

TITLE 24
NOTICE OF PUBLIC HEARING AND PROPOSED CHANGES
IN
PLUMBING STANDARDS
OF THE
DIVISION OF THE STATE ARCHITECT-- ACCESS COMPLIANCE

REGARDING THE
ADOPTION OF THE 2000 EDITION OF THE UNIFORM PLUMBING
CODE WITH MODIFICATIONS,
CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 5

Notice is hereby given that the California Building Standards Commission (CBSC) on behalf of the Division of the State Architect--Access Compliance (DSA/AC) proposes to adopt, approve, codify, and publish plumbing standards contained in the California Code of Regulations (CCR), Title 24, Part 5. The DSA/AC is proposing plumbing standards related to the 2000 Edition of the Uniform Plumbing Code (UPC) of the International Association of Plumbing and Mechanical Officials.

PUBLIC HEARING

A public hearing has not been scheduled; however, written comments will be accepted from May 25, 2001 until 5:00 P.M. on July 23, 2001. Please address your comments to Michael L. Nearman, California Building Standards Commission, 2525 Natomas Park Drive, Suite 130, Sacramento, CA 95833. Written Comments may also be faxed to (916) 263-0959 or E-mailed to cbsc@dgs.ca.gov.

Pursuant to Government Code Section 11346.5 (a) 17, any interested person or his or her duly authorized representative may request, no later than 15 days prior to the close of the written comment period, that a public hearing be held.

AUTHORITY AND REFERENCE

The CBSC proposes to adopt these plumbing standards under the authority granted by Health and Safety Code Section (H&SC§) 18949 .1. The purpose of these plumbing standards is to implement, interpret, and make specific the provision of Government Code Sections (GC§) 4450 through 4460, 12955.1 and H&SC§ 18949 .1, 19952 through 19959. The DSA/AC is proposing this regulatory action based on GC§ 4450.

INFORMATIVE DIGEST

Summary of Existing Laws

California Law GC§ 4450 through 4458 ensures "access to public buildings by physically handicapped persons."

Other Cross References:

Access to public accommodations by physically handicapped persons; see HSC§ 19955 et seq.

Department of General Services, see GC§ 14600 et seq.

Department of Rehabilitation, see Welfare and Institutions Code § 19000 et seq.

Injunctions to enjoin violations of this chapter see Civil Code § 55.

Parking facilities for handicapped, state agencies, see GC§ 14679.

State architect; see GC§ 14950 et seq.

State Buildings Standards Law; see H&SC§ 18901 et seq.

California Law GC§ 4460 ensures "detectable warning and directional surfaces" comply with the California Building Standards Code in order to ensure that those products are adequate to meet the safety and accessibility needs of the blind and visually impaired.

California Law H&SC § 19952 through 19954 ensures "access to places of public amusement and resort by physically handicapped persons."

California Law H&SC§ 19955 through 19959 ensure "access to public accommodations by physically handicapped persons."

Other Cross References:

Access to public buildings by physically handicapped persons; see GC§ 4450 et seq.

Injunctions of actual or potential violation of this Part see Civil Code §55.

California Law H&SC§ 18949.1 provides that any responsibilities of the State Architect to adopt regulations relating to building standards are hereby transferred to the CBSC.

Federal Law Americans with Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities, as published in the federal register, July 26, 1991.

Federal Law Federal Fair Housing Amendments Act of 1988.

Summary of Existing Regulations

Title 24, Part 5, provides for regulations adopting plumbing standards necessary to implement, interpret, or make specific the provisions of GC§ 4450 and 12955 developed by the Office of the State Architect for accessibility to state owned and leased buildings including schools, public buildings, public accommodations, commercial buildings,

publicly funded housing. Existing provisions are based on the adoption of proposed changes to the 2000 Edition of the UPC.

Summary of Effect

This regulation would ensure the adoption of changes to the 2000 Edition of the UPC into the California Plumbing Code (CPC), Part 5, Title 24, CCR. This regulation would assure barrier-free design in all buildings, facilities, site work and other improvements to which the CPC applies in compliance with state law to assure that these improvements are accessible to and usable. Additions, alterations and structural repairs in all buildings and facilities would comply with these provisions for new buildings.

The provisions of these regulations would apply to any portable buildings leased or owned by a school district, and shall also apply to temporary and emergency buildings and facilities.

In addition, these regulations would incorporate standards at least as restrictive as those required by the federal government for barrier-free design under (1) Title III (Public Accommodations and Commercial Facilities), Subpart D (New Construction and Alteration) and Appendix A (Americans with Disabilities Act Accessibility Guidelines) (see 28 C.F.R., Part 36), and (2) Title II (Public Entities), Section 35.151 (New Construction and Alterations) (see 28 C.F.R., Part 35) both from the Americans with Disabilities Act of 1990, and (3) under the Fair Housing Amendments of 1988. Some of these regulations may be more stringent than state law in order to meet the federal requirement.

Comparable Federal Statute or Regulations

Federal Americans with Disabilities Act of 1990 and the Federal Fair Housing Amendments Act of 1988 are the only Federal provisions DSA/AC is aware of which apply to accessibility.

Policy Statement Overview

Regulations are in place requiring plumbing requirements for accessibility based on adoption of the 1997 UPC with necessary California amendments. However there is need to update the code to be consistent with statutory provisions of law, the Americans with Disabilities Act, the Federal Fair Housing Amendments Act of 1988 and the California Building Standards Law.

The CBSC has directed the DSA to propose either the 2000 Edition of the UPC without any amendments, or to propose amendments to the 2000 Edition of the UPC, which would become part of the 2001 CPC in Title 24, Part 5 for the CCR.

Adopting the 2000 Edition of the UPC without California amendments would cause considerable confusion because these amendments are necessary modifications to the

model code language to incorporate state and federal laws, provisions, and regulations to address unique California conditions.

It is necessary to propose the adoption of amendments to some existing sections of the 2000 Edition of the UPC, with language to incorporate state and federal laws and regulations to address unique California conditions.

These proposed regulations are applicable for plumbing requirements for accessibility to public buildings, public accommodations, commercial buildings, and publicly funded housing.

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

The DSA/AC is unaware of any other matters prescribed by statutes applicable to the DSA/AC or to any specific regulations or class of regulations.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The DSA/AC has determined that this proposed regulatory action would impose a mandate on local agencies or school districts.

CCR, Title 24, Part 5, Section 101.11.1 mandates enforcement for these proposed regulations to the follows:

1. The director of General Services where state funds are utilized for any project or where funds of counties, municipalities or other political subdivisions are utilized except as otherwise provided above.
2. The building department of every city, county, or city and county within the territorial area of its city, county, or city and county, where private funds are utilized. "Building department" means the department, bureau or officer charged with the enforcement of laws or ordinances regulating the erection or construction, or both the erection and construction, of buildings.
3. Utilized for the construction of elementary, secondary or community college projects.

ESTIMATE OF COST OR SAVINGS

- A. Cost or Savings to any state agency: NO
- B. Cost to any local agency required to be reimbursed under Part 7(commencing with Section 17500) of Division 4: NO
- C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: NO
- D. Other nondiscretionary cost or savings imposed on local agencies: NO

E. Cost or savings in federal funding to the state: NO

Estimate

The cost of construction is over whelming offset by the cost saving to people with disabilities. Adoption of the UPC is to provide minimum requirements and standards for the protection of the public health, safety, and welfare. The UPC is designed to provide consumers with safe and sanitary plumbing systems, while, at the same time allowing latitude for innovation and new technologies with enhanced California amendments.

INITIAL DETERMINATION OF SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESSES

The DSA/AC has made an initial determination that the adoption/amendment of this regulation will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

This regulation is intended to provide plumbing requirements for accessibility to public buildings, public accommodations, commercial buildings and publicly funded housing.

A. Identification of the types of businesses that would be affected.

These proposed regulations are applicable for plumbing requirements for accessibility to public buildings, public accommodations, commercial buildings, and publicly funded housing.

B. A description of the projected reporting, record keeping, and other compliance requirements that would result from the proposed action.

H&SC§ 19958, provide that the building department of every city, county, or city and county shall enforce this proposed regulation, mandate compliance. "Building department" means the department, bureau, or officer charged with the enforcement of laws or ordinances regulating the erection or construction, or both the erection and construction, of buildings.

Compliance is also mandated by GC§ 4452, which provides that the responsibility for enforcement of this chapter shall be as follows:

By the Director of the Department of General Services where state funds are utilized for any project or where funds of counties, municipalities, or other political subdivisions are utilized for the construction of (a) elementary, secondary, or community college projects. By the governing bodies thereof where funds of counties, municipalities, or other political subdivisions are utilized except as otherwise provided in (a) above.

C. The DSA/AC invites you to submit proposals to lessen the identified adverse economic impact. Submissions may include the following considerations:

- The establishments of differing compliance or reporting requirements or timetables, which take into account the resources available to businesses.
- Consolidation or simplification of compliance and reporting requirements for businesses.
- The use of performance standards rather than prescriptive standards.
- Exemption or partial exemption from the regulatory requirements for businesses.

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

The DSA/AC finds that provisions for the adoption of proposed changes to the 2000 Edition of the UPC into the CPC, Part 5, Title 24 of the CCR would not require a report. This regulation is intended to provide plumbing requirements for accessibility to public buildings, public accommodations, commercial buildings and publicly funded housing.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

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

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

The DSA/AC has assessed whether or not and to what extent this proposal will affect the following:

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

It is unknown what number of jobs would be created or eliminated by the adoption of plumbing provisions. This regulation is intended to provide plumbing requirements for accessibility to public buildings, public accommodations, commercial buildings, and publicly funded housing.

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

It is unknown what number of businesses that would be created or eliminated by the adoption of plumbing provisions. This regulation is intended to provide plumbing requirements for accessibility to public buildings, public accommodations, commercial buildings, and publicly funded housing.

The expansion of businesses currently doing business with the State of California.

It is unknown if plumbing provisions would affect the ability of California businesses to compete with other states by making it more costly to produce goods or services here.

This regulation is intended to provide plumbing requirements for accessibility to public buildings, public accommodations, commercial buildings, and publicly funded housing.

INITIAL DETERMINATION OF SIGNIFICANT EFFECT ON HOUSING COSTS

The DSA/AC has made an initial determination that his proposal may not have a significant effect on housing costs. This regulation is intended to provide plumbing requirements for accessibility to public buildings, public accommodations, commercial buildings, and publicly funded housing.

The CBSC contact designated below will make the DSA/AC evaluation of the effect of the proposed regulatory action on housing costs available upon request.

CONSIDERATION OF ALTERNATIVES

The DSA/AC must determine that no reasonable alternative considered by DSA/AC or that has otherwise been identified and brought to the attention of the DSA/AC would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

AVAILABLE DOCUMENTS

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review, by contacting the person named below.

CONTACT PERSON

CBSC: Michael L. Nearman
CBSC Back-Up: Stanley T. Nishimura
CBSC Address: 2525 Natomas Park Drive, Suite 130,
Sacramento, CA 95833
CBSC Website: www.bsc.ca.gov
CBSC Telephone No: (916) 263-0916
CBSC Facsimile No: (916) 263-0959

AVAILABILITY OF FINAL STATEMENT OF REASONS

At the conclusion of this rulemaking, a Final Statement of Reasons will be prepared as required by Government Code section 11346.9. This document will be available from the contact persons named above.

QUESTIONS ON THE SUBSTANCE OF THE PROPOSED REGULATIONS

Specific questions regarding the substantive aspects of the proposed building standards may be addressed to:

CONTACT PERSON

DSA:	Michael Mankin	Telephone No. (916) 322-4700
DSA Back-Up:	Linda Huber	Telephone No. (916) 324-9495
DSA Address:	1130 K Street, Suite 101 Sacramento, CA 95814	
DSA Website:	www.dgs.ca.gov/dsa	
DSA Telephone No:	(916) 445-8100	
DSA Facsimile No:	(916) 327-3371	

POST-HEARING MODIFICATIONS TO THE TEXT OF THE REGULATIONS

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