



October 30, 2009

TO: ALL SCHOOL DISTRICTS, COUNTY SUPERINTENDENTS OF SCHOOLS, AND
OTHER INTERESTED PARTIES

TITLE 2. STATE ALLOCATION BOARD

NOTICE OF PROPOSED EMERGENCY REGULATORY ACTION

In accordance with Assembly Bill 1302, Chapter 713, Statutes of 2006, enclosed are proposed emergency regulations adopted by the State Allocation Board (SAB) at its meeting on August 26, 2009. These amendments to the School Facility Program (SFP) Regulations add four building types to the definition of "Most Vulnerable Category 2" school buildings for the purpose of eligibility for the Seismic Mitigation Program. In addition, the ground shaking criteria for project eligibility is reduced from "1.70 g" to "1.68 g."

Attached to this Notice is the specific regulatory language of the proposed emergency action and the Finding of Emergency. You may also review the proposed regulatory language and Finding of Emergency on the Office of Public School Construction (OPSC) Web site at www.opsc.dgs.ca.gov. The proposed emergency regulations would amend the SFP Regulations under the California Code of Regulations, Title 2, Chapter 3, Subchapter 4, Group 1, State Allocation Board, Subgroup 5.5, Regulations relating to the Leroy F. Greene School Facilities Act of 1998.

The emergency amendments encourage broader participation by school districts in the Seismic Mitigation Program. The purpose of the program is to save lives and prevent damage in the most vulnerable school facilities during a seismic event. The OPSC, on behalf of the SAB, will be submitting these emergency regulations to the Office of Administrative Law (OAL) during the month of November 2009. The following is an overview of the proposed regulatory amendments.

INFORMATIVE DIGEST/POLICY OVERVIEW STATEMENT

The Leroy F. Greene School Facilities Act of 1998 established the SFP through Senate Bill 50, Chapter 407, Statutes of 1998. The SFP provides a per-pupil grant amount to qualifying school districts for purposes of constructing school facilities and modernizing existing school facilities. The SAB adopted regulations to implement the Leroy F. Greene School Facilities Act of 1998, which were approved by the OAL and filed with the Secretary of State on October 8, 1999.

The Seismic Mitigation Program was established by Assembly Bill 127, Chapter 35, Statutes of 2006 (Perata/Nunez), which became law on May 20, 2006, and was funded in the amount of \$199.5 million for seismic repair, reconstruction, or replacement of the "most vulnerable Category 2" school facilities by Proposition 1D approved at the November 7, 2006 General Election. The SAB adopted regulations to implement the program which were approved by the OAL and filed with the Secretary of State on April 30, 2008.

The amendments increase the estimated number of potentially eligible school facilities from 25 to 48 which will be eligible for Seismic Mitigation Program funding, and enable approximately \$167.2 million in seismic mitigation projects to qualify for the \$199.5 million in authorized funding.

A summary of the proposed regulatory changes follows:

Existing Regulation Section 1859.2 represents a set of defined words and terms used exclusively for these regulations. The proposed amendments change the definition of “Most Vulnerable Category 2 Buildings” by reducing the ground shaking threshold (short period spectral acceleration) for program eligibility from 1.70 g to 1.68 g, and by adding four more building types as eligible for funding:

- C1B . . . Reinforced Concrete Cantilever Columns with Wood Roofs,
- PC1 . . . Precast/Tilt-up Concrete Shear Wall with Concrete Floor and Roof Diaphragms,
- PC2A . . . Precast Concrete Frame without Concrete Shear Walls and with Rigid Floor and Roof Diaphragms, and
- C3A . . . Concrete Frame with Infill Masonry Shear Walls and Flexible Floor and Roof Diaphragms.

SUBMISSION OF COMMENTS

Government Code Section 11346.1(a)(2) requires that, at least five working days prior to submission of the proposed emergency action to the OAL, the adopting agency provide a notice of the proposed emergency action to every person who has filed a request for notice of regulatory action with the agency. After submission of the proposed emergency to the OAL, the OAL shall allow interested persons five calendar days to submit comments on the proposed emergency regulations as set forth in Government Code Section 11349.6.

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 the OAL within five days after the SAB submits the emergency regulations to the OAL for review.

Please reference submitted comments as regarding “State Allocation Board – Seismic Mitigation Program Amendments,” addressed to:

Reference Attorney

Mailing Address: Office of Administrative Law
300 Capitol Mall, Suite 1250
Sacramento, CA 95814

E-mail Address: staff@oal.ca.gov

Fax No.: (916) 323-6826

For the status of the SAB submittal to the OAL for review, and the end of the five-day written submittal period, please consult the Web site of 1) the OAL at www.oal.ca.gov under the heading “Emergency Regulations;” and 2) the OPSC at www.opsc.dgs.ca.gov under the Tab “Regulations” and then click “Proposed Regulations.”

Pursuant to Title I, Section 55, please send a copy of written comments regarding the proposed regulatory action, as well as requests for a copy of the proposed regulatory action, and questions concerning the substance of the proposed regulatory action, addressed to:

Robert Young, Regulations Coordinator

Mailing Address: Office of Public School Construction
1130 K Street, Suite 400
Sacramento, CA 95814

E-mail Address: robert.young@dgs.ca.gov

Fax No.: (916) 445-5526

AGENCY CONTACT PERSONS

General or substantive questions regarding this Notice of Proposed Regulatory Action may be directed to Robert Young at (916) 445-0083. If Mr. Young is unavailable, these questions may be directed to the backup contact person, Ms. Lisa Jones, Supervisor, Regulations Team, at (916) 322-1043.