



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. 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:

Atla Irrigation District
Marysville Joint Unified School District
Westlands Water District

A written comment period has been established commencing on May 14, 2021 and closing on June 28, 2021. Written comments should be directed to the Fair Political Practices Commission, Attention Daniel Vo, 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 June 28, 2021. 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 Daniel Vo, Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California 95811, telephone (916) 322-5660.

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 Daniel Vo, Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California 95811, telephone (916) 322-5660.

**TITLE 2. STATE ALLOCATION
BOARD**

THE STATE ALLOCATION BOARD
PROPOSES TO AMEND REGULATION
SECTIONS 1860 THROUGH 1860.21, ALONG
WITH THE GRANT AGREEMENT, TITLE
2, CALIFORNIA CODE OF REGULATIONS,
RELATING TO THE FULL-DAY
KINDERGARTEN FACILITIES
GRANT PROGRAM

PROPOSED AMENDMENTS TO THE
FOLLOWING REGULATION SECTIONS:

- 1860.2, 1860.3, 1860.4, 1860.5, 1860.6, 1860.15, 1860.16, AND 1860.20

PROPOSED AMENDMENTS TO THE
FOLLOWING FORM:

- *Grant Agreement*, (Rev. 10/20), which is incorporated by reference and referenced in Regulation Section 1860.2

NOTICE IS HEREBY GIVEN that the State Allocation Board (SAB) proposes to amend the above-referenced regulation sections, as well as the grant agreement, contained in Title 2, California Code of Regulations (CCR). A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Office of Public School Construction (OPSC) no later than 15 days prior to the close of the written comment period. Following the public hearing, if one is requested, or following the written comment period if no public hearing is requested, OPSC, at its own motion or at the instance of any interested person, may adopt the proposals substantially as set forth above without further notice.

AUTHORITY AND REFERENCE CITATIONS

The SAB is proposing to amend the above-referenced regulation sections under the authority provided by Sections 17280, 17375, 17375(a), 17375(b), 17375(b)(2), 17375(c), 17375(g), 17375(h) of the Education Code; and 16304 and 16304.1 of the Government Code.

The proposals interpret and make specific Sections 17075.10, 17075.15, 17280, 17375, 17375(a), 17375(b), 17375(b)(2), 17375(b)(2)(A), 17375(b)(2)(B), 17375(c), 17375(g), 17375(h), 41024, and 42238.01(a) of the Education Code; and 1771.3 and 1771.5, Labor Code.

**INFORMATIVE DIGEST/POLICY
OVERVIEW STATEMENT**

At its meeting on October 28, 2020, the SAB adopted proposed regulatory amendments, as well as amendments to the grant agreement templates, on an emergency basis. The emergency regulations were approved by the Office of Administrative Law, filed with the Secretary of State and became effective January 19, 2021.

The Full-Day Kindergarten Facilities Grant Program (FDKFGP) was created through Assembly Bill 1808, Chapter 32, Statutes of 2018, the Education Finance: Education Omnibus Trailer Bill. On July 1, 2019, the Governor signed Senate Bill (SB) 75, Chapter 51, Statutes of 2019, the Education Finance: Education Omnibus Trailer Bill. This bill appropriated an additional \$300 million from the General Fund for the 2019/2020 fiscal year to the SAB to provide one-time grants to school districts to construct new school facilities or retrofit existing school facilities for the purpose of providing full-day kindergarten facilities. In addition, the statute limited a portion of the program's funding to school districts that would use the funding to convert part-day kindergarten facilities to full-day kindergarten facilities. Since that time, however, SB 98, Chapter 24, Statutes of 2020 [the Education Finance: Education Omnibus Trailer Bill], was signed into law by the Governor on June 29, 2020, and clarified that future funding rounds and future funding for the FDKFGP would be contingent upon appropriation by the Legislature. This begins with and impacts the 2019/2020 fiscal year, as the \$300 million previously appropriated was rescinded.

Funds Impacted

- General Fund appropriation in the amount of \$300 million for the 2019/2020 fiscal year was rescinded; thus, the Program is contingent upon appropriations by the Legislature.

Attached to this Notice is the specific regulatory language of the proposed regulations. The Grant Agreement templates will not be included because the document is very large. The proposed regulations and the Grant Agreement will be accessible and can be viewed on OPSC's website at: <https://www.dgs.ca.gov/OPSC/Resources/Page-Content/Office-of-Public-School-Construction-Resources-List-Folder/Laws-and-Regulations>, scroll down to "Full-Day Kindergarten Facilities Grant Program, FDK Pending Regulatory Changes." Copies of the proposed

regulations and the Grant Agreement templates will be mailed to any person requesting this information by using OPSC’s contact information set forth below in this Notice. The proposed regulations implement the FDKFGP Regulations under the California Code of Regulations, Title 2, Chapter 3, Subchapter 4, Group 1, State Allocation Board, Subgroup 5.8, Regulations relating to the Full-Day Kindergarten Facilities Grant Program.

Background and Problem Being Resolved

As mentioned above, SB 75, Chapter 51, Statutes of 2019, the Education Finance: Education Omnibus Trailer Bill, was signed by the Governor on July 1, 2019. This bill appropriated to the SAB an additional \$300 million from the General Fund for the 2019/2020 fiscal year to provide one-time grants to school districts to construct new school facilities or retrofit existing school facilities for the purpose of providing full-day kindergarten facilities.

The statute limited a portion of the program’s funding to school districts that will use the funding to convert part-day kindergarten facilities to full-day kindergarten facilities. In addition, the statute changed the local matching share for these conversion projects from 50 percent for new construction projects and 40 percent for retrofit projects to 25 percent for both types of project scopes. For those school districts that would not be converting, the local matching share would remain at 50 percent and 40 percent, respectively.

SB 98, Chapter 24, Statutes of 2020, the Education Finance: Education Omnibus Trailer Bill, was signed by the Governor on June 29, 2020. This bill rescinded the \$300 million in additional program funding previously appropriated by SB 75 for the 2019/2020 fiscal year. The amended statute retains the previous changes to the Program such as the local matching share for school districts that are converting from a part-day program to a full-day program and allows school districts to retain project savings.

As a reminder, the projects must provide classrooms to house existing kindergarten students and not add capacity to bring new students to the school site. This Program remains a self-certification program.

The OPSC, on behalf of the SAB, conducted a stakeholder meeting to discuss the proposed regulatory amendments that implement the statutory changes to the FDKFGP. There were no public comments received during or submitted after the stakeholder meeting.

OPSC performed a search on whether the proposed regulations were consistent and compatible with existing State laws and regulations. After performing the search, OPSC, on behalf of the SAB, determined that SB 98, Chapter 24, Statutes of 2020, the Education Finance: Education Omnibus Trailer Bill, was created to clarify and make modifications to the existing FDKFGP. There are no other programs

or regulations in existence that address the lack of kindergarten facilities or the conversion of part-day kindergarten facilities to full-day kindergarten facilities. Therefore, the proposed regulations are determined to be consistent and compatible with existing State laws and regulations. Proceeding with the implementation of the proposed regulatory amendments and the Grant Agreement templates will enhance applicants’ awareness when partnering with the State while defining the responsibilities of funding applicant projects. This will ensure program oversight and expenditure accountability.

Anticipated Benefits of the Proposed Regulations

There are indirect benefits associated with these proposed regulatory amendments. The regulatory amendments provide clarity that funds and application filing rounds are not currently available for this Program; however, should funding be made available the regulatory amendments will allow the Program to be administered.

However, if future funding is made available by the Legislature, there would be benefits such as promoting fairness to all school districts, especially those school districts that may not otherwise qualify for State funding under the School Facility Program; and the promotion of social equity by providing one-time General Fund funding to those school districts that wish to convert part-day kindergarten facilities to full-day kindergarten facilities, and for those school districts lacking the facilities to provide full-day kindergarten instruction to construct new school facilities or retrofit existing school facilities in an effort to provide kindergarten facilities. Additionally, there would be benefits to health, safety, and welfare of California residents (school children and school faculty) because kindergarten facilities would be built stronger and safer. School districts utilize construction and trades employees to work on school construction projects and although the proposed regulations would not directly impact worker’s safety, existing law provides for the availability of a skilled labor force. Further, public health and safety would be enhanced because a properly paid and trained workforce will build school construction projects that are higher quality, structurally code-compliant and safer for use by pupils, staff, and other occupants on the site. Lastly, the State would benefit because kindergarten facilities would be constructed thereby increasing the State’s inventory of school facilities.

The proposed regulations are therefore determined to be consistent and compatible with existing State laws and regulations. As stated above, OPSC performed a search on whether the proposed regulations were consistent and compatible with existing State laws and regulations. After performing the search, OPSC, on behalf of the SAB, has determined that SB 98, Chapter

24, Statutes of 2020, the Education Finance: Education Omnibus Trailer Bill, was created to clarify and make modifications to the existing FDKFGP. There are no other programs or regulations in existence that address the lack of kindergarten facilities or the conversion of part-day kindergarten facilities to full-day kindergarten facilities. Therefore, the proposed regulations are determined to be consistent and compatible with existing State laws and regulations. Proceeding with the implementation of the proposed regulatory amendments and the Grant Agreement templates, will enhance applicants' awareness when partnering with the State while defining the responsibilities of funding applicant projects. This will ensure program oversight and expenditure accountability.

Because the proposed regulations provide clarity that funds and application filing rounds are not currently available for this Program, the proposed regulations will not have an impact on various business, manufacturing, and construction-related industries such as architecture, engineering, trades and municipalities. In addition, the proposed regulations will not impact the creation of jobs, the creation of new businesses, and the expansion of businesses in California. It is not anticipated that the proposed regulations will result in the elimination of existing businesses or jobs within California.

Summary of the Proposed Regulatory Amendments

A summary of the proposed regulatory amendments, including the Grant Agreement templates, are as follows:

Existing Regulation Section 1860.2 represents a set of defined words and terms used exclusively for these regulations. These definitions provide clarity to OPSC and school districts on program concepts and requirements. The proposed regulatory amendments add the word "shall" and delete the word "may" in both definitions for "New Construction" and "Retrofit." This change aligns the definitions with statute.

Existing Regulation Section 1860.3 sets forth general requirements that all school districts seeking program funding must meet. This regulation also specifies that school districts may only apply for program funding for a project that entered into a construction contract on or after the program start date of June 27, 2018. The proposed regulatory amendments delete the reference to the \$300 million provided in the 2019/2020 budget and reflect that future funding for the FDKFGP would be contingent upon appropriation by the Legislature.

Existing Regulation Section 1860.4 provides general funding guidelines for the program that apply to all school districts that participate in the program. This Section clarifies that any funds returned prior to June 30, 2021 will be returned to the program account, while funds returned after June 30, 2021 will be

returned to the General Fund. The proposed regulatory amendments delete language that refers to funding for the 2019/2020 fiscal year since that funding has been rescinded by statute and is no longer applicable. There is a renumbering of one of the subsections based on the deletion.

Existing Regulation Section 1860.5 sets forth several criteria that all school districts must meet in order to apply for program funding. School districts are required to provide a school board resolution providing approval to provide full-day kindergarten instruction at the project school site at completion of the project, pursuant to Education Code Section 8973. Additionally, school districts are required to prove that they currently lack full-day kindergarten facilities. This Section also requires school districts to provide a description of the proposed project that contains certain criteria. The proposed regulatory amendments in subsections (a) and (b) delete language that refers to the 2018/2019, 2019/2020, 2020/2021 and 2021/2022 fiscal years. The 2018/2019 fiscal year has passed; the funding for the 2019/2020, 2020/2021 and 2021/2022 fiscal years has been rescinded and future funding is contingent upon a future appropriation by the Legislature.

Existing Regulation Section 1860.6 sets forth the application submittal process, which established five 30-calendar day funding rounds for school districts to request apportionments of available program funds. The proposed regulatory amendments delete language related to the dates for the third, fourth and fifth funding rounds in subsections (c), (d) and (e). In subsection (c), new language is added to instruct school districts of what form needs to be filed in order to participate in the FDKFGP once funding has been appropriated by the Legislature and filing rounds have been established and announced by the SAB.

Existing Regulation Section 1860.15 specifies the funding priority based on a school district's preference points. Education Code Section 17375(b)(2) states that priority for FDKFGP grants will be given to school districts that qualify for financial hardship and/or that have a high population of pupils who are eligible for Free and Reduced Price School Meals (FRPM). This Section creates a system of preference points in order to determine project funding order. A maximum of 80 preference points may be earned in each funding round for each school district. A school district's preference points will be calculated into two categories. Based on a sliding scale currently used in the SFP for the Charter School Facilities Program, a sliding scale was created to determine the percentage of students a school district has eligible for FRPM. Points begin at four points for 60–65 percent of students eligible for FRPM, while 40 points will be earned if 100 percent of students within the school district qualify for FRPM.

If a school district has been qualified for financial hardship by OPSC and is unable to contribute a portion or all of its matching share, the school district earns 40 points. Once OPSC has determined school districts' approved applications, school districts will be placed in a preference order based on the preference points earned. School districts will be ordered from highest to lowest points (80 points to zero points). If sufficient funds are available in that funding round, then all approved applications will be funded. If the amount of funding requested is more than the amount allocated for that round, then OPSC will begin with the highest preference point school district and fund their first priority project as stated on the Form SAB 70-01, *Application for Funding*. If two or more school districts have the same amount of preference points, then they will be placed into a lottery to determine who will be funded first. This Section also adds an additional tiebreaker for school districts with the same total preference points by using a school district's exact Low Income percentage to one decimal place identified on the most recent FRPM data on file. This tiebreaking method should reduce the likelihood of having to do a lottery and to remain in alignment with the statute to prioritize funding to lower-income school districts. However, if there is still a tie then a lottery system will take place. The proposed regulatory amendment adds a statutory reference to the Reference citation for this Section.

Existing Regulation Section 1860.16 specifies the process in which funds will be released to school districts with SAB-approved applications. School districts that have none or only a portion of the supporting documents required for a full fund release, may indicate that they will need an advance for design or site acquisition. This advance of funds will help school districts move forward with their projects. If a school district is doing a new construction project with an advance release of funding, then they will receive 40 percent of the new construction base grant. If a school district is applying for a retrofit project, and they have none or only a portion of appropriate supporting documentation then they may apply for an advance release of funding of 25 percent of the base grant. These percentages are identical to those in the SFP Regulations for standard new construction and modernization projects. When a school district is requesting two percent for other site costs for site acquisition assistance, a grant agreement must be executed and received by OPSC. For funds other than two percent site other to be released for either site acquisition, design or site other, a grant agreement must be executed and received by OPSC.

OPSC must ensure that specific requirements have been met and those requirements are: the school district has entered into escrow for the site and the escrow must

be valid, there has been a final appraisal of the site, the school district has either received contingent or final site approval from CDE, a valid Form SAB 70-02, *Fund Release Authorization*, has been received; for a new construction or retrofit project, all unreleased funds will be released once an executed full grant agreement has been received by OPSC, along with verification of these documents: the school district's applicable matching share has been deposited or expended by the school district for the project, with the exception of financial hardship projects which are exempt from this requirement (requirements for financial hardship may be found in 1860.14); the school district has entered into a binding contract(s) for the completion of the project; the plans and specifications for the project have been approved by DSA. If there has been site acquisition then a final appraisal of the site, the site received written final approval from CDE, and the school district has entered into escrow for the site. Finally, for all remaining funds to be released, all requirements above must be met, as well as a valid Form SAB 70-02, *Fund Release Authorization*, and grant agreement has been received by OPSC.

For school districts that request either a new construction or retrofit grant that did not request an advance release of funding, a valid Form SAB 70-02, *Fund Release Authorization*, must be submitted with all the required approvals within 180 days of apportionment. If a valid Form SAB 70-02, *Fund Release Authorization*, request is not submitted within 180 days, the apportionment will be rescinded. For school districts that receive an advance release of funding for either new construction or retrofit projects, a valid Form SAB 70-02, *Fund Release Authorization*, must be submitted to OPSC with 12 months of apportionment. If a valid Form SAB 70-02, *Fund Release Authorization*, is not received within 12 months, then the apportionment shall be rescinded and returned to the Program for reallocation. Subject to available funds, site acquisition grants shall be adjusted based on actual costs prior to the release of funds. The proposed regulatory amendments add the words "the first" in subsections (e) and (f). This clarifies the timeline for the fund release and the deadline to submit required fund release documents beginning at the time of the first Apportionment.

Existing Regulation Section 1860.20 specifies the audit process and requirements that school districts who receive FDKFGP funding will be subject to, as required in Education Code Section 17375(h). Projects will be subjected to an audit conducted pursuant to Education Code Section 41024 to ensure the expenditures incurred by the school district were made in accordance with Education Code Section 17375. School districts must retain all documents and records referring to the FDKFGP project and should

be able to provide them if an auditor requests the documents. If an audit determines that funding was spent on ineligible expenditures, CDE shall ensure that the school district corrects the audit exception by implementing an equal penalty payment of funds. The proposed regulatory amendment adds the word “an” for proper grammar and is considered a minor non-substantive change.

The existing Grant Agreement template (which is incorporated by reference) includes sections relevant to the FDKFGP for new construction and retrofit funding. It is the intent that the grant agreement will be entered into for every future funding application that is processed; therefore, each grant agreement will contain the relevant project information. The grant agreements serve as binding documents and key resources that define the responsibilities of the state and school districts from the determination of the amount eligible state funding to the reporting of all project funds, including any savings achieved. This will ensure greater transparency and accountability for the program grants being awarded under FDKFGP. The Grant Agreement template also incorporates the submittal of annual expenditure reports 12 months from the date of the full fund release, and the ability for financial hardship districts to retain savings and the retention of savings may be expended on professional development or instructional materials to build capacity for the implementation of a full-day kindergarten program. The proposed regulatory amendments clarify the deadline for a school district to submit an *Expenditure Report* (Form SAB 70-03) within one year from full fund release and corrects regulatory references throughout the document which aligns with statute.

After conducting a review, the SAB has concluded that these are the only regulations on this subject area (construction of and/or retrofit of existing school facilities for the sole purpose of providing kindergarten classrooms), and therefore, the proposed regulations are neither inconsistent nor incompatible with existing State laws and regulations. The proposed regulations are within the SAB’s authority to enact regulations for the FDKFGP under Education Code Section 17375(g) and Government Code Section 15503.

Statutory Authority and Implementation

Education Code Section 17375(g). The State Allocation Board may adopt regulations to implement this section. Any regulations adopted pursuant to this section may be adopted as emergency regulations in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of the Title 2 of the Government Code). The adoption of these regulations shall be deemed to be an emergency and necessary for the immediate

preservation of the public peace, health and safety, or general welfare.

Government Code Section 15503. Whenever the board is required to make allocations or apportionments under this part, it shall prescribe rules and regulations for the administration of, and not inconsistent with, the act making the appropriation of funds to be allocated or apportioned. The board shall require the procedure, forms, and the submission of any information it may deem necessary or appropriate. Unless otherwise provided in the appropriation act, the board may require that applications for allocations or apportionments be submitted to it for approval.

Determination of Inconsistency or Incompatibility with Existing State Regulations

As mentioned above, SB 75, Chapter 51, Statutes of 2019, the Education Finance: Education Omnibus Trailer Bill, was signed by the Governor on July 1, 2019. This bill appropriated to the SAB an additional \$300 million from the General Fund for the 2019/2020 fiscal year to provide one-time grants to school districts to construct new school facilities or retrofit existing school facilities for the purpose of providing full-day kindergarten facilities.

The statute limited a portion of the program’s funding to school districts that will use the funding to convert part-day kindergarten facilities to full-day kindergarten facilities. In addition, the statute changed the local matching share for these conversion projects from 50 percent for new construction projects and 40 percent for retrofit projects to 25 percent for both types of project scopes. For those school districts that would not be converting, the local matching share would remain at 50 percent and 40 percent, respectively.

SB 98, Chapter 24, Statutes of 2020, the Education Finance: Education Omnibus Trailer Bill, was signed by the Governor on June 29, 2020. This bill rescinded the \$300 million in additional program funding previously appropriated by SB 75 for the 2019/2020 fiscal year. The amended statute retains the previous changes to the Program such as the local matching share for school districts that are converting from a part-day program to a full-day program and allows school districts to retain project savings.

OPSC performed a search on whether the proposed regulations were consistent and compatible with existing State laws and regulations. After performing the search, OPSC, on behalf of the SAB, determined that SB 98, Chapter 24, Statutes of 2020, the Education Finance: Education Omnibus Trailer Bill, was created to clarify and make modifications to the existing FDKFGP. There are no other programs or regulations in existence that address the lack of kindergarten facilities or the conversion of part-day kindergarten facilities to full-day kindergarten facilities. Therefore, the proposed regulations are

determined to be consistent and compatible with existing State laws and regulations. Proceeding with the implementation of the proposed regulatory amendments and the Grant Agreement templates will enhance applicants' awareness when partnering with the State while defining the responsibilities of funding applicant projects. This will ensure program oversight and expenditure accountability.

Form Incorporated by Reference

- *Grant Agreement*, (Rev. 10/20), referenced in Regulation Section 1860.2 and is incorporated by reference.

IMPACT ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The Executive Officer of the SAB has determined that the proposed regulation, along with the Grant Agreement templates, does not impose a mandate or a mandate requiring reimbursement by the State pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. It will not require local agencies or school districts to incur additional costs in order to comply with the proposed regulations.

DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION

The Executive Officer of the SAB has made the following initial determinations relative to the required statutory categories:

- The SAB has made an initial determination that there will be no significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
- The SAB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- There will be no non-discretionary costs or savings to local agencies.
- The proposed regulations create no costs to any local agency or school district requiring reimbursement pursuant to Section 17500 et seq., or beyond those required by law, except for the required district contribution toward each project as stipulated in statute. However, funding and application filing rounds are not currently available for the FDKFGP.
- There will be no costs or savings in federal funding to the State.

- The proposed regulations create no costs or savings to any State agency beyond those required by law.
- The SAB has made an initial determination that there will be no impact on housing costs.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS

Impact to Businesses and Jobs in California

The proposed regulations provide clarity that funds and application filing rounds are not currently available for this Program, and that the Program is contingent upon future appropriations by the Legislature. Therefore, the proposed regulations will not have an impact to various business, manufacturing, and construction-related industries such as architecture, engineering, trades and municipalities. In addition, the proposed regulations will not impact the creation of jobs, the creation of new businesses, and the expansion of businesses in California. It is not anticipated that the proposed regulations will result in the elimination of existing businesses or jobs within California.

However, if future funding is made available by the Legislature, the FDKFGP does provide for the construction of new facilities and/or the retrofit of existing facilities for kindergarten classrooms only. There would be a positive impact on the State's economy. Various business, manufacturing, and construction-related industries such as architecture, engineering, trades and municipalities would be positively impacted, along with the creation of an unknown number of jobs. In addition, there could be a positive impact to the creation of jobs, the creation of new businesses, and the expansion of businesses in California.

Benefits to Public Health and Welfare, Worker's Safety, and the State's Environment

- There are indirect benefits associated with these proposed regulatory amendments. The regulatory amendments provide clarity that funds and application filing rounds are not currently available for this Program; however, should funding be made available the regulatory amendments will allow the Program to be administered.
- If funding is made available by the Legislature, there would be benefits to health, safety, and welfare of California residents (school children and school faculty) because kindergarten facilities would be built stronger and safer. There would be continued benefits to the health and welfare of California residents and worker safety. School districts utilize construction and trades employees to work on school construction

projects and although the proposed regulations would not directly impact worker's safety, existing law provides for the availability of a skilled labor force. Further, public health and safety would be enhanced because a properly paid and trained workforce will build school construction projects that are higher quality, structurally code-compliant and safer for use by pupils, staff, and other occupants on the site.

- There is no impact to the State's environment from the proposed regulations.

The SAB finds the proposed regulations fully consistent with the stated purposes and benefits.

EFFECT ON SMALL BUSINESSES

It has been determined that the proposed regulations will not have a negative impact on small businesses in the ways identified in subsections (a)(1)–(4) of Section 4, Title 1, CCR. The proposed regulations provide clarity that funds and application filing rounds are not currently available for the FDKFGP.

SUBMISSION OF COMMENTS, DOCUMENTS AND ADDITIONAL INFORMATION

Any interested person may present statements, arguments or contentions, in writing, submitted via U.S. mail, e-mail or fax, relevant to the proposed regulatory action. Written comments submitted via U.S. mail, e-mail or fax must be received at OPSC no later than June 28, 2021. The express terms of the proposed regulations as well as the Initial Statement of Reasons are available to the public.

Written comments, submitted via U.S. mail, email or fax, regarding the proposed regulatory action, requests for a copy of the proposed regulatory action or the Initial Statement of Reasons, and questions concerning the substance of the proposed regulatory action should be addressed to:

Lisa Jones, Regulations Coordinator
Mailing Address:
Office of Public School Construction
707 Third Street, 6th Floor
West Sacramento, CA 95605
E-mail Address:
Lisa.Jones@dgs.ca.gov
Fax Number:
(916) 375-6721

AGENCY CONTACT PERSONS

General or substantive questions regarding this Notice of Proposed Regulatory Action may be directed to Lisa Jones at (916) 376-1753. If Ms. Jones

is unavailable, these questions may be directed to the backup contact person, Mr. Michael Watanabe, Chief of Administrative Services, at (916) 376-1646.

ADOPTION OF REGULATIONS

Please note that, following the public comment period, the SAB may adopt the regulations substantially as proposed in this notice or with modifications, which are sufficiently related to the originally proposed text and notice of proposed regulatory activity. If modifications are made, the modified text with the changes clearly indicated will be made available to the public for at least 15 days prior to the date on which the SAB adopts the regulations.

The modified regulation(s) will be made available and provided to: all persons who testified at and who submitted written comments at the public hearing, all persons who submitted written comments during the public comment period, and all persons who requested notification from the agency of the availability of such changes. Requests for copies of any modified regulations should be addressed to the agency's regulation coordinator identified above. The SAB will accept written comments on the modified regulations during the 15-day period.

SUBSTANTIAL CHANGES WILL REQUIRE A NEW NOTICE

If, after receiving comments, the SAB intends to adopt the regulations with modifications not sufficiently related to the original text, the modified text will not be adopted without complying anew with the notice requirements of the Administrative Procedure Act.

RULEMAKING FILE

Pursuant to Government Code Section 11347.3, the SAB is maintaining a rulemaking file for the proposed regulatory action. The file currently contains:

1. A copy of the text of the regulations for which the adoption is proposed in strikeout/underline.
2. A copy of this Notice.
3. A copy of the Initial Statement of Reasons for the proposed adoption.
4. The factual information upon which the SAB is relying in proposing the adoption.

As data and other factual information, studies, reports or written comments are received they will be added to the rulemaking file. The file is available for public inspection at OPSC during normal working hours. Items 1 through 3 are also available on OPSC's Internet website at: <https://www.dgs.ca.gov/OPSC/Resources/Page-Content/Office-of-Public-School->

[Construction–Resources–List–Folder/Laws–and–Regulations](#), scroll down to “Full–Day Kindergarten Facilities Grant Program, FDK Pending Regulatory Changes” and click on one of the linked documents, such as the 45–day Public Notice, the Initial Statement of Reasons and/or the proposed regulatory text.

SUMMARY

The Commission on Teacher Credentialing (Commission) proposes amendments to Title 5 of the California Code of Regulations (CCR), 80033, 80046.1, 80047, 80047.1, 80047.2, 80047.3, 80047.4, 80048.3.1, 80048.3.2, 80048.5, 80048.6, 80048.7, 80048.8, 80048.9, 80048.9.4, 80048.10, 80070.4 to implement the new Education Specialist credentials and their accompanying bridge authorizations created by the Commission.

Notice of Public Hearing

No public hearing has been scheduled for this proposal. However, the Commission will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days prior to the close of the comment period. The Commission approved the recommendation to create the new Education Specialist Credentials and Bridge Authorizations at the December 4, 2020 meeting, and approved minor changes to the Teaching Performance Expectations and Teaching Performance Assessment at the April 15, 2021 meeting, authorizing staff to begin the rule making file for submission to the Office of Administrative Law.

ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the SAB must determine that no reasonable alternative it considered or that 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. The proposed regulations provide clarity that funds and filing rounds are not currently available for the FDKFGP. Further, the Program is contingent upon appropriations by the Legislature. There are no other programs or regulations in existence that address the lack of kindergarten facilities or the conversion of part–day kindergarten facilities to full–day kindergarten facilities.

AVAILABILITY OF THE FINAL
STATEMENT OF REASONS

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the agency’s regulation coordinator named in this notice or may be accessed on the website listed above.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments by fax, through the mail, or by e–mail relevant to the proposed action. The written comment period closes at midnight on June 29, 2021. Comments must be received by that time. You may fax your response to (916) 322–0048; write to the Commission on Teacher Credentialing, attn. Joshua Speaks, 1900 Capitol Avenue, Sacramento, California 95811; or submit an e–mail to jspeaks@ctc.ca.gov.

**TITLE 5. COMMISSION ON TEACHER
CREDENTIALING**

Sections 80033, 80046.1, 80047, 80047.1, 80047.2, 80047.3, 80047.4, 80048.3.1, 80048.3.2, 80048.5, 80048.6, 80048.7, 80048.8, 80048.9, 80048.9.4, 80048.10, 80070.4

AUTHORITY AND REFERENCE

Education Code (EC) sections 44225 and 44251.2 authorize the Commission to adopt these proposed regulation amendments. The proposed amendments implement, interpret, and make specific EC section 44265.

NEW EDUCATION SPECIALIST
CREDENTIALS AND
BRIDGE AUTHORIZATIONS

The Commission on Teacher Credentialing proposes to adopt the regulations described below to Title 5 of the California Code of Regulations Pertaining to Education Specialist Credentials and Bridge Authorizations after considering all comments, objections, and recommendations regarding the proposed action.

INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW

This rulemaking action proposes amendments to the CCR relating to Education Specialist credentials and Bridge authorizations, as approved at the December 2020 meeting. The amendments include the creation of new Education Specialist Credentials

based on new Standards and Teaching Performance Expectations (TPEs), as well the creation of new bridge authorizations, allowing existing credential holders who choose to do so to obtain the new authorizations by demonstrating sufficient mastery of TPEs not reflected in their original preparation. The amendments also make minor technical and clarifying changes to the CCR related to these topics.

The Commission on Teacher Credentialing (Commission) has been engaged in a multi-year effort to address needed changes to the ways in which students with disabilities are served in California schools. This work was spurred by the report of the Statewide Special Education Task Force in 2015. Following the “one system for all” vision laid out in the report, the Commission created a set of universal TPEs, ensuring that all general and special education teachers would share a “common trunk,” a specific base of knowledge and skills. Once they have moved into their specialized credential areas, they will encounter and master additional TPEs specific to the credential they are seeking.

The new Standards and TPEs created by the Commission reflect a more holistic approach to educating children with disabilities. This is reflected in the redesigned “common trunk” approach, which requires Education Specialist candidates to master general pedagogical principals common to teaching all students. The new standards and TPEs also reflect the reality that students will often come into a learning environment with a broader set of challenges than can be reflected by one primary disability category. Focusing instead on support needs allows each child to receive more individualized support, reflecting California’s commitment to provide each child with an education that is appropriate to their needs.

Based on these new Standards and TPEs, the Commission also adopted a new credentialing structure designed to provide more flexibility to meet the needs of students with disabilities while still complying with federal guidelines. The previous seven credentials were reorganized into five:

- Early Childhood Special Education (ECSE)
- Visual Impairments (VI)
- Deaf and Hard of Hearing (DHH)
- Mild to Moderate Support Needs (MMSN)
- Extensive Support Needs (ESN)

The new MMSN and ESN credentials are intended to better prepare teachers to serve students across a range of disabilities. The change has resulted in new credentials that are broader in scope than the credentials that they are replacing. Educators who currently hold one of the existing credentials will remain authorized to teach all students that they are currently authorized

to teach. They will not be required to obtain a new credential or undergo any additional preparation.

However, the Commission expects that many educators will want to earn the broader authorizations made possible by the new credentials. At its December 2020 meeting therefore, the Commission took action to authorize staff to begin rulemaking on both the new credentials and a “bridge” concept that would allow existing credential holders who choose to do so to obtain the new authorizations by demonstrating sufficient mastery of TPEs not reflected in their original preparation.

The regulations in this rulemaking would amend Title 5 CCR sections 80047, 80047.1, 80047.2, 80047.3, 80047.4, 80048.3.1, and 80048.3.2 to reflect the change in the focus of the Education Specialist credentials from disability categories to support needs. Sections 80048.3.1 and 80048.3.2 will be amended to replace the terms “Level I” and “Level II” with “Preliminary” and “Clear” for credentials earned by out-of-state and out-of-country prepared applicants, conforming them with the standard terminology for California prepared applicants. Sections 80033, 80046.1, 80048.5, 80048.9, 80048.9.4, 80070.7 will be amended to incorporate the 2018 Standards and TPEs. The regulations also amend section 80048.6 to include the authorization statements for the Mild/Moderate and Extensive Support Needs credentials, remove the Physical and Health Impairments and Language and Academic Development credentials, as well as amending the Early Childhood Special Education credential and Early Childhood Special Education Added Authorization authorization statements. Section 80048.6 will be amended to include authorization for three new Bridge Authorizations. The regulations amend section 80048.7 to replace outdated form references with the correct versions and section 80048.8 to correct an outdated statutory reference. A new section, 80048.10, is added to create three new Education Specialist Bridge Authorizations and set out the requirements for earning these authorizations. The regulations also make other minor amendments to sections 80047, 80047.1, 80047.2, 80047.3, 80047.4, 80048.3.1, 80048.3.2, 80048.6, and 80048.8 for clarity and consistency purposes.

Anticipated Benefits of the Proposed Regulations

The Commission anticipates that the proposed amendments will help to improve services to students in a special education setting, by better preparing California educators to serve in settings with a broad array of student needs. The “common trunk” reflected in the new Standards and TPEs will also better prepare education specialists to serve across a variety of general and special education classrooms.

The Commission does not anticipate that the proposed regulations will result in an increase in the

protection of public health and safety, worker safety, or the environment, the prevention of social inequity, or an increase in openness and transparency in business.

Evaluation of Inconsistency/Incompatibility with Existing State Regulations

The Commission has conducted a review to identify any regulations that would relate to, or affect, this area and has determined that this proposed regulation is not inconsistent or incompatible with existing regulations.

DISCLOSURES REGARDING
PROPOSED ACTIONS

The Commission has made the following initial determinations:

Mandate to local agencies or school districts: None.

Cost to local agencies or school districts: None.

Cost or savings to any state agency: None.

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

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

Significant effect on housing costs: None

Significant statewide adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses in other states: None.

These proposed regulations will not impose a mandate on local agencies or school districts that must be reimbursed in accordance with Part 7 (commencing with section 17500) of the Government Code.

Cost impacts on a representative private person or business: 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.

Statement of the Results of the Economic Impact Assessment [Govt. Code § 11346.5(a)(10)]:

The Commission concludes that it is 1) unlikely that the proposal will create any jobs within the State of California; 2) unlikely that the proposal will eliminate any jobs within the State of California; 3) unlikely that the proposal will create any new businesses within the State of California; 4) unlikely that the proposal will eliminate any existing businesses within the State of California; and 5) unlikely the proposal would cause the expansion of businesses currently doing business within the State of California.

Effect on small businesses: The proposed regulations will not have a significant adverse economic impact upon business. The proposed regulations apply only to individuals seeking a credential or authorization to teach in a special education setting in California public schools.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Commission must determine that no reasonable alternative considered by the agency or that has otherwise been identified and brought to the attention of the agency 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.

SOURCES

February 2018 Commission agenda item 4B — Proposed Credential Structure and Related Considerations for the Preliminary Education Specialist Teaching Credential: <https://www.ctc.ca.gov/docs/default-source/commission/agendas/2018-02/2018-02-4b.pdf>.

Approval of the February 2018 minutes: <https://www.ctc.ca.gov/docs/default-source/commission/agendas/2018-04/2018-04-2a.pdf>.

August 2018 Commission agenda item 2E — Proposed Titles, Program Standards, and Teaching Performance Expectations for Education Specialist Teachers: <https://www.ctc.ca.gov/docs/default-source/commission/agendas/2018-08/2018-08-2e.pdf>.

December 2020 Commission agenda item 3A — Proposed Amendments to Title 5 of the California Code of Regulations Pertaining to Bridge Authorizations for the New Education Specialist Credentials: <https://www.ctc.ca.gov/docs/default-source/commission/agendas/2020-12/2020-12-3a.pdf>.

Approval of the December 2020 minutes: <https://www.ctc.ca.gov/docs/default-source/commission/agendas/2021-02/2021-02-1a.pdf>.

April 2021 Commission agenda item 4C — Review and Proposed Adoption of the Revised Mild to Moderate Support Needs and Extensive Support Needs Teaching Performance Expectations: <https://www.ctc.ca.gov/docs/default-source/commission/agendas/2021-04/2021-04-4c.pdf>.

Video of Adoption of Revisions: <https://www.youtube.com/watch?v=M06-xvS8FTI&t=11127s>.

CONTACT INFORMATION

General or substantive inquiries concerning the proposed action may be directed to Joshua Speaks by telephone at (916) 327-5339, Commission on Teacher Credentialing, 1900 Capitol Avenue, Sacramento, CA 95811. General question inquiries may also be directed

to the address mentioned above. Upon request, a copy of the express terms of the proposed action and a copy of the initial statement of reasons will be made available. This information is also available on the Commission's website at www.ctc.ca.gov. In addition, all the information on which this proposal is based is available for inspection and copying.

AVAILABILITY OF THE RULEMAKING FILE

The entire rulemaking file is available for inspection and copying throughout the rulemaking process at the Commission office at the above address. As of the date this notice is published in the Notice of Register, the rulemaking file consists of the Notice of Proposed Rulemaking, the proposed text of regulations, the Initial Statement of Reasons, and an economic impact assessment/analysis contained in the Initial Statement of Reasons. Copies may be obtained by contacting Joshua Speaks at the address or telephone number provided above.

MODIFICATION OF PROPOSED ACTION

If the Commission proposes to modify the actions hereby proposed, the modifications (other than non-substantial or solely grammatical modifications) will be made available for public comment for at least 15 days before they are adopted.

AVAILABILITY OF FINAL STATEMENT OF REASONS

The Final Statement of Reasons is submitted to the Office of Administrative Law as part of the final rulemaking package, after the public hearing. Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Joshua Speaks via email at jspeaks@ctc.ca.gov.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Rulemaking, the Initial Statement of Reasons, and the text of the regulations can be accessed through the Commission's website at <https://www.ctc.ca.gov/commission/notices/rulemaking>.

TITLE 20. ENERGY COMMISSION

DIVISION 2. STATE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION CHAPTER 4. ENERGY CONSERVATION ARTICLE 4. APPLIANCE EFFICIENCY REGULATIONS DOCKET NUMBER 20-AAER-04

INTRODUCTION

The California Energy Commission (CEC) proposes to amend the regulations for portable electric spas in the Appliance Efficiency Regulations after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

The CEC staff will hold a public hearing for the proposed regulations at the date and time listed below. Interested persons, or their authorized representative, may present oral and written statements, arguments, or contentions relevant to the proposed regulations at the public hearing. *The record for this hearing will be kept open until every person has had an opportunity to provide comment.*

Tuesday June 29, 2021
10:00 a.m. (Pacific Time)

The public hearing will be held remotely, consistent with Executive Orders N-25-20 and N-29-20 and the recommendations from the California Department of Public Health to encourage physical distancing to slow the spread of COVID-19. Instructions for remote participation are below.

REMOTE ATTENDANCE

The public hearing may be accessed by clicking the Zoom link below or visiting Zoom at <https://join.zoom.us> and entering the ID and password for the workshop listed below. If you experience difficulties joining, you may contact Zoom at (888) 799-9666 ext. 2, or the Public Advisor's Office at publicadvisor@energy.ca.gov or (800) 822-6228.

Zoom Link: <https://energy.zoom.us/j/94926685532?pwd=SkpNRTBXV2JEd1ZDTkM4RHprZmtRQT09>

Webinar ID: 949 2668 5532
Password: 787757

To participate by telephone dial (213) 338-8477 or 1-888-475-4499 (toll free). When prompted, enter the

Webinar ID and password listed above. To comment or ask a question over the telephone, dial *9 to “raise your hand” and *6 to mute/unmute your phone line.

PUBLIC ADVISOR

The CEC’s Public Advisor’s Office provides the public assistance in participating in CEC proceedings. For information on participation or to request interpreting services or reasonable accommodations, reach out via email at publicadvisor@energy.ca.gov, by phone at (916) 654-4489, or toll free at (800) 822-6228. Requests for interpreting services and reasonable accommodations should be made at least five days in advance. The CEC will work diligently to accommodate all requests.

Zoom: If you experience difficulties with the Zoom platform, please contact the Public Advisor’s office via email or phone.

NEWS MEDIA INQUIRIES

Direct media inquiries to the Media and Public Communications Office to (916) 654-4989 or mediaoffice@energy.ca.gov.

WRITTEN COMMENT PERIOD

Any interested person, or their authorized representative, may submit written statements, arguments, or contentions to the CEC for consideration on or prior to June 28, 2021. The CEC appreciates receiving written comments as soon as possible.

Written and oral comments, attachments, and associated contact information (including address, phone number, and email address) will become part of the public record of this proceeding with access available via any internet search engine.

The CEC encourages use of its electronic commenting system. Visit the e-commenting page at <https://www.energy.ca.gov/proceedings/energy-commission-proceedings/portable-electric-spas>, which links to the comment page for this docket. Enter your contact information and a comment title describing the subject of your comment(s). Comments may be included in the “Comment Text” box or attached as a downloadable, searchable document consistent with Title 20 California Code of Regulations Section 1208.1. The maximum files size allowed is 10 MB.

Written comments may also be submitted by email. Include docket number 20-AAER-04 in the subject line and email to docket@energy.ca.gov.

A paper copy may be sent to:

California Energy Commission
Docket Unit, MS-4
RE: Docket Number 20-AAER-04
1516 9th Street, MS-4
Sacramento, CA 95814

STATUTORY AUTHORITY AND REFERENCE

Public Resources Code Sections 25213, 25218(e), and 25402(c) authorize the CEC to adopt rules or regulations, as necessary, to implement Public Resources Code Section 25402(c).

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Warren-Alquist Act establishes the CEC as California’s primary energy policy and planning agency. Sections 25213, 25218(e), and 25402(c) of the Public Resources Code mandate and/or authorize that the CEC adopt rules and regulations, as necessary, to reduce the inefficient consumption of energy and water by prescribing efficiency standards and other cost-effective measures for appliances whose use requires a significant amount of energy or water statewide.

One of the ways the CEC satisfies this requirement is through the Appliance Efficiency Regulations, Title 20, Sections 1601-1609, which contain definitions, test procedures, efficiency standards, and marking and certification requirements for state and Federally-regulated appliances. Further, the regulations require that appliance manufacturers certify to the CEC that their products meet all applicable state and Federal appliance efficiency regulations before their products can be included in the CEC’s Modernized Appliance Efficiency Database System (MAEDbS) of appliances approved to be sold or offered for sale within California.

On April 11, 2018, CEC adopted changes to the Appliance Efficiency Regulations amending the existing regulations for portable electric spas. The test procedure and label design requirements were derived from ANSI/APSP/ICC-14 (APSP-14), American National Standard for Portable Electric Spa Energy Efficiency, Version 2014.

On November 19, 2019, the American National Standard Institute (ANSI) approved and published the revised standard APSP-14, Version 2019. The test procedure is an update to the APSP-14, Version 2014. The revised APSP-14, Version 2019, aligns with all of California’s efficiency standards, label requirements, and test procedure requirements for portable electric spas adopted in 2018. Other changes adopted in APSP-14, Version 2019, include modifications to simplify test lab qualification and label application clarifications.

Therefore, the CEC is proposing to update the Appliance Efficiency Regulations to incorporate the test procedure reference and update the labeling design requirements for portable electric spas. The scope of coverage will remain the same and continue to cover all types of portable electric spas, such as standard spas, exercise/swim spas, combination spas, and inflatable/collapsible spas. The existing performance standards will not be affected. The proposal also includes editorial changes to simplify the structure of existing regulations for portable electric spas. The proposal CEC is recommending makes the regulations consistent with the recent update to the industry standard for determining the efficiency of portable electric spas, APSP-14, Version 2019.

To minimize the inconsistency between the regulations and the current industry standard, the regulations are proposed to be effective upon filing with the Secretary of State.

Public Resources Code section 25402(c)(1)(A) establishes a 1-year delay in the effectiveness of new or modified appliance efficiency standards adopted by the CEC. The 1-year delay was adopted for the purpose of providing appliance manufacturers sufficient lead time to produce new appliances that comply with newly adopted efficiency standards. This delay, however, does not encompass an entire appliance efficiency rulemaking proceeding and only applies to specific provisions within a rulemaking that purport to establish a new efficiency standard or modify an existing one. The CEC's Appliance Efficiency Regulations do much more than establish standards; they specify how appliances are tested, what information must be reported to the CEC, how products are labeled, and how program requirements will be enforced, among other things. The delay established in section 25402(c)(1)(A) does not apply where these other aspects of efficiency regulations are being added, modified, or repealed.

This rulemaking proceeding does not involve a new or modified efficiency standard. The only changes being proposed involve updating the test procedure reference and making the labeling design requirements consistent with the latest industry standards, neither of which require appliance manufacturers to produce new energy efficient appliances. The proposed changes are not the kinds of changes contemplated by the 1-year delay provision. Therefore, the 1-year delay provision in 25402(c)(1)(A) does not apply to the proposed changes in this rulemaking.

Difference from existing comparable Federal regulation or statute

The CEC has determined that there are no existing comparable Federal regulations or statutes.

Broad objectives of the regulations and the specific benefits anticipated by the proposed amendments

The broad objectives of this proposed action are improved clarity and reduced confusion by updating the Appliance Efficiency Regulations related to portable electric spas to be consistent with the current industry standard.

The specific benefit of the proposed action will be an update to the industry standard for determining the efficiency of portable electric spas, APSP-14, Version 2019. This includes updates to the labeling requirements and test lab qualification requirements. The existing efficiency standards and the scope of coverage for portable electric spas will not be affected. Therefore, statewide energy use and savings and related environmental impacts and benefits will not be affected.

Determination of inconsistency or incompatibility with existing state regulations

The CEC has conducted an evaluation for any other regulations in this area and has concluded that these are the only regulations concerning test procedures and labeling requirements for portable electric spas. Therefore, the proposed regulations are neither inconsistent nor incompatible with any other existing state regulations.

DOCUMENTS INCORPORATED BY REFERENCE

The CEC proposes to incorporate the following document by reference:

ANSI/APSP/ICC-14 2019
American National Standard for Portable Electric Spa Energy Efficiency

All the documents are available for review at the CEC located at 1516 Ninth Street, Sacramento, California 95814 or, on the CEC's website found at <https://www.energy.ca.gov/proceedings/energy-commission-proceedings/portable-electric-spas>.

MANDATED BY FEDERAL LAW OR REGULATIONS

None.

OTHER STATUTORY REQUIREMENTS

None.

FISCAL IMPACTS

The CEC has made the following initial determinations:

- Mandate on local agencies and school districts: None.
- Cost to any local agency or school district requiring reimbursement pursuant to 17500 et seq.: None.
- Cost or savings to any state agency: None.
- Non-discretionary cost or savings imposed upon local agencies: None.
- Cost or savings in Federal funding to the state: None.

SIGNIFICANT EFFECT ON HOUSING COSTS

None

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS, INCLUDING ABILITY OF CALIFORNIA BUSINESSES TO COMPETE WITH BUSINESSES IN OTHER STATES

The CEC has made an initial determination that the proposed regulations are unlikely to have a statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The CEC is proposing to update the test procedure reference and update the labeling design requirements for portable electric spas. The proposal CEC is recommending is derived from a recent update to the industry standard for determining the efficiency of portable electric spas, APSP-14, Version 2019. The scope of coverage will remain the same and continue to cover all types of portable electric spas. The existing performance standards will not be affected, and the statewide energy use and savings, and related environmental impacts and benefits, are not expected to be affected.

The CEC estimates that 1,000 retailers, installers, manufacturers, and wholesalers that manufacture, install, or sell portable electric spas may be impacted by the proposed regulations. There are approximately 50 manufacturers and private brand packagers of portable electric spas selling within California, and the remaining share of businesses are retailers or wholesalers of portable electric spas. This estimate is based on the CECs MAEDbS, which yields the number of manufacturers, and its estimate of the number of businesses in California that sell portable electric spas to consumers. Staff estimates that of the businesses impacted, approximately 10 percent are small businesses. Small businesses in the portable electric spa industry include retailers, some small manufacturers, or private brand packagers.

The CEC assumed there were no or negligible costs associated with updating the test procedure reference and the labeling design requirements; for these reasons staff does not expect any businesses, including small businesses, to be impacted by the proposed regulations for portable electric spas.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS/ASSESSMENT

The CEC concludes that: (1) it is unlikely the proposal will create jobs within California, (2) it is unlikely the proposal will eliminate jobs within California, (3) it is unlikely the proposal will create new businesses in California, (4) it is unlikely the proposal will eliminate existing businesses within California, and (5) it is unlikely the proposal will result in the expansion of businesses currently doing business within the state.

The benefits of this proposed action are to provide updates to the Appliance Efficiency Regulations related to portable electric spas. Existing efficiency standards and the scope of coverage for portable electric spas will not be affected. Therefore, statewide energy use and savings, and related environmental impacts and benefits, are not expected to be affected.

The proposed regulation will not affect the health and welfare of California residents, worker safety, or the state's environment.

COST IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS

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

The CEC is proposing to update the test procedure reference and update the labeling design requirements for portable electric spas. The proposal CEC is recommending is derived from a recent update to the industry standard for determining the efficiency of portable electric spas, APSP-14, Version 2019. The scope of coverage will remain the same and continue to cover all types of portable electric spas. The existing performance standards will not be affected, and the statewide energy use and savings, and related environmental impacts and benefits, are not expected to be affected.

The CEC estimates that 1,000 retailers, installers, manufacturers, and wholesalers that manufacture, install, or sell portable electric spas may be impacted by the proposed regulations. There are approximately 50 manufacturers and private brand packagers of portable electric spas selling within California, and the remaining share of businesses are retailers or wholesalers of portable electric spas. This estimate

is based on the CEC's MAEDbS, which yields the number of manufacturers, and its estimate of the number of businesses in California that sell portable electric spas to consumers. Staff estimates that of the businesses impacted, approximately 10 percent are small businesses. Small businesses in the portable electric spa industry include retailers, some small manufacturers, or private brand packagers.

The CEC assumed there were no or negligible costs associated with updating the test procedure reference and the labeling design requirements; for these reasons staff does not expect any businesses, including small businesses, to be impacted by the proposed regulations for portable electric spas.

BUSINESS REPORT

There are no proposed additions to the current reporting requirements.

SMALL BUSINESS

The proposed regulations may affect small business. However, the CEC has determined any cost impacts to be negligible.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), the CEC must determine that no reasonable alternative considered by the agency, or that has otherwise been identified and brought to the attention of the agency, 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 CEC invites interested persons to present statements or arguments concerning alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

CONTACT PERSON

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

Corrine Fishman
Regulations Manager, Efficiency Division
California Energy Commission 1516 9th Street
Sacramento, CA 95814
(916) 654-4287
corrine.fishman@energy.ca.gov

If Corrine Fishman is unavailable, you may contact Jessica Lopez at (916) 903-4165. Jessica.lopez@energy.ca.gov.

COPIES OF THE INITIAL STATEMENT OF REASONS, THE EXPRESS TERMS, AND RULEMAKING FILE

The CEC will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the express terms, the Economic and Fiscal Impacts (STD. 399) and the ISOR. Copies may be obtained by contacting Corrine Fishman at the email or phone number above or accessed through the CEC's website at <https://www.energy.ca.gov/proceedings/energy-commission-proceedings/portable-electric-spas>.

AVAILABILITY OF SUBSTANTIAL CHANGES TO ORIGINAL PROPOSAL FOR AT LEAST 15 DAYS PRIOR TO AGENCY ADOPTION/REPEAL/AMENDMENT OF RESULTING REGULATIONS

Participants should be aware that any of the proposed regulations could be substantively changed as a result of public comment, staff recommendation, or recommendations from commissioners. Moreover, changes to the proposed regulations not indicated in the express terms could be considered if they improve the clarity or effectiveness of the regulations. If the CEC considers changes to the proposed regulations pursuant to Government Code Section 11346.8, a full copy of the text will be available for review at least 15 days prior to the date on which the CEC adopts or amends the resulting regulations.

COPY OF THE FINAL STATEMENT OF REASONS

At the conclusion of the rulemaking, persons may obtain a copy of the Final Statement of Reasons (FSOR), once it has been prepared, by visiting the CEC's website at <https://www.energy.ca.gov/proceedings/energy-commission-proceedings/portable-electric-spas> or contacting the contact person above.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

The CEC maintains a website to facilitate public access to documents prepared and considered as part of this rulemaking proceeding. Documents

prepared by the CEC for this rulemaking have been posted at <https://www.energy.ca.gov/proceedings/energy-commission-proceedings/portable-electric-spas>.

GENERAL PUBLIC INTEREST

DEPARTMENT OF FISH AND WILDLIFE

**CESA CONSISTENCY DETERMINATION
REQUEST FOR
Dos Osos Reservoir Replacement Project
2080-2021-004-03
Contra Costa County**

The California Department of Fish and Wildlife (CDFW) received a notice on April 27, 2021 that the East Bay Municipal Utility District (EBMUD) proposes to rely on a federal permit to carry out a project that may adversely affect a species protected by the California Endangered Species Act (CESA). The proposed project involves demolishing the existing reservoir and replacing it with two new 120,000-gallon steel-bolted reservoirs on nearby EBMUD-owned watershed property, approximately 70 feet higher in elevation and 300 feet southwest of the existing reservoir site. Proposed activities will include, but are not limited to, construction of new reservoirs, an access road pipelines, and earthen berms; pruning or removal of vegetation; installation of security fencing; demolition of the existing reservoir; revegetation and restoration of the site; and potential slope stabilization. The proposed project will occur at the Dos Osos Reservoir, located at 8 Los Norrabos in the City of Orinda, Contra Costa County, California.

EBMUD prepared a Habitat Conservation Plan (HCP) which considered the effects of the proposed project on state and federally endangered Alameda whipsnake (*Masticophis lateralis euryxanthus*). The U.S. Fish and Wildlife Service (Service) issued a federal incidental take permit (ITP) (Permit Number ESPER0004040) to EBMUD on March 19, 2021.

Pursuant to California Fish and Game Code section 2080.1, EBMUD is requesting a determination that the ITP and its associated HCP are consistent with CESA for purposes of the proposed project. If CDFW determines the ITP and its associated HCP are consistent with CESA for the proposed project, EBMUD will not be required to obtain an incidental take permit under Fish and Game Code section 2081 subdivision (b) for the proposed project.

FISH AND GAME COMMISSION

**NOTICE OF FINAL CONSIDERATION
OF PETITIONS**

NOTICE IS HEREBY GIVEN pursuant to the provisions of Fish and Game Code Section 2078, that the California Fish and Game Commission (Commission), has scheduled final consideration of petitions to list Clara Hunt’s milkvetch (*Astragalus claranus*), Northern California summer steelhead (*Oncorhynchus mykiss*) and Upper Klamath-Trinity River spring Chinook salmon (*Oncorhynchus tshawytscha*) as threatened or endangered species for its June 16-17, 2021 meeting. Consideration of the petitions will be heard June 16, 2021 via webinar/teleconference.

The agenda of the June 16-17, 2021 meeting, and the agendas and video archive of previous meetings where actions were taken on Clara Hunt’s milkvetch, northern California summer steelhead, and Upper Klamath-Trinity River spring Chinook salmon are available online at <http://www.fgc.ca.gov/meetings/>.

Pursuant to the provisions of Fish and Game Code, sections 2075 and 2075.5, the Commission will consider the petitions and all other information in the records before the Commission to determine whether listing Clara Hunt’s milkvetch, northern California summer steelhead, and Upper Klamath-Trinity River spring Chinook salmon as threatened or endangered species is warranted.

The petitions, the California Department of Fish and Wildlife’s evaluation reports, and other information in the records before the Commission are posted on the Commission website at <https://fgc.ca.gov/CESA>.

**ENVIRONMENTAL PROTECTION
AGENCY**

**30-DAY PUBLIC NOTICE AND
COMMENT PERIOD
UNIFIED PROGRAM STATE
SURCHARGE INCREASE**

Notice is hereby given that the Secretary for the California Environmental Protection Agency (CalEPA) proposes to adjust the Unified Program state surcharge according to the California Health and Safety Code, Division 20, Chapter 6.11, section 25404.5(b), and the California Code of Regulations, Title 27, Division 1, Subdivision 4, Chapter 1, Section 15240.

The Unified Program state surcharge is an assessment on each entity regulated under the Unified

Program and funds the necessary and reasonable costs of all state agencies responsible for program implementation, ongoing maintenance and oversight of the Unified Program. An increase to the Oversight portion of the Unified Program state surcharge is needed to fund an impending \$1,000,000 structural deficit in the State Certified Unified Program Agency Account (SCUPA) and the cost of the California Environmental Reporting System Next Generation (CERS NextGen) Project, projected to be \$14,118,000.

CalEPA is proposing to increase the Oversight portion of the State Surcharge by \$27 for the CERS NextGen project and by \$8 to address the SCUPA Account structural deficit, raising the surcharge from the current \$49 to \$84 per regulated business annually.

The surcharge for the CERS NextGen project will be assessed over four years, beginning Fiscal Year 2021/2022. In Fiscal Year 2024/2025, CalEPA will adjust the Oversight Surcharge to cover costs for the ongoing maintenance and operations of CERS NextGen.

The State Surcharge increase will be publicly noticed in the California Regulatory Notice Register (Z-Register) for a 30-day comment period, during which time comments will be accepted. Following the 30-day comment period, the Secretary will consider comments and prepare a response, along with the Secretary's findings and the Secretary's final fee decision(s). The Secretary will make responses available upon request and will publish the final surcharge in the California Regulatory Notice Register pursuant to Title 27, Section 15240.

For this public notice, the California Environmental Protection Agency will not hold a public hearing to receive comments. The public comment period for this notice will be from May 14, 2021, through June 14, 2021. CalEPA requests the public to submit comments by the closing date by email to cupa@calepa.ca.gov or by mail to the following:

Mr. John Paine, Program Manager
California Environmental Protection Agency
P.O. Box 2815, MS-2D
Sacramento, California 95812-2815

SUMMARY OF REGULATORY ACTIONS

REGULATIONS FILED WITH THE 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.

Air Resources Board
File # 2021-0319-02
Alternative Diesel Fuels Regulation

This action by the Air Resources Board amends regulations regarding the commercialization of alternate diesel fuels (ADF) to update emissions certification testing requirements and require that all biodiesel additives and ADF formulations be certified according to the new certification procedures starting August 1, 2021. This action also adds two renewable diesel blends as approved ADF formulations.

Title 13
Amend: 2293.2
Filed 05/03/2021
Effective 05/03/2021
Agency Contact: Bradley Bechtold (916) 322-6533

Contractors State License Board
File # 2020-1117-01
AB 2138 — Substantial Relationship and
Rehabilitation Criteria

In this rulemaking action, the Board amends its regulations to set forth substantial relationship criteria and rehabilitation criteria for crimes, professional misconduct, or acts considered substantially related to the qualifications, functions, or duties of a contractor licensee. The Board also adopts a new section related to the denial of a license or registration on basis of a financial crime conviction. The regulatory changes align the regulations with Assembly Bill 2138 (Stats. 2018, Ch. 995).

Title 16
 Adopt: 868.1
 Amend: 868, 869, 869.9
 Repeal: 869.5
 Filed 05/03/2021
 Effective 05/03/2021
 Agency Contact: Betsy Figuera (916) 255-3369

Department of Corrections and Rehabilitation
 File # 2021-0408-04
 Minimum Security Credit and Inmate Credit Earning

In this emergency by operational necessity the Department of Corrections and Rehabilitation amends regulations concerning inmate credit earning and minimum security credit.

Title 15
 Adopt: 3043.7
 Amend: 3043, 3043.2, 3043.3, 3043.4, 3043.5, 3043.6, 3044, 3045.1, 3043.7 [Renumbered to 3044.1], 3043.8 [Renumbered to 3044.2], 3047 [Renumbered to 3046.1]
 Filed 04/28/2021
 Effective 05/01/2021
 Agency Contact: Josh Jugum (916) 445-2266

Department of Corrections and Rehabilitation
 File # 2021-0409-02
 Nonviolent Parole Process Eligibility re Gadlin

In this emergency by operational necessity the California Department of Corrections and Rehabilitation amends the nonviolent offender parole review process (NVPP) eligibility regulations to be consistent with the California Supreme Court ruling *In re Gadlin* (2020) 10 Cal.5th 915 that held eligibility consideration for NVPP must be based on an inmate's current conviction and that an inmate may not be excluded from NVPP consideration based on a current conviction for a nonviolent registerable sex offense.

Title 15
 Amend: 2449.32, 3491, 3492, 3496, 3497
 Filed 04/29/2021
 Effective 04/29/2021
 Agency Contact: Josh Jugum (916) 445-2266

Department of Corrections and Rehabilitation
 File # 2021-0324-03
 Incompatible Activities

In this regular rulemaking, the Department of Corrections and Rehabilitation is repealing a prohibition against using workgroup computer technologies to publish, display or transmit information that encourages the use of prescribed controlled substances.

Title 15
 Amend: 3413
 Filed 04/29/2021
 Effective 04/29/2021
 Agency Contact: DeAnna Gouldy (916) 691-3747

Department of Financial Protection and Innovation
 File # 2021-0319-01
 Student Loan Servicing Act

In this action without regulatory effect the Department of Financial Protection and Innovation amends several sections to update the name of the agency and update cross-references to forms and statutes.

Title 10
 Amend: 2034, 2034.5, 2036, 2037.5, 2039, 2040.5
 Filed 05/03/2021
 Agency Contact: Mary D. Tome (916) 378-8522

Department of Food and Agriculture
 File # 2021-0312-02
 Device Administration — Inspections and Fees

This rulemaking action will permit use of new weighing and measuring devices, clarify the process for submitting an alternative inspection frequency plan, and increase annual device administrative fees.

Title 04
 Amend: 4070, 4071, 4073, 4074, 4075
 Repeal: 4072
 Filed 04/28/2021
 Effective 04/28/2021
 Agency Contact: Samuel Ferris (916) 229-3000

Department of Social Services
 File # 2021-0419-03
 CalWORKs Homeless Assistance, Domestic Abuse, etc.

This emergency readoption amends the Manual of Policies and Procedures (MPP) to implement statutory changes regarding CalWORKs and applicants fleeing domestic abuse, family reunion cases, victims of natural disasters, and related matters. This action is exempt from OAL review pursuant to Section 8 of Assembly Bill 557 (Chapter 691, Statutes of 2017).

Title MPP
 Amend: 40-105, 40-190, 40-407, 42-715, 44-211, 82-812
 Filed 04/28/2021
 Effective 04/28/2021
 Agency Contact: Everardo Vaca (916) 657-2363

Office of Administrative Law
File # 2021-0429-01
Electronic submission of APA-related documents

This emergency rulemaking action by the Office of Administrative Law readopts requirements to establish a process for electronic submissions and allow for digital signatures.

Title 01
Adopt: 6.5, 101
Amend: 1, 5, 6, 50, 52, 100
Filed 05/05/2021
Effective 05/05/2021
Agency Contact: Eric Partington (916) 323-6225

Office of Emergency Services
File # 2021-0324-02
Non-substantive name change and section number revision

This change without regulatory effect updates the names of various state agencies and titles of various personnel.

Title 19
Amend: 2402, 2411, 2413, 2425, 2443, 2444, 2450, 2501, 2510, 2520, 2530, 2540, 2570.2, 2571, 2573.1, 2573.2, 2631, 2644, 2658, 2800, 2900, 2910, 2915, 2925, 2930, 2940, 2955, 2965, 2966, 2970, 2980, 2990, 2992, 2993.1, 2996, 2996.1, 2997, 2998, 2999
Filed 05/05/2021
Agency Contact: Joy Peng (916) 845-8971

State Mining and Geology Board
File # 2021-0226-03
Forfeiture of Financial Assurance Mechanisms

In this rulemaking action, the Board amends its regulations related to mining operations reclamation plans and financial assurances for reclamation. The amendments align with statutory changes made in Public Resources Code sections.

Title 14
Amend: 3810, 3811, 3812, 3813, 3814, 3815, 3816, 3817
Filed 04/29/2021
Effective 07/01/2021
Agency Contact: Matthew Livers (916) 214-2066

Superintendent of Public Instruction
File # 2021-0323-01
Regional Parent Advisory Council

This action without regulatory effect removes language regarding Regional Parent Advisory Councils regarding residency eligibility and interpretation services at meetings.

Title 05
Amend: 12014, 12019
Filed 05/05/2021
Agency Contact: Lorie Adame (916) 319-0860

**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.