

August 21, 2026

Sent via ELECTRONIC MAIL to mjuybari@dir.ca.gov

Occupational Safety and Health Standards Board
California Department of Industrial Relations
Attn: Marjon Juybari, Senior Safety Engineer
2520 Venture Oaks Way, Suite 350
Sacramento, CA 95833

RE: Petition 605 – Horizontal Sliding and Swinging Gates July Discussion Draft Comments

Dear Occupational Safety and Health Standards Board,

The California Municipal Utilities Association (CMUA), Association of California Water Agencies (ACWA), California Special Districts Association (CSDA), California Association of Recreation and Park Districts (CARPD), League of California Cities (Cal Cities), California State Association of Counties (CSAC), and Rural County Representatives of California (RCRC) respectfully submit these comments on the July 23, 2026, Discussion Draft of Title 8 Section 3324 Horizontal Sliding and Swinging Gates (referred to herein as “July Discussion Draft”). We appreciate the opportunity to serve on Advisory Committee #2, participate in the July 23, 2026, meeting, and provide feedback on the July Discussion Draft.

Our members remain committed to protecting employees from workplace hazards and support reasonable measures to promote the safe operation and maintenance of gates. At the same time, the proposed requirements should be proportionate to the demonstrated safety risks and account for the financial and operational impacts on local public agencies.

We appreciate the productive discussion during the July 23 meeting and respectfully request that the Occupational Safety and Health Standards Board (OSHSB) staff convene another Advisory Committee meeting before initiating the formal rulemaking process. Several significant issues require further discussion, including the economic and fiscal impacts of the proposed regulations, which the Advisory Committee did not have an opportunity to fully consider during the meeting.

The undersigned organizations remain deeply concerned about the potential costs of complying with the proposed regulation. As noted in previous letters, costs have been estimated to range from approximately \$400 to \$8,300 per gate for necessary retrofits or repair, depending on the work required, and from \$150 to \$500 per gate for annual inspections. These estimates may not include the administrative cost to track, add, and maintain gates in existing asset management systems. Additionally, these estimates are likely to increase significantly based on the final scope of the regulations. For publicly owned utilities and other local public agencies these costs are ultimately borne by customers, ratepayers, or taxpayers, potentially creating additional affordability and budgetary pressures when Californians are already stretched too thin. The cumulative impact could be substantial for public agencies that own or operate hundreds or thousands of gates.

The undersigned organizations respectfully offer the following recommendations on the July Discussion Draft:

- **Exclusion of Swinging Gates from Rulemaking:** We appreciate OSHSB's receptiveness during the Advisory Committee meeting to separating horizontal sliding gates and swinging gates. We continue to recommend that this rulemaking focuses exclusively on horizontal sliding gates, which appear to be associated with a greater number of reported incidents. Additional discussion and supporting data are necessary before developing requirements for swinging gates.
- **Narrow the Scope Based on Gate Height:** During the Advisory Committee meeting, OSHSB staff presented incident data indicating that the majority of reported gate-related incidents involved gates that were approximately eight feet tall or taller. Advisory Committee members discussed the importance of establishing a clear and readily measurable applicability threshold. Therefore, we recommend limiting the regulations to gate panels that are eight feet or taller and 10 feet wide. Gate panel height should be measured from the lowest point of the gate panel to the highest point of the gate panel. While weight was an appreciated attempt to limit the scope of the regulations in previous drafts, the weight of existing gates is often difficult to determine. This threshold would better align the scope of the regulations with the available incident data and make the requirements implementable.
- **Clarification of Maintenance, Inspection, and Approval Responsibilities:** The July Discussion Draft outlines multiple parties with varying levels of responsibility for gate inspections, installation, maintenance, repairs, and approvals, including a "qualified person," a "competent person," and a "registered professional engineer." The use of multiple terms and differing levels of responsibility creates uncertainty for practitioners, increases cost of compliance, and makes the requirements difficult to implement. In addition, the requirement for a registered professional engineer to verify that a gate's positive stop can "withstand four times the normal impact forces" would benefit from additional specificity regarding the methodology, criteria, and documentation required to make such a determination and perhaps allow for a qualified person to make that

judgement. Clearer and streamlined requirements, consistent with existing inspection requirements, would help ensure consistent interpretation and implementation across affected facilities.

- **Clarify the Scope of Wheel Protection Requirement:** At the July 23 Advisory Committee, OSHSB staff explained that Section (c)(4) of the July Discussion Draft was intended to protect employees from the moving parts of a gate's wheels. We recommend that the provision be clarified to ensure that it establishes the intended safety objective without requiring unnecessary or impractical protective measures for "panels, components, and machine parts."
- **Clarification of Responsibility for Shared Gates:** Local public agencies throughout California often operate under complex easement arrangements that provide multiple parties, including state agencies, with access to facilities. The July Discussion Draft regulation does not clearly identify which party is responsible for ensuring gate safety when a gate is used by multiple employers. We recommend clarifying the allocation of responsibility among property owners, employers, and other parties with access rights to ensure that gate safety requirements can be implemented appropriately.
- **Inclusion of Illustrative Guidance and Account for Equipment Available:** As discussed at the July 23 Advisory Committee meeting, devices capable of effectively and positively stopping horizontal sliding and swinging gates, whether serving as a primary or secondary means of restraint, or preventing gates from falling beyond 45 degrees, may not be readily available in the marketplace. Custom-designed devices may not only be more expensive, raising affordability concerns, but may also introduce additional safety or operational risks if they are not appropriately designed to accommodate existing gate specifications. We recommend OSHSB develop supplemental guidance, including illustrative examples and diagrams showing the types of positive stops, locking devices, and secondary restraints that would satisfy the proposed requirements. Visual guidance depicting compliant configurations for different gate types and operating conditions would help employers understand the intended design and installation requirements, promote consistent implementation, and reduce uncertainty during inspections and enforcement. Publishing this guidance on a website that can be updated as technological and commercially available products become available would further support effective implementation.
- **Ensure Regulations Conform with Existing Safety Mechanisms Available:** As discussed at the July 23 Advisory Committee meeting, and mentioned above, participants raised concerns that some of the proposed mechanisms such as secondary positive stops are not currently available and would require modifications that are inconsistent with available designs. By requiring modifications to existing designs in order to comply with these regulations, we risk unintended consequences from modifications that are beyond the design of gates. The intended purpose of these regulations is to prevent harm, but if the regulations require significant modification this could result in further harm.

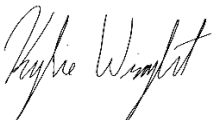
- **Emergency Response Access Should be Maintained:** The requirement that gates remain locked out until released by an “authorized person” by reference to section 3314, raises concerns in emergency situations, especially for gates that are located in fire prone areas. In emergencies, agency staff and emergency responders often need immediate access to facilities and cannot wait for an authorized individual to arrive and remove the lock. This could delay emergency response, undermine safety, and increase liability. We recommend that the reference to section 3314 be removed and language be revised to provide flexibility for emergency circumstances where emergency response and public safety access are critical.
- **Exemptions are Needed:** Retrofitting gates that are rarely accessed and already locked and secure would add no meaningful safety benefit while imposing unnecessary costs. We recommend including an exemption to exempt such gates from all the requirements of the regulation, given their infrequent use, secure status, and minimal risk to employees.
- **Delay Implementation:** We recommend that the regulations become effective no earlier than one year after the regulations take effect. This implementation delay would allow our members the necessary time to identify the covered gates, conduct the necessary inspections, complete any required retrofit or repairs, and train employees in the new requirements.

The undersigned organizations appreciate the opportunity to provide comments on the July Discussion Draft, and we look forward to continuing to engage in the development of these regulations. If you have any questions, do not hesitate to contact Megan Murphy at CMUA at (916) 841-3329 or mmurphy@cmua.org.

Sincerely,



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