority vested by Penal Code Section 13503 (authority of the Commission on POST) and Penal Code section 13506 (POST authority to adopt regulations). This proposal is

intended to interpret, implement, and make specific Penal Code section 13503(e), which authorizes POST to develop and implement programs to increase the effectiveness of law enforcement, including programs involving training and education courses.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Penal Code § 13510 requires that POST develop guidelines and a course of instruction and training for law enforcement officers who are employed as peace officers, or who are not yet employed as a peace officer but are enrolled in a training academy for law enforcement officers. This proposed action will update the incorporated by reference document, Training and Testing Specifications for Peace Officer Basic Courses (revised 4/1/2020) document.

As part of an ongoing review of the Regular Basic Course content, POST staff and curriculum consultants review Learning Domain content to determine currency and job task relevancy. This process is facilitated by POST and attended by subject matter experts, academy directors, and coordinators. Some of the more significant outcomes of these workshops are recommendations for updating and enhancing the basic courses.

There are a range of non-deadly force options available to peace officers, such as de-escalation, baton, control hold, chemical agents, taser, etc. Currently, POST requires students to be tested on two of those options, baton and control hold.

Proposed changes were made to allow students to utilize any presenter approved non-deadly force option or options during scenario testing. The existing baton and control hold scenario test specifications were merged into one non-deadly force option test specification. Additionally, the *“or presenter-developed forms approved by POST”* verbiage was removed for statewide consistency in the evaluation process.

The benefit anticipated by the proposed amendments to the regulations will be to update the Training and Testing Specifications for Peace Officer Basic Courses, which will increase the effectiveness of law enforcement standards for peace officers in preserving peace, protection of public health and safety, and welfare of California.

During the process of developing these regulations and amendments, POST has conducted a search of any similar regulations on this topic and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

All changes to curriculum begin with recommendations from law enforcement practitioners or in some cases via legislative mandates. POST then facilitates meetings attended by curriculum advisors and subject

matter experts who provide recommended changes to existing curriculum. The completed work of all committees is presented to the POST Commission for final review and adoption. Upon adoption of the proposed amendments, academics and course presenters will be required to teach and test the updated curriculum. The proposed effective date is October 1, 2020.

#### DOCUMENT INCORPORATED BY REFERENCE

*Training and Testing Specifications for Peace Officer Basic Courses* revised 04/01/2020.

#### ADOPTION OF PROPOSED REGULATIONS

Following the public comment period, the Commission may adopt the proposal substantially as set forth without further notice, or the Commission may modify the proposal if such modifications remain sufficiently related to the text as described in the Informative Digest. If the Commission makes changes to the language before the date of adoption, the text of any modified language, clearly indicated, will be made available at least 15 days before adoption to all persons whose comments were received by POST during the public comment period and to all persons who request notification from POST of the availability of such changes. A request for the modified text should be addressed to the agency official designated in this notice. The Commission will accept written comments on the modified text for 15 days after the date that the revised text is made available.

#### ESTIMATE OF ECONOMIC IMPACT

Fiscal Impact on Public Agencies including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

Non-Discretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

Costs to any Local Agency or School District for which Government Code sections 17500–17630 requires reimbursement: None.

Significant Statewide Adverse Economic Impact Directly Affecting California Businesses, including Small Business: The Commission on Peace Officer Standards and Training has made an initial determination that the amended regulations will not have a significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other

states. The Commission on Peace Officer Standards and Training has found that the proposed amendments will not affect California businesses, including small businesses, because the Commission sets selection and training standards for law enforcement which does not impact California businesses, including small businesses.

Effect on Housing Costs: The Commission on Peace Officer Standards and Training has made an initial determination that the proposed regulation would have no effect on housing costs.

#### RESULTS OF ECONOMIC IMPACT ASSESSMENT PER GOV. CODE SECTION 11346.3(b)

The adoption of the proposed amendments of regulations will neither create nor eliminate jobs in the State of California, nor result in the elimination of existing businesses or create or expand businesses in the State of California.

The benefits of the proposed amendments of regulations to the regulations will increase the efficiency of the state of California in delivering services to stakeholders. Thus, the law enforcement standards are maintained and effective in preserving peace, protection of public health, safety, and welfare in California. There would be no impact that would affect worker safety or the State's environment.

#### CONSIDERATION OF ALTERNATIVES

To take this action, the Commission must determine that no reasonable alternative considered by the Commission, or otherwise identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective as and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law than the proposed action.

#### CONTACT PERSONS

Questions regarding this proposed regulatory action may be directed to [Anita Finner](#), Commission on POST, 860 Stillwater Road, Suite 100, West Sacramento, CA 95605–1630 at (916) 227–3901. General questions regarding the regulatory process may be directed to [Katie Strickland](#) at (916) 227–2802.

**TEXT OF PROPOSAL**

Individuals may request copies of the exact language of the proposed regulations and of the initial statement of reasons, and the information the proposal is based upon, from the Commission on POST at 860 Stillwater Road, Suite 100, West Sacramento, CA 95605-1630. These documents are also located on the POST website at: <https://post.ca.gov/Regulatory-Actions>.

**AVAILABILITY AND LOCATION OF THE  
RULEMAKING FILE AND THE FINAL  
STATEMENT OF REASONS**

The rulemaking file contains all information upon which POST is basing this proposal and is available for public inspection by contacting the person(s) named above.

To request a copy of the Final Statement of Reasons once it has been approved, submit a written request to the contact person(s) named above.

**TITLE 13. CALIFORNIA  
HIGHWAY PATROL**

DIVISION 2, CHAPTER 6.5, ARTICLE 4,  
AMEND SECTION 1222

**SMOKING ON SCHOOL BUS  
(CHP-R-2019-06102)**

The California Highway Patrol (CHP) proposes to adopt changes to Title 13 of the California Code of Regulations (CCR), Section 1222, to establish and clarify that smoking is not permitted on a school bus, school pupil activity bus (SPAB), or pupil activity bus (PAB), at any time, and reference the statute (Section 22950.5 of the Business and Professions Code) that defines smoking. A recommendation for these changes was submitted to the CHP by the School Pupil Transportation Advisory Committee (SPTAC).

**AUTHORITY AND REFERENCE**

Section 34501.5 of the California Vehicle Code authorizes the Commissioner of the CHP to appoint a committee, SPTAC, to act in an advisory capacity when developing and adopting regulations affecting the safe operation of school buses. The proposed regulations implement, interpret, and make specific Sections 118880 and 118920 of the Health and Safety Code and Section 22950.5 of the Business and Professions Code.

**INFORMATIVE DIGEST/POLICY STATEMENT  
OVERVIEW**

Currently, Title 13 CCR, Section 1222, states that when a pupil is aboard, smoking is prohibited on a school bus, SPAB, or PAB. The phrase “when a pupil is aboard” could be misconstrued to mean that smoking is permitted on these vehicles (possibly by a driver, mechanic, or bus attendant) when a pupil is not on board. Although most schools have policy in place that prohibits employees from smoking in front of students and in district vehicles at any time, the regulation does not clearly convey that smoking is prohibited in these vehicles at any time. Further, the definition of smoking has changed to include other methods of smoking and should be cited in this rulemaking action.

According to the California Department of Public Health (CDPH), smoking and secondhand smoke cause life threatening diseases. The CDPH estimates that nearly 40,000 Californians die each year from diseases caused by smoking and secondhand smoke exposure. Section 118880 of the Health and Safety Code (HSC) declares that tobacco smoke is a hazard to the health of the general public, and Section 118920 HSC affirms that the regulation of smoking in public places is necessary to protect the health, safety, welfare, comfort, and environment of nonsmokers.

Additionally, Section 118920 HSC states that the intent of the Legislature is to eliminate smoking on public transportation vehicles.

**ANTICIPATED BENEFITS OF THE  
PROPOSED REGULATION**

The CHP concludes this proposed regulatory action: (1) is unlikely to eliminate any jobs in the State of California; (2) is unlikely to create additional jobs in the State of California; (3) is unlikely to result in the elimination of existing businesses, nor create or expand businesses in the State of California; and (4) will continue to provide a nonmonetary benefit through the protection and safety of pupils transported on school buses, SPABs, and PABs by providing a smoke-free environment, including secondhand smoke, on these vehicles.

*Evaluation of Inconsistency/Incompatibility with Existing State Regulations:*

The CHP conducted an evaluation and determined that this proposed regulation is not inconsistent or incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, the CHP has concluded that these are the only regulations that concern smoking on a school bus in California.

**WRITTEN COMMENT PERIOD**

Any interested person, or their authorized representative, may submit written comments relevant to the proposed regulatory action to the CHP at the address below. Comments may also be submitted by electronic mail to [CHP-ResearchAndPlanning@chp.ca.gov](mailto:CHP-ResearchAndPlanning@chp.ca.gov) or via facsimile (FAX) to (916) 322-3175. The written comment period closes on May 18, 2020.

California Highway Patrol  
Research and Planning Section  
P.O. Box 942898  
Sacramento, CA 94298-0001  
Attention: Rulemaking — Smoking on School Bus

**PUBLIC HEARING**

No public hearing has been scheduled. If any person desires a public hearing, a written request must be received by the CHP, no later than 15 days prior to the close of the written comment period.

**AVAILABILITY OF INFORMATION**

The CHP has available for public review an Initial Statement of Reasons for the proposed regulatory action, the information upon which this action is based (the rulemaking file), and the proposed regulation text. Requests to review or receive copies of this information may be made by writing to the P.O. Box above or the street address that follows, or by sending a FAX to (916) 322-3175, or by calling (916) 843-3340. All requests should include the following information: the title of the rulemaking package, requester's name, proper mailing address (including city, state, and zip code), and a daytime phone number in case the requester's information is incomplete or illegible.

The rulemaking file is available for inspection at the CHP, Research and Planning Section (RPS), 601 North 7th Street, Sacramento, CA 95811. Interested parties are advised to call for an appointment.

All documents regarding the proposed action are also available through the CHP's Internet website at: <https://www.chp.ca.gov/News-Alerts/Regulatory-Actions>.

Any substantial changes to the original proposal will be available for at least 15 days prior to the CHP adopting this regulation. Any person desiring to obtain a copy of the adopted text and a final statement of reasons may request them at CHP, RPS, 601 North 7th Street, Sacramento, CA 95811. Copies will also be posted on the CHP's Internet website.

**CONTACT PERSON**

Any inquiries concerning the written materials pertaining to the proposed regulation, or questions regarding the substance of the proposed regulation, should be directed to Associate Governmental Program Analyst Jantze Bowie or Sergeant Scott Taylor, CHP, Research and Planning Section, at (916) 843-3340.

**ADOPTION OF PROPOSED REGULATIONS**

After consideration of public comments, the CHP may adopt the proposal substantially as set forth without further notice. If the proposal is modified prior to adoption and the change is not solely grammatical or non-substantive in nature, the full text of the resulting regulation, with the changes clearly indicated, will be made available to the public for at least 15 days prior to the date of adoption.

**DISCLOSURES REGARDING THE PROPOSED ACTION**

The CHP has made the following initial determinations:

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: None.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code Sections 17500 through 17630: None.

Other nondiscretionary cost or savings imposed on local agencies: None.

Cost or savings in federal funding to the state: None.

Cost impacts on a representative private person or business: The CHP is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Statewide adverse economic impact directly affecting businesses and individual: The CHP initially determines the proposed regulation will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Significant effect on housing costs: None.

**RESULTS OF THE ECONOMIC IMPACT ANALYSIS/ASSESSMENT**

The CHP concludes this proposed regulation action: (1) is unlikely to eliminate any jobs in the State of California; (2) is unlikely to create additional jobs in the State of California; (3) is unlikely to result in the elimination of existing businesses, nor create or expand businesses in the State of California; and (4) will continue to

provide a nonmonetary benefit through the protection and safety of pupils transported on school buses, SPABs, and PABs by providing a smoke-free environment, including secondhand smoke, on these vehicles.

**SMALL BUSINESS DETERMINATION**

Small businesses currently abide by smoke-free air laws. Amending current regulation and adding statutory reference regarding the definition of smoking would not adversely affect small businesses.

**CONSIDERATION OF ALTERNATIVES**

In accordance with Section 11345.5(a)(13) of the Government Code, the CHP must determine that no reasonable alternative it considered or has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. Therefore, the CHP invites interested parties to present statements or arguments with respect to alternatives to the proposed regulation during the written comment period.

**TITLE 24. BUILDING STANDARDS COMMISSION**

**NOTICE OF PROPOSED ACTION TO BUILDING STANDARDS OF THE DIVISION OF THE STATE ARCHITECT (DSA-AC) REGARDING THE 2019 CALIFORNIA BUILDING CODE, CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 2**

**(DSA-AC 01-19)**

Note to agencies: The laws associated with the instructions in this form are found primarily in Government Code Section 11346.5 et sequentes. For clarity during the administrative review process, do not remove the headings or statutory references to applicable sections being completed.

Notice is hereby given that the California Building Standards Commission (CBSC) on behalf of the Division of the State Architect (DSA-AC) proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), Title 24, Part 2. DSA-AC is proposing

building standards related to 2019 California Building Code.

**PUBLIC COMMENT PERIOD**

Reference: Government Code Section 11346.5(a)(17).

A public hearing has not been scheduled; however, written comments will be accepted from **April 3, 2020**, until 5:00 p.m. on **May 18, 2020**.

Please address your comments to:

**California Building Standards Commission**  
Attention: Mia Marvelli, Executive Director  
2525 Natomas Park Drive, Suite 130  
Sacramento, CA 95833

Written comments may also be emailed to [CBSC@dgs.ca.gov](mailto:CBSC@dgs.ca.gov).

Any interested person, or his or her duly authorized representative, may request no later than 15 days prior to the close of the written comment period that a public hearing be held.

The public will have an opportunity to provide both written and/or oral comments regarding the proposed action on building standards at a public meeting to be conducted by the CBSC to be scheduled at a date near the end of the current adoption cycle. A meeting notice will be issued announcing the date, time and location of the public meeting.

**POST-HEARING MODIFICATIONS TO THE TEXT OF THE REGULATIONS**

Reference: Government Code Section 11346.5(a)(18).

Following the public comment period, CBSC may adopt the proposed building standards substantially as proposed in this notice or with modifications that are sufficiently related to the original proposed text and notice of proposed changes. If modifications are made, the full text of the proposed modifications, clearly indicated, will be made available to the public for at least 15 days prior to the date on which the CBSC adopts, amends, or repeals the regulation(s). CBSC will accept written comments on the modified building standards during the 15-day period.

NOTE: To be notified of any modifications, you must submit written/oral comments or request that you be notified of any modifications.

**AUTHORITY AND REFERENCE**

Reference: Government Code Section 11346.5(a)(2). The CBSC proposes to adopt these building standards under the authority granted by Health and Safety

Code Section 18928. For DSA-AC, the purpose of these building standards is to implement, interpret, or make specific the provisions of Government Code Sections 4450 through 4461, 12955.1 and 14679; Health and Safety Code Sections 18949.1 and 19952 through 19959; and Vehicle Code Section 22511.8.

The Division of the State Architect is proposing this regulatory action based on Government Code Section 4450.

### INFORMATIVE DIGEST

Reference: Government Code Section 11346.5(a)(3).

#### Summary of Existing Laws

Government Code Section 4450 authorizes the State Architect to develop regulations for making buildings, structures, sidewalks, curbs, and related facilities accessible to and usable by persons with disabilities.

#### Summary of Existing Regulations

Existing regulations promulgated by DSA-AC are contained in the California Building Code (Title 24, Part 2). These regulations are applicable to:

1. Publicly funded buildings, structures, sidewalks, curbs and related facilities;
2. Privately funded public accommodations and commercial facilities;
3. Public housing and private housing available for public use;
4. Any portable buildings leased or owned by a school district; and
5. Temporary and emergency buildings and facilities.

#### Summary of Effect

The proposed action would update the CCR, Title 24, Part 2 by:

- Relocating existing public housing requirements from Chapter 11A to Chapter 11B.
- Adding federal requirement for turning space in kitchens within specified multi-bedroom housing units in undergraduate student housing.
- Revising existing requirements for curb ramps and detectable warnings.
- Revising existing requirements for pedestrian areas (circulation paths) at vehicle areas.
- Amendments to clarify existing accessibility requirements.

#### Comparable Federal Statute or Regulations

Comparable federal statutes and regulations include:

- Regulations for Title II and Title III of the Americans with Disabilities Act of 1990, as adopted by the US Department of Justice. The

regulations provide enforceable standards for accessible design, known as the 2010 ADA Standards for Accessible Design, in three parts:

1. 2010 Standards for State and Local Government Facilities: Title II Regulations at 28 CFR Part 35.151;
2. 2010 Standards for Public Accommodations and Commercial Facilities: Title III Regulations at 28 CFR Part 36, Subpart D; and
3. 2010 Standards for Title II and III Facilities: 2004 ADAAG.

- Fair Housing Amendments Act of 1988.

#### Policy Statement Overview

The proposed building standards are intended to implement new accessibility provisions and clarify existing accessibility provisions contained in the 2019 California Building Code to ensure that publicly funded buildings, structures, sidewalks, curbs, and related facilities shall be accessible to and usable by persons with disabilities; privately funded public accommodations and commercial facilities shall be accessible to and usable by persons with disabilities; and public housing shall be accessible to and usable by persons with disabilities.

#### Evaluation of Consistency

There are no inconsistent or incompatible regulations proposed.

### OTHER MATTERS PRESCRIBED BY STATUTE APPLICABLE TO THE AGENCY OR TO ANY SPECIFIC REGULATION OR CLASS OF REGULATIONS

Reference: Government Code Section 11346.5(a)(4).

There are no other matters prescribed by statute applicable to DSA-AC, or to any specific regulation or class of regulations.

### MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

Reference: Government Code Section 11346.5(a)(5).

DSA-AC has determined that the proposed regulatory action WOULD NOT impose a mandate on local agencies or school districts.

### ESTIMATE OF COST OR SAVINGS

Reference: Government Code Section 11346.5(a)(6).

An estimate, prepared in accordance with instructions adopted by Department of Finance, of cost or savings to any state agency, local agency, or school district.

- A. Cost or Savings to any state agency: **None.**
- B. Cost to any local agency required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **None.**
- C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **None.**
- D. Other nondiscretionary cost or savings imposed on local agencies: **None.**
- E. Cost or savings in federal funding to the state: **None.**  
Estimate: \$0.

**INITIAL DETERMINATION OF NO  
SIGNIFICANT STATEWIDE ADVERSE  
ECONOMIC IMPACT ON BUSINESSES**

Reference: Government Code Section 11346.5(a)(8).  
If the agency makes an initial determination that the adoption/amendment/peal of this regulation will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states, it shall make a declaration to that effect.  
DSA-AC has made an initial determination that the adoption/amendment/peal of this regulation will not have a significant statewide adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states.

**DECLARATION OF EVIDENCE**

Reference: Government Code Section 11346.5(a)(8).  
In making the declaration, the agency shall provide in the record of facts, evidence, documents, testimony, or other evidence that the agency relies upon to support its initial determination of no effect.  
DSA-AC developed the proposed code changes based on existing provisions in the current code. The intent is to provide needed clarity based on past comments DSA has received from code users. The proposed code changes were vetted during a series of five focus group meetings, four Access Code Collaborative meetings, and two public stakeholder forums. The comments received during those meetings supported DSA-ACs assessment that the proposed code changes will not have a significant statewide adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states

**FINDING OF NECESSITY FOR THE PUBLIC'S  
HEALTH, SAFETY, OR WELFARE**

Reference: Government Code Section 11346.5(a)(11).  
Any regulation that requires a report shall not apply to businesses, unless the agency makes a finding that it is necessary for the health, safety, or welfare of the public that the regulations apply to businesses.  
N/A

**COST IMPACT ON REPRESENTATIVE  
PRIVATE PERSON OR BUSINESS**

Reference: Government Code Section 11346.5(a)(9).  
DSA/AC is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

**ASSESSMENT OF EFFECT OF REGULATIONS  
UPON JOBS AND BUSINESS EXPANSION,  
ELIMINATION OR CREATION**

- Reference: Government Code Section 11346.5(a)(10).  
DSA/AC has assessed whether or not and to what extent this proposal will affect the following:
- A. The creation or elimination of jobs within the State of California.**  
DSA-AC has determined that the proposed action has no effect.
  - B. The creation of new businesses or the elimination of existing businesses within the State of California.**  
DSA-AC has determined that the proposed action has no effect.
  - C. The expansion of businesses currently doing business within the State of California.**  
DSA-AC has determined that the proposed action has no effect.
  - D. The benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment.**  
DSA-AC has determined that the proposed action has no effect.

**ESTIMATED COST OF COMPLIANCE OF  
STANDARDS THAT WOULD IMPACT HOUSING**

Reference: Government Code Section 11346.5(a)(12).  
DSA-AC has made an initial determination that this proposal would not have a significant effect on housing

costs. DSA-AC is coordinating this proposal with the Department of Housing and Community Development.

**CONSIDERATION OF ALTERNATIVES**

Reference: Government Code Section 11346.5(a)(13).

DSA-AC has determined that no reasonable alternative considered by DSA-AC or that has otherwise been identified and brought to the attention of DSA-AC would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

**AVAILABILITY OF RULEMAKING DOCUMENTS**

Reference: Government Code Sections 11346.5(a)(16) and 11346.5(a)(20).

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review, by contacting the person named below. This notice, the express terms and initial statement of reasons can be accessed from the CBSC website: [www.dgs.ca.gov/BSC](http://www.dgs.ca.gov/BSC).

Reference: Government Code Section 11346.5(a)(19).

Interested parties may obtain a copy of the final statement of reasons, once it has been prepared, by making a written request to the contact person named below or at the CBSC website: [www.dgs.ca.gov/BSC](http://www.dgs.ca.gov/BSC)

Reference: Government Code Section 11346.5(a)(21).

DSA-AC shall provide, upon request, a description of proposed changes included in the proposed action, in the manner provided by Section 11346.6, to accommodate a person with a visual or other disability for which effective communication is required under state or federal law; providing the description of proposed changes may require extending the period of public comment for the proposed action.

**CBSC CONTACT PERSON FOR PROCEDURAL AND ADMINISTRATIVE QUESTIONS**

Reference: Government Code Section 11346.5(a)(14).

General questions regarding procedural and administrative issues should be addressed to:

Michael Nearman, Deputy Executive Director  
2525 Natomas Park Drive, Suite 130  
Sacramento, CA 95833  
Telephone: (916) 263-0916

**PROPOSING STATE AGENCY CONTACT PERSON FOR SUBSTANTIVE AND/OR TECHNICAL QUESTIONS ON THE PROPOSED CHANGES TO BUILDING STANDARDS**

Specific questions regarding the substantive and/or technical aspects of the proposed changes to the building standards should be addressed to:

Derek M. Shaw, Supervising Architect  
Ph. (916) 324-7178  
[Derek.Shaw@dgs.ca.gov](mailto:Derek.Shaw@dgs.ca.gov)

Susan Moe, Senior Architect  
Ph. (916) 323-1687  
[Susan.Moe@dgs.ca.gov](mailto:Susan.Moe@dgs.ca.gov)

Division of the State Architect — Headquarters  
1102 Q Street, Suite 5100  
Sacramento, CA 95811

**TITLE 24. BUILDING STANDARDS COMMISSION**

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT REGARDING THE 2019 CALIFORNIA BUILDING CODE, CHAPTER 11A CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 2 (HCD 02/19)**

Note to agencies: The laws associated with the instructions in this form are found primarily in Government Code Section 11346.5 et sequentes. For clarity during the administrative review process, do not remove the headings or statutory references to applicable sections being completed.

Notice is hereby given that the California Building Standards Commission (CBSC) on behalf of Department of Housing and Community Development (HCD) proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), Title 24, Part 2. The HCD is proposing building standards related to Chapter 11A for the 2019 California Building Code (CBC).

**PUBLIC COMMENT PERIOD**

Reference: Government Code Section 11346.5(a)(17).

A public hearing has not been scheduled; however, written comments will be accepted from **April 3, 2020**, until 5:00 p.m. on **May 18, 2020**.

Please address your comments to:

**California Building Standards Commission**

Attention: Mia Marvelli, Executive Director  
2525 Natomas Park Drive, Suite 130  
Sacramento, CA 95833

Written comments may also be emailed to [CBSC@dgs.ca.gov](mailto:CBSC@dgs.ca.gov).

Any interested person, or his or her duly authorized representative, may request no later than 15 days prior to the close of the written comment period that a public hearing be held.

The public will have an opportunity to provide both written and/or oral comments regarding the proposed action on building standards at a public meeting to be conducted by the CBSC to be scheduled at a date near the end of the current adoption cycle. A meeting notice will be issued announcing the date, time and location of the public meeting.

**POST-HEARING MODIFICATIONS TO THE  
TEXT OF THE REGULATIONS**

Reference: Government Code Section 11346.5(a)(18).

Following the public comment period, CBSC may adopt the proposed building standards substantially as proposed in this notice or with modifications that are sufficiently related to the original proposed text and notice of proposed changes. If modifications are made, the full text of the proposed modifications, clearly indicated, will be made available to the public for at least 15 days prior to the date on which the CBSC adopts, amends, or repeals the regulation(s). CBSC will accept written comments on the modified building standards during the 15-day period.

NOTE: To be notified of any modifications, you must submit written/oral comments or request that you be notified of any modifications.

**AUTHORITY AND REFERENCE**

Reference: Government Code Section 11346.5(a)(2).

The CBSC proposes to adopt these building standards under the authority granted by Health and Safety Code (HSC) section 18949.5. The purpose of these building standards is to implement, interpret, or make specific the provisions of HSC sections 17000–17062.5, 17910–17995.5, 18200–18700, 18860–18874, and 19960–19997; Civil Code sections

1101.4 and 1101.5; and Government Code sections 12955.1 and 12955.1.1.

The HCD is proposing this regulatory action based on HSC sections 17040, 17050, 17920.9, 17921, 17921.5, 17921.6, 17921.10, 17922, 17922.6, 17922.12, 17922.14, 17927, 17928, 18300, 18552, 18554, 18620, 18630, 18640, 18670, 18690, 18691, 18865, 18871.3, 18871.4, 18873, 18873.1, 18873.2, 18873.3, 18873.4, 18873.5, 18938.3, 18944.11, and 19990; and Government Code section 12955.1.

**INFORMATIVE DIGEST**

Reference: Government Code Section 11346.5(a)(3).

**Summary of Existing Laws**

HSC section 17921 and Government Code section 12955.1 require HCD to propose the adoption, amendment, or repeal of building standards by the CBSC.

HSC section 17922 requires that the building standards be essentially the same as the most recent editions of the uniform industry codes. The CBSC is authorized to adopt these building standards under the authority granted by HSC section 18949.5.

HSC section 17922 states that the most recent editions of the uniform codes referred to in the section shall be considered to be adopted one year after the date of publication of the uniform codes.

HSC section 17040 requires HCD to adopt building standards for employee housing for “. . . the protection of the public health, safety, and general welfare of employees and the public, governing the erection, construction, enlargement, conversion, alteration, repair, occupancy, use, sanitation, ventilation, and maintenance of all employee housing.”

HSC section 19990 requires HCD to adopt building standards for factory-built housing.

HSC sections 18300 and 18865 require HCD to adopt building standards for mobilehome parks and special occupancy parks.

**Summary of Existing Regulations**

The California Building Standards Code, Title 24, 2019 California Building Code (CBC), Part 2, Chapter 11A, became effective on January 1, 2020.

Existing Chapter 11A regulations specifically related to the proposed changes:

- Provides a set of diagrams or figures to support code text.
- Provides several options for accessible shower stalls, excluding a shower stall recognized by CBC, Chapter 11B for public accommodations or public housing.
- Specifies maximum reach ranges to electric receptacles, switches, and control heights and reach ranges beneath at 25 inches.

- Specifies maximum reach depths for both forward reach and side reach at 25 inches.

**Summary of Effect**

Summary of effect of the proposed specific changes on existing CBC regulations:

- Co-adopts the definition of “Public Housing” with the Division of the State Architect, to clarify the term as used within Chapters 11A and 11B.
- Corrects references to figure identification for the code user.
- Adds a 36” by 36” shower stall design option for consistency with Chapter 11B and the Federal Housing Act Design Manual.
- Provides additional tolerances for reach depth based on available cabinet size (depth of 24” ) and accommodation for an overhanging lip (bullnose).

These changes will affect the following programs:

- a) State Housing Law Program: relative to residential occupancies, buildings or structures accessory thereto and as provided for through the Federal Fair Housing Amendment Act’s and state law accessibility requirements, except where the application is for public use only.
- b) Employee Housing Program: relative to the use of any buildings or structures on the property in accordance with HSC section 17040.
- c) Mobilehome Parks and Special Occupancy Parks Programs: relative to the design or construction of permanent buildings and accessory buildings and structures within the park in accordance with HSC sections 18300 and 18865.
- d) Factory–Built Housing Program: relative to residential buildings, dwellings or portions thereof, or building component, or manufactured assemblies in accordance with HSC section 19990.

The standards provide consistency with model code format, state and federal laws and regulations, and conditions unique to California. In addition, the amendments provide clarity and specificity, and give direction for the code user. A discussion of the effect of the regulations may be found in the Initial Statement of Reasons.

**Comparable Federal Statute or Regulations**

There are no comparable federal statutes or regulations. 2010 Americans with Disabilities Standards (ADAS). Fair Housing Act (FHA) Design Manual.

**Policy Statement Overview**

The proposed regulations as part of the update to the 2019 CBSC, will adopt, amend or repeal existing building standards and establish new building standards, which will affect residential occupancies and building

or structures accessory thereto, as provided for by federal and state accessibility requirements; the use of general design, structural, and fire and life safety requirements in housing construction, buildings and structures accessory thereto; and permanent buildings in mobile-home parks and special occupancy parks.

The benefits anticipated from this proposed regulatory action include updating building standards, which will result in the protection of public health and safety, worker safety, the environment and general welfare of California residents. In addition, providing for use of the most recent building technology, methods and materials and applying those building standards on a statewide basis, as required by statute, results in uniformity in residential construction and promotes affordable costs.

**Evaluation of Consistency**

HCD has determined that the proposed regulations are not inconsistent or incompatible with existing state regulations.

**OTHER MATTERS PRESCRIBED BY STATUTE APPLICABLE TO THE AGENCY OR TO ANY SPECIFIC REGULATION OR CLASS OF REGULATIONS**

Reference: Government Code Section 11346.5(a)(4).  
None.

**MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS**

Reference: Government Code Section 11346.5(a)(5).  
HCD has determined that the proposed regulatory action would not impose a mandate on local agencies or school districts. HCD’s proposal does not mandate state reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

**ESTIMATE OF COST OR SAVINGS**

- Reference: Government Code Section 11346.5(a)(6).  
An estimate, prepared in accordance with instructions adopted by Department of Finance, of cost or savings to any state agency, local agency, or school district.
- A. Cost or Savings to any state agency: **No additional cost or savings beyond those imposed by existing law.**
  - B. Cost to any local agency required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **None.**
  - C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **None.**

- D. Other nondiscretionary cost or savings imposed on local agencies: **No additional cost or savings beyond those imposed by existing law.**
- E. Cost or savings in federal funding to the state: **None.**

Estimate: The proposed changes do not result in costs to state agencies, local agencies or school districts.

**INITIAL DETERMINATION OF  
SIGNIFICANT STATEWIDE ADVERSE  
ECONOMIC IMPACT ON BUSINESSES**

Reference: Government Code Section 11346.5(a)(8).  
If the agency makes an initial determination that the amendment of this regulation will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states, it shall make a declaration to that effect.

HCD has made an initial determination that the amendment of this regulation will not have a significant statewide adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states.

**DECLARATION OF EVIDENCE**

Reference: Government Code Section 11346.5(a)(8).  
In making the declaration, the agency shall provide in the record of facts, evidence, documents, testimony, or other evidence that the agency relies upon to support its initial determination of no effect.

The proposed changes do not include any additional mandates resulting in additional costs.

**FINDING OF NECESSITY FOR THE PUBLIC'S  
HEALTH, SAFETY, OR WELFARE**

Reference: Government Code Section 11346.5(a)(11).

Any regulation that requires a report shall not apply to businesses, unless the agency makes a finding that it is necessary for the health, safety, or welfare of the public that the regulations apply to businesses.

No reporting requirements are proposed.

**COST IMPACT ON REPRESENTATIVE  
PRIVATE PERSON OR BUSINESS**

Reference: Government Code Section 11346.5(a)(9).  
Describe all cost impacts that a representative private person or business would necessarily incur in reason-

able compliance with the proposed action. If no cost impact, provide the following statement:

HCD is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

**ASSESSMENT OF EFFECT OF REGULATIONS  
UPON JOBS AND BUSINESS EXPANSION,  
ELIMINATION OR CREATION**

Reference: Government Code Section 11346.5(a)(10).

The Department of Housing and Community Development has assessed whether or not and to what extent this proposal will affect the following:

- A.** The creation or elimination of jobs within the State of California.  
These regulations will not affect the creation, or cause the elimination, of jobs within the State of California.
- B.** The creation of new businesses or the elimination of existing businesses within the State of California.  
The regulations will not affect the creation or the elimination of existing business within the State of California.
- C.** The expansion of businesses currently doing business within the State of California.  
The regulations will not affect the expansion of businesses currently doing business within the State of California.
- D.** The benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment.  
These regulations benefit California residents by ensuring protection of public health and safety, worker safety and the environment.

**ESTIMATED COST OF COMPLIANCE OF  
STANDARDS THAT WOULD IMPACT HOUSING**

Reference: Government Code Section 11346.5(a)(12).

There is no anticipated increased cost of compliance for the proposed California amendments.

**CONSIDERATION OF ALTERNATIVES**

Reference: Government Code Section 11346.5(a)(13).

HCD has determined that no reasonable alternative considered by HCD or that has otherwise been identified and brought to the attention of HCD would be more

effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

**AVAILABILITY OF  
RULEMAKING DOCUMENTS**

Reference: Government Code Sections  
11346.5(a)(16) and 11346.5(a)(20).

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review, by contacting the person named below. This notice, the express terms and initial statement of reasons can be accessed from the [CBSC website](#).

Reference: Government Code Section  
11346.5(a)(19).

Interested parties may obtain a copy of the final statement of reasons, once it has been prepared, by making a written request to the contact person named below or at the [CBSC website](#).

Reference: Government Code Section  
11346.5(a)(21).

HCD shall provide, upon request, a description of proposed changes included in the proposed action, in the manner provided by Section 11346.6, to accommodate a person with a visual or other disability for which effective communication is required under state or federal law; providing the description of proposed changes may require extending the period of public comment for the proposed action.

**CBSC CONTACT PERSON FOR PROCEDURAL  
AND ADMINISTRATIVE QUESTIONS**

Reference: Government Code Section  
11346.5(a)(14).

General questions regarding procedural and administrative issues should be addressed to:

Michael Nearman, Deputy Executive Director  
2525 Natomas Park Drive, Suite 130  
Sacramento, CA 95833  
Telephone: (916) 263-5888

**PROPOSING STATE AGENCY CONTACT  
PERSON FOR SUBSTANTIVE AND/OR  
TECHNICAL QUESTIONS ON THE PROPOSED  
CHANGES TO BUILDING STANDARDS**

Specific questions regarding the substantive and/or technical aspects of the proposed changes to the building standards should be addressed to:

Thomas Martin, District Representative II  
Department of Housing and Community  
Development  
P.O. Box 278180  
Sacramento, CA 95827-8180  
Telephone: (916) 263-3272  
Email: [Thomas.G.Martin@hcd.ca.gov](mailto:Thomas.G.Martin@hcd.ca.gov)

Emily Withers, Codes and Standards  
Administrator II  
Department of Housing and Community  
Development  
P.O. Box 278180  
Sacramento, CA 95827-8180  
Telephone: (916) 263-2998  
Email: [Emily.Withers@hcd.ca.gov](mailto:Emily.Withers@hcd.ca.gov)

**TITLE 24. BUILDING  
STANDARDS COMMISSION**

**BUILDING STANDARDS OF THE  
OFFICE OF STATEWIDE HEALTH  
PLANNING AND DEVELOPMENT  
REGARDING THE 2019 CALIFORNIA  
ADMINISTRATIVE CODE CALIFORNIA  
CODE OF REGULATIONS, TITLE 24, PART 1  
(OSHPD 01/19)**

Note to agencies: The laws associated with the instructions in this form are found primarily in Government Code Section 11346.5 et sequentes. For clarity during the administrative review process, do not remove the headings or statutory references to applicable sections being completed.

Notice is hereby given that the California Building Standards Commission (CBSC) on behalf of OFFICE OF STATEWIDE HEALTH PLANNING AND DEVELOPMENT (OSHPD) proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), Title 24, PART 1 — CALIFORNIA ADMINISTRATIVE CODE. OSHPD is proposing building standards related

to the construction of hospitals, skilled nursing facilities, licensed clinics, and correctional treatment centers.

**PUBLIC COMMENT PERIOD**

Reference: Government Code Section 11346.5(a)(17).

A public hearing has not been scheduled; however, written comments will be accepted from **April 3, 2020**, until 5:00 p.m. on **May 18, 2020**.

Please address your comments to:

**California Building Standards Commission**

Attention: Mia Marvelli, Executive Director  
2525 Natomas Park Drive, Suite 130  
Sacramento, CA 95833

Written comments may also be emailed to [CBSC@dgs.ca.gov](mailto:CBSC@dgs.ca.gov).

Any interested person, or his or her duly authorized representative, may request no later than 15 days prior to the close of the written comment period that a public hearing be held.

The public will have an opportunity to provide both written and/or oral comments regarding the proposed action on building standards at a public meeting to be conducted by the CBSC to be scheduled at a date near the end of the current adoption cycle. A meeting notice will be issued announcing the date, time and location of the public meeting.

**POST-HEARING MODIFICATIONS TO THE TEXT OF THE REGULATIONS**

Reference: Government Code Section 11346.5(a)(18).

Following the public comment period, CBSC may adopt the proposed building standards substantially as proposed in this notice or with modifications that are sufficiently related to the original proposed text and notice of proposed changes. If modifications are made, the full text of the proposed modifications, clearly indicated, will be made available to the public for at least 15 days prior to the date on which the CBSC adopts, amends, or repeals the regulation(s). CBSC will accept written comments on the modified building standards during the 15-day period.

NOTE: To be notified of any modifications, you must submit written/oral comments or request that you be notified of any modifications.

**AUTHORITY AND REFERENCE**

Reference: Government Code Section 11346.5(a)(2).

The CBSC proposes to adopt these building standards under the authority granted by Health and Safety Code Section 18949.3. The purpose of these building standards is to implement, interpret, or make specific the provisions of Health and Safety Code, Sections 1275, 18928, 129790, and 129850.

The Office of Statewide Health Planning and Development (OSHPD) is proposing this regulatory action based on Health and Safety Code, Section 129850.

**INFORMATIVE DIGEST**

Reference: Government Code, Section 11346.5(a)(3).

**Summary of Existing Laws**

Health and Safety Code, Section 1275, authorizes OSHPD to adopt and enforce building standards for the physical plant of health facilities including hospitals, skilled nursing facilities and correctional treatment centers.

Health and Safety Code, Section 18928, requires OSHPD to adopt and reference the most recent edition of a model code. The model code, with amendments or proposed changes, shall be adopted within one year after the publication date.

Health and Safety Code, Section 129790, authorizes OSHPD to propose building standards for correctional treatment centers in cooperation with the Board of Corrections, the Department of Corrections, and the Department of Youth Authority.

Health and Safety Code, Section 129850, authorizes OSHPD to propose building standards, as necessary, in order to carry out the requirements of the Alfred E. Alquist Hospital Facilities Seismic Safety Act. OSHPD is also authorized and responsible to submit building standards related to the seismic safety of hospital buildings to the California Building Standards Commission.

**Summary of Existing Regulations**

Title 24, Part 1, California Administrative Code contains regulations pertaining to the design and construction of hospitals, skilled nursing and immediate care facilities, licensed clinics, and correctional treatment centers. Requirements governing the structural design and construction of OSHPD regulated health facilities are currently found in Part 2, Volumes 1 and 2, of the 2019 California Building Code.

**Summary of Effect**

The proposed makes editorial and technical modifications, clarifications, and provides consistency within Title 24, Part 1, California Administrative Code, and provides coordination with Title 22, Licensing and Certification requirements.

**Comparable Federal Statute or Regulations**

There is no federal statute or regulation related to this proposed action.

**Policy Statement Overview**

OSHPD is responsible for the development of regulations regarding the physical plant for hospitals, skilled nursing facilities, licensed clinics and correctional treatment centers. The intent of this proposal is to propose amendments that will provide editorial and technical modifications for clarification and consistency with the code.

**Evaluation of Consistency**

The proposed action is consistent and compatible with existing state regulations.

OTHER MATTERS PRESCRIBED BY  
STATUTE APPLICABLE TO THE  
AGENCY OR TO ANY SPECIFIC  
REGULATION OR CLASS OF REGULATIONS

Reference: Government Code Section 11346.5(a)(4).  
There are no other matters to identify.

MANDATE ON LOCAL  
AGENCIES OR SCHOOL DISTRICTS

Reference: Government Code Section 11346.5(a)(5).  
OSHPD has determined that the proposed regulatory action WOULD NOT impose a mandate on local agencies or school districts.

ESTIMATE OF COST OR SAVINGS

Reference: Government Code Section 11346.5(a)(6).  
An estimate, prepared in accordance with instructions adopted by Department of Finance, of cost or savings to any state agency, local agency, or school district.

- A. Cost or Savings to any state agency: **None.**
- B. Cost to any local agency required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **None.**
- C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **None.**
- D. Other nondiscretionary cost or savings imposed on local agencies: **None.**
- E. Cost or savings in federal funding to the state: **None.**

Estimate: None.

INITIAL DETERMINATION OF NO  
SIGNIFICANT STATEWIDE ADVERSE  
ECONOMIC IMPACT ON BUSINESSES

Reference: Government Code Section 11346.5(a)(8).

If the agency makes an initial determination that the amendment of this regulation will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states, it shall make a declaration to that effect.

OSHPD has made an initial determination that the amendment of this regulation will not have a significant statewide adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states.

DECLARATION OF EVIDENCE

Reference: Government Code Section 11346.5(a)(8).

In making the declaration, the agency shall provide in the record of facts, evidence, documents, testimony, or other evidence that the agency relies upon to support its initial determination of no effect.

OSHPD has not relied on any other facts, evidence, documents, testimony or other evidence to make its final determination of no statewide adverse economic impact. The scope of the proposed action is to make necessary editorial and minor technical modifications to the existing code that are in alignment with health facility licensing requirements and with national standards.

FINDING OF NECESSITY FOR THE PUBLIC'S  
HEALTH, SAFETY, OR WELFARE

Reference: Government Code Section 11346.5(a)(11).

Any regulation that requires a report shall not apply to businesses, unless the agency makes a finding that it is necessary for the health, safety, or welfare of the public that the regulations apply to businesses.

OSHPD has made an assessment and has determined that a report pursuant to Government Code Section 11346.3(d) is not required.

COST IMPACT ON REPRESENTATIVE PRIVATE  
PERSON OR BUSINESS

Reference: Government Code Section 11346.5(a)(9).

Describe all cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. If no cost impact, provide the following statement:

OSHPD is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

**ASSESSMENT OF EFFECT OF REGULATIONS  
UPON JOBS AND BUSINESS EXPANSION,  
ELIMINATION OR CREATION**

Reference: Government Code Section  
11346.5(a)(10).

OSHPD has assessed whether or not and to what extent this proposal will affect the following:

**A. The creation or elimination of jobs within the State of California.**

The proposed regulations will not create or eliminate jobs within the State of California.

**B. The creation of new businesses or the elimination of existing businesses within the State of California.**

The proposed regulations will not create new businesses, or eliminate existing businesses within the State of California.

**C. The expansion of businesses currently doing business within the State of California.** The proposed regulations will not cause expansion of businesses currently doing business with the State of California.

**D. The benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment.**

The proposed building standards and regulations regarding the design and construction of licensed health facilities ensure protection of the public's health, safety, and welfare of California residents through updated amendments. The regulations will not affect worker safety, or the state's environment.

**ESTIMATED COST OF COMPLIANCE OF  
STANDARDS THAT WOULD IMPACT HOUSING**

Reference: Government Code Section  
11346.5(a)(12).

These proposed regulations will not result in any cost of compliance that would impact housing.

**CONSIDERATION OF ALTERNATIVES**

Reference: Government Code Section  
11346.5(a)(13).

OSHPD has determined that no reasonable alternative considered by OSHPD or that has otherwise been identified and brought to the attention of OSHPD would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affect private persons and equally effective in implementing the statutory policy or other provisions of law.

**AVAILABILITY OF  
RULEMAKING DOCUMENTS**

Reference: Government Code Sections  
11346.5(a)(16) and 11346.5(a)(20).

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review, by contacting the person named below. This notice, the express terms and initial statement of reasons can be accessed from the [CBSC website: dgs.ca.gov/BSC](http://dgs.ca.gov/BSC).

Reference: Government Code Section  
11346.5(a)(19).

Interested parties may obtain a copy of the final statement of reasons, once it has been prepared, by making a written request to the contact person named below or at the [CBSC website: dgs.ca.gov/BSC](http://dgs.ca.gov/BSC).

Reference: Government Code Section  
11346.5(a)(21).

OSHPD shall provide, upon request, a description of proposed changes included in the proposed action, in the manner provided by Section 11346.6, to accommodate a person with a visual or other disability for which effective communication is required under state or federal law; providing the description of proposed changes may require extending the period of public comment for the proposed action.

**CBSC CONTACT PERSON FOR PROCEDURAL  
AND ADMINISTRATIVE QUESTIONS**

Reference: Government Code Section  
11346.5(a)(14).

General questions regarding procedural and administrative issues should be addressed to:

Michael Nearman, Deputy Executive Director  
California Building Standards Commission  
2525 Natomas Park Drive, Suite 130  
Sacramento, CA 95833  
Telephone: (916) 263-0916

**PROPOSING STATE AGENCY CONTACT  
PERSON FOR SUBSTANTIVE AND/OR  
TECHNICAL QUESTIONS ON THE PROPOSED  
CHANGES TO BUILDING STANDARDS**

Specific questions regarding the substantive and/or technical aspects of the proposed changes to the building standards should be addressed to:

Richard Tannahill, Health Facilities Review, Acting Supervisor  
Lori Campbell, Building Standards Unit, Alternate Contact  
Office of Statewide Health Planning and Development  
Facilities Development Division  
(916) 440-8300  
FAX (916) 324-9118  
[regsunit@oshpd.ca.gov](mailto:regsunit@oshpd.ca.gov)

**TITLE 24. BUILDING  
STANDARDS COMMISSION**

**BUILDING STANDARDS OF THE  
OFFICE OF STATEWIDE HEALTH  
PLANNING AND DEVELOPMENT  
REGARDING THE 2019 CALIFORNIA  
BUILDING CODE CALIFORNIA  
CODE OF REGULATIONS, TITLE 24,  
PART 2, VOLUME 1  
(OSHPD 02/19)**

Note to agencies: The laws associated with the instructions in this form are found primarily in Government Code Section 11346.5 et sequentes. For clarity during the administrative review process, do not remove the headings or statutory references to applicable sections being completed.

Notice is hereby given that the California Building Standards Commission (CBSC) on behalf of OFFICE OF STATEWIDE HEALTH PLANNING AND DEVELOPMENT proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), Title 24, Part 2—Volume 1—CALIFORNIA BUILDING CODE. OSHPD is proposing building standards related to related to the construction of hospitals, skilled nursing facilities, licensed clinics, and correctional treatment centers.

**PUBLIC COMMENT PERIOD**

Reference: Government Code Section 11346.5(a)(17).

A public hearing has not been scheduled; however, written comments will be accepted from **April 3, 2020**, until 5:00 p.m. on **May 18, 2020**.

Please address your comments to:

**California Building Standards Commission**  
Attention: Mia Marvelli, Executive Director  
2525 Natomas Park Drive, Suite 130  
Sacramento, CA 95833

Written comments may also be emailed to [CBSC@dgs.ca.gov](mailto:CBSC@dgs.ca.gov).

Any interested person, or his or her duly authorized representative, may request no later than 15 days prior to the close of the written comment period that a public hearing be held.

The public will have an opportunity to provide both written and/or oral comments regarding the proposed action on building standards at a public meeting to be conducted by the CBSC to be scheduled at a date near the end of the current adoption cycle. A meeting notice will be issued announcing the date, time and location of the public meeting.

**POST-HEARING MODIFICATIONS TO THE  
TEXT OF THE REGULATIONS**

Reference: Government Code Section 11346.5(a)(18).

Following the public comment period, CBSC may adopt the proposed building standards substantially as proposed in this notice or with modifications that are sufficiently related to the original proposed text and notice of proposed changes. If modifications are made, the full text of the proposed modifications, clearly indicated, will be made available to the public for at least 15 days prior to the date on which the CBSC adopts, amends, or repeals the regulation(s). CBSC will accept written comments on the modified building standards during the 15-day period.

NOTE: To be notified of any modifications, you must submit written/oral comments or request that you be notified of any modifications.

**AUTHORITY AND REFERENCE**

Reference: Government Code Section 11346.5(a)(2).

The CBSC proposes to adopt these building standards under the authority granted by Health and Safety Code Section 18949.3. The purpose of these building standards is to implement, interpret, or make specific the provisions of Health and Safety Code, Sections 1275, 18928, 129790, and 129850.

The OFFICE OF STATEWIDE HEALTH PLANNING AND DEVELOPMENT is proposing this regulatory action based on Health and Safety Code, Section 129850.

INFORMATIVE DIGEST

Reference: Government Code Section 11346.5(a)(3).

**Summary of Existing Laws**

Health and Safety Code, Section 1275, authorizes OSHPD to adopt and enforce building standards for the physical plant of health facilities including hospitals, skilled nursing facilities and correctional treatment centers.

Health and Safety Code, Section 18928, requires OSHPD to adopt and reference the most recent edition of a model code. The model code, with amendments or proposed changes, shall be adopted within one year after the publication date.

Health and Safety Code, Section 129790, authorizes OSHPD to propose building standards for correctional treatment centers in cooperation with the Board of Corrections, the Department of Corrections, and the Department of Youth Authority.

Health and Safety Code, Section 129850, authorizes OSHPD to propose building standards, as necessary, in order to carry out the requirements of the Alfred E. Alquist Hospital Facilities Seismic Safety Act. OSHPD is also authorized and responsible to submit building standards related to the seismic safety of hospital buildings to the California Building Standards Commission.

**Summary of Existing Regulations**

Title 24, Part 2, Volume 1, California Building Code contains regulations pertaining to the design and construction of hospitals, skilled nursing and immediate care facilities, licensed clinics, and correctional treatment centers. Requirements governing the structural design and construction of OSHPD regulated health facilities are currently found in Part 2, Volumes 1 and 2, of the 2019 California Building Code.

**Summary of Effect**

The proposed makes editorial and technical modifications, clarifications, and provides consistency within Title 24, Part 2, Volume 1, California Building Code and provides coordination with Title 22, Licensing and Certification requirements.

**Comparable Federal Statute or Regulations**

There is no federal statute or regulation related to this proposed action.

**Policy Statement Overview**

OSHPD is responsible for the development of regulations regarding the physical plant for hospitals, skilled nursing facilities, licensed clinics and correctional

treatment centers. The intent of this proposal is to propose amendments that will provide editorial and technical modifications for clarification and consistency with the code.

**Evaluation of Consistency**

The proposed action is consistent and compatible with existing state regulations.

OTHER MATTERS PRESCRIBED BY  
STATUTE APPLICABLE TO THE  
AGENCY OR TO ANY SPECIFIC REGULATION  
OR CLASS OF REGULATIONS

Reference: Government Code Section 11346.5(a)(4).  
There are no other matters to identify.

MANDATE ON LOCAL  
AGENCIES OR SCHOOL DISTRICTS

Reference: Government Code Section 11346.5(a)(5).  
OSHPD has determined that the proposed regulatory action WOULD NOT impose a mandate on local agencies or school districts.

ESTIMATE OF COST OR SAVINGS

Reference: Government Code Section 11346.5(a)(6).  
An estimate, prepared in accordance with instructions adopted by Department of Finance, of cost or savings to any state agency, local agency, or school district.

- A. Cost or Savings to any state agency: **None.**
- B. Cost to any local agency required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **None.**
- C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **None.**
- D. Other nondiscretionary cost or savings imposed on local agencies: **None.**
- E. Cost or savings in federal funding to the state: **None.**

Estimate: None

INITIAL DETERMINATION OF NO  
SIGNIFICANT STATEWIDE ADVERSE  
ECONOMIC IMPACT ON BUSINESSES

Reference: Government Code Section 11346.5(a)(8).  
If the agency makes an initial determination that the adoption/amendment/repeal of this regulation will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states, it shall make a declaration to that effect.

OSHPD has made an initial determination that the amendment of this regulation will not have a significant statewide adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states.

DECLARATION OF EVIDENCE

Reference: Government Code Section 11346.5(a)(8).

In making the declaration, the agency shall provide in the record of facts, evidence, documents, testimony, or other evidence that the agency relies upon to support its initial determination of no effect.

OSHPD has determined that there will be no adverse economic impact on businesses on the basis that the provisions proposed are optional and are being proposed to allow facilities to provide services that better match their needs. The estimates in the addendum are based on archival data and, if options are implemented, they may result in either an additional or subtractive cost to a construction project.

FINDING OF NECESSITY FOR THE PUBLIC'S HEALTH, SAFETY, OR WELFARE

Reference: Government Code Section 11346.5(a)(11).

Any regulation that requires a report shall not apply to businesses, unless the agency makes a finding that it is necessary for the health, safety, or welfare of the public that the regulations apply to businesses.

OSHPD has made an assessment and has determined that a report pursuant to Government Code Section 11346.3(d) is not required.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

Reference: Government Code Section 11346.5(a)(9).

Describe all cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. If no cost impact, provide the following statement:

OSHPD has identified a cost impact that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. OSHPD has also determined that a cost savings may be had by a representative private person or business that would necessarily incur in reasonable compliance with the proposed action.

ASSESSMENT OF EFFECT OF REGULATIONS UPON JOBS AND BUSINESS EXPANSION, ELIMINATION OR CREATION

Reference: Government Code Section 11346.5(a)(10).

The OFFICE OF STATEWIDE HEALTH PLANNING AND DEVELOPMENT has assessed whether or not and to what extent this proposal will affect the following:

A. The creation or elimination of jobs within the State of California.

The proposed regulations will not create or eliminate jobs within the State of California.

B. The creation of new businesses or the elimination of existing businesses within the State of California.

The proposed regulations will not create new businesses, or eliminate existing businesses within the State of California.

C. The expansion of businesses currently doing business within the State of California.

The proposed regulations will not cause expansion of businesses currently doing business with the State of California.

D. The benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment.

The proposed building standards and regulations regarding the design and construction of licensed health facilities ensure protection of the public's health, safety, and welfare of California residents through updated amendments. The regulations will not affect worker safety, or the state's environment.

ESTIMATED COST OF COMPLIANCE OF STANDARDS THAT WOULD IMPACT HOUSING

Reference: Government Code Section 11346.5(a)(12).

These proposed regulations will not result in any cost of compliance that would impact housing.

CONSIDERATION OF ALTERNATIVES

Reference: Government Code Section 11346.5(a)(13).

OSHPD has determined that no reasonable alternative considered by OSHPD or that has otherwise been identified and brought to the attention of OSHPD would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the pro-

posed action, or would be more cost-effective to affect private persons and equally effective in implementing the statutory policy or other provisions of law.

**AVAILABILITY OF  
RULEMAKING DOCUMENTS**

Reference: Government Code Sections  
11346.5(a)(16) and 11346.5(a)(20).

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review, by contacting the person named below. This notice, the express terms and initial statement of reasons can be accessed from the CBSC website: [dgs.ca.gov/BSC](http://dgs.ca.gov/BSC).

Reference: Government Code Section  
11346.5(a)(19).

Interested parties may obtain a copy of the final statement of reasons, once it has been prepared, by making a written request to the contact person named below or at the CBSC website: [dgs.ca.gov/BSC](http://dgs.ca.gov/BSC)

Reference: Government Code Section  
11346.5(a)(21).

OSHPD shall provide, upon request, a description of proposed changes included in the proposed action, in the manner provided by Section 11346.6, to accommodate a person with a visual or other disability for which effective communication is required under state or federal law; providing the description of proposed changes may require extending the period of public comment for the proposed action.

**CBSC CONTACT PERSON FOR PROCEDURAL  
AND ADMINISTRATIVE QUESTIONS**

Reference: Government Code Section  
11346.5(a)(14).

General questions regarding procedural and administrative issues should be addressed to:

Michael Nearman, Deputy Executive Director  
California Building Standards Commission  
2525 Natomas Park Drive, Suite 130  
Sacramento, CA 95833  
Telephone: (916) 263-0916

**PROPOSING STATE AGENCY CONTACT  
PERSON FOR SUBSTANTIVE AND/OR  
TECHNICAL QUESTIONS ON THE PROPOSED  
CHANGES TO BUILDING STANDARDS**

Specific questions regarding the substantive and/or technical aspects of the proposed changes to the building standards should be addressed to:

Richard Tannahill, Health Facilities Review, Acting Supervisor  
Lori Campbell, Building Standards Unit, Alternate Contact  
Office of Statewide Health Planning and Development  
Facilities Development Division  
(916) 440-8300  
FAX (916) 324-9118  
[regsunit@oshpd.ca.gov](mailto:regsunit@oshpd.ca.gov)

**DECISION NOT TO PROCEED**

**DIVISION OF LABOR  
STANDARDS ENFORCEMENT**

**Pursuant to Government Code section 11347**

**Re: Public List of Certain Port Motor Carriers  
(OAL Notice File No. Z2020-0310-06)**

Pursuant to Government Code Section 11347, the Division of Labor Standards Enforcement hereby gives notice that it has decided not to proceed with the rulemaking action published in the California Regulatory Notice Register on March 20, 2020, Register 2020, No. 12-Z. The proposed rulemaking concerned Public List of Certain Port Motor Carriers (OAL Notice File No. Z2020-0310-06).

Any interested person with questions concerning this rulemaking should contact Jennifer Stevens, Legislative Analyst, at either (916) 263-1563 or by e-mail at [JStevens@dir.ca.gov](mailto:JStevens@dir.ca.gov).

The Division will also post this Notice of Decision Not to Proceed on its website.

**STATE TEACHERS'  
RETIREMENT SYSTEM**

Pursuant to Government Code Section 11347, the California State Teachers' Retirement System (Cal-

STRS) hereby gives notice that it has decided not to proceed with the rulemaking action published in the California Regulatory Notice Register on March 20, 2020, Z-2020-0306-02. The proposed rulemaking concerned public comment at meetings of the Teachers' Retirement Board and its committees.

Any interested person with questions concerning this rulemaking should contact:

Sal Sanchez  
Governmental Relations  
California State Teachers' Retirement System  
P.O. Box 15275, MS-14  
Sacramento, CA 95851-0275  
Telephone: 916-414-1994  
E-Mail: [Regulations@CalSTRS.com](mailto:Regulations@CalSTRS.com)

CalSTRS will also publish this Notice of Decision Not to Proceed on its website at: <https://www.calstrs.com/regulations>.

**OAL REGULATORY  
DETERMINATION**

**DEPARTMENT OF  
CORRECTIONS AND REHABILITATION**

**DETERMINATION OF ALLEGED  
UNDERGROUND REGULATION**

**(Summary Disposition)**

**(Pursuant to Government Code  
Section 11340.5 and Title 1, section 270, of the  
California Code of Regulations)**

The attachments are not being printed for practical reasons or space considerations. However, if you would like to view the attachments please contact Margaret Molina at (916) 324-6044 or [Margaret.Molina@oal.ca.gov](mailto:Margaret.Molina@oal.ca.gov).

Date: March 23, 2020

To: Luis M. Corona

From: Chapter Two Compliance Unit

Subject:

**2020 OAL DETERMINATION NUMBER 2(S)  
(CTU2020-0129-01)**

(Summary Disposition issued pursuant to Gov. Code, sec. 11340.5; Cal. Code Regs., tit. 1, sec. 270(f))

Petition challenging as an underground regulation Cal. Code Regs., tit. 15, sec. 3315, subd. (f)(5)(Q), Loss of Family Visiting (Overnight) Program issued by the California Department of Corrections and Rehabilitation

On January 29, 2020, the Office of Administrative Law (OAL) received your petition asking for a determination as to whether the loss of family visiting (overnight) program provisions, promulgated by the California Department of Corrections and Rehabilitation (Department), set forth in California Code of Regulations, title 15, section 3315, subdivision (f)(5)(Q), constitute an underground regulation. The challenged rule is attached hereto as Exhibit A.

In issuing a determination, OAL renders an opinion only as to whether a challenged rule is a "regulation" as defined in Government Code section 11342.600,<sup>1</sup> which should have been, but was not, adopted pursuant to the Administrative Procedure Act (APA). Nothing in this analysis evaluates the advisability or the wisdom of the underlying action or enactment.

If a rule meets the definition of a regulation in Government Code section 11342.600, but was not adopted under the APA, it may be an "underground regulation" as defined in California Code of Regulations, title 1, section 250:

The following definitions shall apply to the regulations contained in this chapter:

- (a) "Underground regulation" means any guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule, including a rule governing a state agency procedure, that is a regulation as defined in Section 11342.600 of the Government Code, *but has not been adopted as a regulation and filed with the Secretary of State pursuant to the APA* and is not subject to an express statutory exemption from adoption pursuant to the APA. [Emphasis added.]

The loss of family visiting (overnight) program provisions set forth in California Code of Regulations, title 15, section 3315, subdivision (f)(5)(Q), were duly

<sup>1</sup> "Regulation" means every rule, regulation, order, or standard of general application or the amendment, supplement, or revision of any rule, regulation, order, or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure.

adopted by the Department and are, therefore, not an underground regulation.

Pursuant to Penal Code section 5058, the Department first adopted section 3315, subdivision (f)(5)(Q), in a regular rulemaking action in 2018. (OAL file no. 2018-1130-07S.) The notice of proposed action was published in the California Regulatory Notice Register on December 29, 2017. (OAL file no. Z2017-1219-03.) On November 30, 2018, the Department timely submitted the rulemaking action to OAL for review. The entire file was reviewed and approved by OAL. The regulations were filed with the Secretary of State on January 15, 2019 and became effective the same day. Therefore, California Code of Regulations, title 15, section 3315, subdivision (f)(5)(Q), was duly adopted pursuant to the APA. A regulation duly adopted pursuant to the APA is not an underground regulation.

For the reasons discussed above, we find that the rule challenged by your petition is not an underground regulation.<sup>2</sup>

The issuance of this summary disposition does not restrict your right to adjudicate the alleged violation of section 11340.5 of the Government Code.

March 23, 2020

By: /s/  
Kenneth J. Pogue  
Director

Copy:  
Ralph M. Diaz, Secretary, CDCR  
Ying Sun, RPMB, CDCR

<sup>2</sup> The rule challenged by your petition is the proper subject of a summary disposition letter pursuant to title 1, section 270 of the California Code of Regulations. Subdivision (f) of section 270 provides:

(f)(1) If facts presented in the petition or obtained by OAL during its review pursuant to subsection (b) demonstrate to OAL that the rule challenged by the petition is not an underground regulation, OAL may issue a summary disposition letter stating that conclusion. A summary disposition letter may not be issued to conclude that a challenged rule is an underground regulation.

(2) Circumstances in which facts demonstrate that the rule challenged by the petition is not an underground regulation include, but are not limited to, the following:

(A) The challenged rule has been superseded.

(B) The challenged rule is contained in a California statute.

(C) **The challenged rule is contained in a regulation that has been adopted pursuant to the rulemaking provisions of the APA.** [Emphasis added.]

(D) The challenged rule has expired by its own terms.

(E) An express statutory exemption from the rulemaking provisions of the APA is applicable to the challenged rule.

## DISAPPROVAL DECISION

### DEPARTMENT OF SOCIAL SERVICES

#### DECISION OF DISAPPROVAL OF REGULATORY ACTION

Printed below is the summary of an Office of Administrative Law's disapproval decision. You may request a copy of the decision by contacting the Office of Administrative Law, 300 Capitol Mall, Suite 1250, Sacramento, California 95814-4339, Phone Number: (916) 323-6225, Fax Number: (916) 323-6826. Please request by OAL file number.

#### State of California Office of Administrative Law

In re:  
Department of Social Services

**Regulatory Action:**  
**California Code of Regulations, Title 22**  
**Adopt sections: 35708**  
**Amend sections: 35000, 35001, 35002, 35003, 35021, 35037, 35045, 35047, 35049, 35050, 35051, 35053, 35055, 35059, 35061, 35063, 35065**  
**Repeal sections: 35043**

#### DECISION OF DISAPPROVAL OF REGULATORY ACTION

**Government Code Section 11349.3**  
**OAL Matter Number: 2020-0130-02**  
**OAL Matter Type: Regular (S)**

#### SUMMARY OF REGULATORY ACTION

The Department of Social Services (Department) proposed this regulatory action to make comprehensive revisions to regulations governing programs for the adoption of children. The proposed regulations amend and adopt definitions, require forms to be translated into the language of the parent(s) or adoptive parent(s) if these parties do not speak English, specify when certain medical information about the parent(s) or child may be released, and adopt a regulation setting forth requirements for adoption facilitators and adoption facilitator trainees, among other things. Additionally, the proposed regulations repeal 13 incorporated by reference forms, amend 49 incorporated by reference forms, and

adopt 20 incorporated by reference forms related to different aspects of the adoption programs.

**DECISION**

On January 30, 2020, the Department submitted the above-referenced regulatory action to the Office of Administrative Law (OAL) for review. On March 13, 2020, OAL notified the Department of the disapproval of this regulatory action. The reasons for the disapproval were the Department failed to comply with the “clarity” standard of Government Code section 11349.1 and the Department failed to follow procedures required under the California Administrative Procedure Act (APA) with regard to the incorporation by reference of four forms. The discussion below explains the reasons for OAL’s disapproval decision.

**CONCLUSION**

OAL disapproved the above-referenced rulemaking action for the foregoing reasons. Any changes made to the regulation text to address the clarity and incorporation by reference issues discussed above must be made available for public comment for at least 15 days pursuant to Government Code section 11346.8(c) and CCR, title 1, section 44. The Department must identify in their 15-day notice the title and date of publication or issuance of the incorporated by reference forms, pursuant to section 20(c)(3) of title 1 of the CCR. The Department must resolve all other issues raised in this Decision of Disapproval before resubmitting the action to OAL.

Pursuant to Government Code section 11349.4(a), the Department may resubmit revised regulations and rulemaking documents within 120 days of their receipt of this Decision of Disapproval. A copy of this Decision was emailed to the Department on the date indicated below. If you have any questions, please contact me at (916) 323-6809.

Date: March 19, 2020

Richard L. Smith  
Senior Attorney

For:  
Kenneth J. Pogue  
Director

Original: Kim Johnson, Executive Director

Copy: Everardo Vaca

**NOTICE OF EDITORIAL  
CORRECTION**

**FAIR POLITICAL  
PRACTICES COMMISSION**

In the March 13, 2020 Notice Register 2020, Number 11-Z, under the PROPOSED ACTION ON REGULATORY ACTIONS, the wrong notice file number was inadvertently listed for the Fair Political Practices Commission’s Conflict-of-Interest Code. The correct notice file number is Z2020-0303-08.

We regret the error and apologize for any inconvenience.

**SUMMARY OF REGULATORY  
ACTIONS**

**REGULATIONS FILED WITH  
SECRETARY OF STATE**

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

File# 2020-0302-02  
CALIFORNIA DEPARTMENT OF TECHNOLOGY  
Conflict-of-Interest Code

This is a Conflict-of-Interest Code that has been approved by the Fair Political Practices Commission and is being submitted for filing with the Secretary of State and printing only.

OAL filed this regulation(s) or order(s) of repeal with the Secretary of State, and will publish the regulation(s) or order(s) of repeal in the California Code of Regulations.

Title 2  
AMEND: 59640  
Filed 03/24/2020  
Effective 04/23/2020  
Agency Contact: Jeff Pudoff (916) 431-4095

File# 2020-0219-02  
CALIFORNIA POLLUTION CONTROL  
FINANCING AUTHORITY  
Rate Reduction Bonds for Water and Wastewater  
The California Pollution Control Financing Authority is making changes in response to AB 305 (Statutes of

2019, Chapter 225). AB 305 made changes regarding Rate Reduction Bonds and this action without regulatory effect makes corresponding text changes.

Title 4  
 AMEND: 8130, 8131, 8134, 8138  
 Filed 03/19/2020  
 Agency Contact:  
 Alison French-Tubo (916) 657-5051

File# 2020-0309-01  
 DEPARTMENT OF CORRECTIONS AND  
 REHABILITATION  
 Grievances and Appeals

In this emergency of operational necessity rulemaking by the Department of Corrections and Rehabilitation (the "Department") pursuant to Penal Code section 5058.3, the Department is amending and restructuring the inmate and parolee grievances and appeals process.

Title 15  
 ADOPT: 3084, 3480, 3481, 3482, 3483, 3484, 3485, 3486, 3487, 3488  
 AMEND: 3000, 3045, 3077.3, 3078.4, 3134.1, 3136, 3137, 3141, 3173.1, 3179, 3193, 3220.4, 3230, 3282, 3378.4, 3383, 3475 (renumbered to 3465), 3476 (renumbered to 3466), 3477 (renumbered to 3467), 3478 (renumbered to 3468), 3479 (renumbered to 3469), 3480 (renumbered to 3470), 3480.1 (renumbered to 3471), 3481 (renumbered to 3472), 3482 (renumbered to 3473), 3483 (renumbered to 3474), 3484 (renumbered to 3475), 3485 (renumbered to 3476), 3486 (renumbered to 3477), 3491, 3492, 3548, 3563, 3630, 3723  
 REPEAL: 3084, 3084.1, 3084.2, 3084.3, 3084.4, 3084.5, 3084.6, 3084.7, 3084.8, 3084.9, 3085, 3086, 3369.5  
 Filed 03/25/2020  
 Effective 06/01/2020  
 Agency Contact: Anthony Carter (916) 445-2220

File# 2020-0219-01  
 DEPARTMENT OF FOOD AND AGRICULTURE  
 Agriculture Seeds, Vegetable Seeds

The Department of Food and Agriculture is updating the various seed scientific and common names to add Industrial Hemp as well as to update scientific and common names to match current nomenclature.

Title 3  
 AMEND: 3899  
 Filed 03/19/2020  
 Effective 03/19/2020  
 Agency Contact: Rachel Avila (916) 403-6813

File# 2020-0318-01  
 DEPARTMENT OF FOOD AND AGRICULTURE  
 Industrial Hemp Cultivating Sampling

This action by the Department of Food and Agriculture readopts for the second time emergency regulations that establish timeframes, procedures, methods, and confirmation for industrial hemp sampling, laboratory testing, and destruction.

Title 3  
 ADOPT: 4940, 4941, 4942, 4943, 4944, 4945, 4946, 4950, 4950.1  
 Filed 03/24/2020  
 Effective 03/24/2020  
 Agency Contact: Rachel Avila (916) 403-6813

File# 2020-0212-01  
 DEPARTMENT OF INDUSTRIAL RELATIONS  
 Public Works Contractor Registration

The Department of Industrial Relations adopted regulations that establish procedures and requirements for registering as a public works contractor, as required by Labor Code section 1725.5. The regulations include procedures for appealing a decision to deny registration or to revoke a previously approved registration.

Title 8  
 ADOPT: 16410, 16411, 16412, 16413, 16414, 16415, 16416, 16417, 16418  
 Filed 03/23/2020  
 Effective 05/15/2020  
 Agency Contact: John Cumming (415) 486-2038

File# 2020-0318-03  
 DEPARTMENT OF JUSTICE  
 ID Requirements for Firearms/Ammo Eligibility Checks

In this emergency readopt of OAL Matter Number 2019-1210-03EE, the Department of Justice ("DOJ") is adopting additional documentation requirements for eligibility checks on any application or report for which an applicant is required to submit a driver license or identification card, or the number from a driver license or identification card, so that DOJ may determine the applicant's eligibility to possess a firearm or ammunition under state or federal law.

Title 11  
 ADOPT: 4045.1  
 AMEND: 4002, 4142, 5478  
 Filed 03/25/2020  
 Effective 03/31/2020  
 Agency Contact: Julia Zuffelato (916) 210-6040

File# 2020-0318-04  
DEPARTMENT OF RESOURCES RECYCLING  
AND RECOVERY  
Multiple Covered Electronic Waste Recycling  
Payments Rates

This emergency readopt rulemaking by the Department of Resource Recycling and Recovery splits the existing Covered Electronic Waste (CEW) recycling payment rate into separate payment rates for Cathode Ray Tubes (CRTs) and non-CRT CEW and also adds a requirement that recyclers report separately the net costs associated with recycling CRT CEW and with recycling non-CRT CEW.

Title 14  
ADOPT: 18660.5, 18660.10, 18660.21, 18660.34  
Filed 03/24/2020  
Effective 05/10/2020  
Agency Contact: Irina Kaminer (916) 341-6396

File# 2020-0207-01  
DIVISION OF WORKERS' COMPENSATION  
Workers' Compensation — Official Medical Fee  
Schedule — Outpatient & ASC

This file and print action updates the Workers' Compensation Official Medical Fee Schedule: Hospital Outpatient Departments and Ambulatory Surgical Centers Fee Schedule. These amendments are exempt from the APA pursuant to Labor Code section 5307.1(g)(2).

Title 8  
AMEND: 9789.39  
Filed 03/19/2020  
Effective 03/01/2020  
Agency Contact: Karen Pak (510) 286-0634

File# 2020-0227-02  
FISH AND GAME COMMISSION  
Experimental Fishing Permit Program (Phase 1)

In this resubmitted rulemaking action, the Fish and Game Commission adopts the regulations to establish the Experimental Fishing Permit Program set forth by Assembly Bill 1573 (Stats. 2018, Ch. 477), which repealed Fish and Game Code section 8606 and adopts Fish and Game section 1022.

Title 14  
ADOPT: 90, 704  
Filed 03/24/2020  
Effective 03/24/2020  
Agency Contact: Craig Castleton (916) 651-1329

File# 2020-0309-04  
FISH AND GAME COMMISSION  
Special Order Regarding Take of Chinook Salmon

This action by the Fish and Game Commission readopts for the second time emergency regulations that opened the lower Klamath River and upper Trinity River for Upper Klamath-Trinity River Spring Chinook Salmon fishing.

This is a straight across readopt.

In February of 2019 an emergency order closed salmon fishing in specific reaches of the Trinity and Klamath rivers because the Upper Klamath-Trinity Spring Chinook Salmon have been placed under protection and are in the candidacy period to determine if the salmon should be listed as threatened or endangered. However, this action was problematic for several counties who depend heavily on salmon fishing for economic survival. FGC decided to allow some fishing during certain times of the year when the majority of wild-origin salmon would be protected and the majority of fish available in the rivers are from the Trinity River Hatchery.

The take of salmon even though they are in a candidacy period is allowed by Fish and Game code section 2084:

(a) The commission may authorize, subject to terms and conditions it prescribes, and based on the best available scientific information, (1) the taking of any candidate species, or (2) the taking of any fish by hook and line for sport that is listed as an endangered, threatened, or candidate species, provided that in either case the take is consistent with this chapter.

(b) The department may recommend to the commission that the commission authorize, or not authorize, the taking of an endangered, threatened, or candidate species pursuant to this section.

Title 14  
AMEND: 7.50  
Filed 03/19/2020  
Effective 03/24/2020  
Agency Contact: Sherrie Fonbuena (916) 654-9866

File# 2020-0310-02  
FISH AND GAME COMMISSION  
Foothill Yellow-legged Frog

The Fish and Game Commission amends section 670.5 by adding the Foothill yellow-legged frog to the endangered list of amphibians and to the threatened list of amphibians. This action is exempt from the Administrative Procedure Act pursuant to section 2075.5, subdivision (e), of the Fish and Game Code. (Stats. 2018, ch. 329; effective 1/1/2019; SB 473.) Section 2075.5(e) requires the Commission to submit the amendments to OAL for filing with the Secretary of State and publication in the California Code of Regulations.

Title 14  
AMEND: 670.5  
Filed 03/19/2020  
Effective 03/19/2020  
Agency Contact: Sherrie Fonbuena (916) 654-9866

**PRIOR REGULATORY  
DECISIONS AND CCR  
CHANGES FILED WITH THE  
SECRETARY OF STATE**

A quarterly index of regulatory decisions by the Office of Administrative Law (OAL) is provided in the California Regulatory Notice Register in the volume published by the second Friday in January, April, July, and October following the end of the preceding quarter. For additional information on actions taken by OAL, please visit [www.oal.ca.gov](http://www.oal.ca.gov).