

**FINDING OF EMERGENCY
OF THE
OFFICE OF STATEWIDE HEALTH PLANNING AND DEVELOPMENT**

**REGARDING THE CALIFORNIA GREEN BUILDING STANDARDS CODE
CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 11**

The adoption of these regulations or order of repeal is necessary for the immediate preservation of the public peace, health and safety, or general welfare, as follows:

FINDING OF EMERGENCY

In response to State of Emergency proclamations issued by Governor Brown in January and April of 2014, and in particular Executive Order B-29-15 (issued April 1, 2015), Office of Statewide Health Planning and Development (OSHPD) is proposing this emergency building standard regulation pertaining to the reduction of potable water use for exterior landscape irrigation for specified nonresidential buildings. OSHPD, in coordination with the California Building Standards Commission, Department of Water Resources, the Department of Housing and Community Development, the Division of the State Architect, and other stakeholders, has developed emergency regulations that amend the 2013 California Green Building Standards Code (Part 11, Title 24, California Code of Regulations, also known as "CALGreen").

OSHPD's emergency proposal provides clarification that the non-residential mandatory requirements for reduction of potable water use for exterior landscape irrigation apply to OSHPD health facilities and are enforced by the local agency having jurisdiction. Local approval must be obtained and submitted to OSHPD prior to issuance of OSHPD's plan approval or building permitting.

BACKGROUND

On January 17, 2014 (and again on April 25, 2014), Governor Brown proclaimed a State of Emergency to exist throughout the State of California due to severe drought conditions. On April 1, 2015, the governor issued Executive Order No. B-29-15, which directs state agencies to implement immediate measures to save water, increase enforcement against water waste, invest in new technologies, and streamline government response to ongoing drought conditions. To carry out these provisions, Section 30 of the Order directs state agencies to adopt necessary emergency regulations and conduct a public meeting on the regulations prior to their adoption. Additionally, Section 30 of the Order suspends Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of the Government Code (Administrative Procedure Act) for the development and adoption of regulations needed for purposes of the Order.

AUTHORITY AND REFERENCE

CBSC proposes to adopt these building standards under the authority granted by Health and Safety Code 18930.5, 18934.5 and 18938(b), and Section 30, Governor's Executive Order No. B-29-15 (April 1, 2015). The purpose of these building standards is to implement, interpret, and make specific the provisions of Health and Safety Code 18930.5, 18934.5, 18937 and 18938, and Section 30, Governor's Executive Order No. B-29-15 (April 1, 2015). The OSHPD is proposing this regulatory action based on Section 30, Governor's Executive Order No. B-29-15 (April 1, 2015) and Health and Safety Code 1275 and 129790.

INFORMATIVE DIGEST

Summary of Existing Laws

Health and Safety Code Section 18930.5 grants CBSC the authority, if no state agency has the authority or expertise to propose green building standards applicable to a particular

occupancy, to adopt, approve, codify, update, and publish green building standards for those occupancies.

Health and Safety Code Section 18934.5 sets forth that, where no state agency has the authority to adopt building standards applicable to state buildings, the commissioners shall adopt, approve, codify, and publish building standards providing the minimum standards for the design and construction of state buildings.

Health and Safety Code Section 18937 provides that the commissioners shall act on emergency standards within 30 days, and they must act on the merit of the emergency finding as well as on the proposed standards.

Health and Safety Code Section 18938 requires the filing of emergency standards with the Secretary of State by CBSC only after they have been approved by the commissioners. It requires that the standards become effective when filed Secretary of State or at a later date specified in the standards, and that they be published in Title 24.

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

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

Summary of Existing Regulations

The California Green Building Standards Code (Part 11, Title 24, California Code of Regulations, also known as "CALGreen") contains mandatory and voluntary green building standards for residential, nonresidential, and medical facilities. Specified sections of CALGreen (both mandatory and voluntary) reference the Model Water Efficiency Landscape Ordinance (MWELo) adopted by the Department of Water Resources in Title 23, California Code of Regulations with regard to outdoor water use.

Summary of Effect

OSHPD's authority is limited to promulgation and enforcement of building standards for the physical plant of hospitals and skilled nursing facilities, not the building grounds or landscaping. The proposed action provides clarification that the non-residential mandatory requirements promulgated by the California Building Standards Commission for reduction of potable water use for exterior landscape irrigation does apply to OSHPD health facilities. The local jurisdiction retains authority for enforcement of these irrigation standards. Local approval must be obtained and submitted to OSHPD prior to OSHPD plan approval or building permitting.

Comparable Federal Statute or Regulations

There currently are no federal laws or regulations for the mandatory reduction of outdoor water use.

Policy Statement Overview

CBSC is responsible for the development of green building standards for nonresidential occupancies for which no other state agency has authority or expertise.

Evaluation of consistency

The proposed action is not incompatible or inconsistent with existing regulations.

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

The Department of Water Resources develops and maintains the Model Water Efficiency Landscape Ordinance (MWELo) contained within Chapter 2.7 of Division 2 of Title 23 of the

California Code of Regulations. Government Code Section 65595 requires local agencies to either adopt the MWEL0 or a local water efficiency landscape ordinance that is at least as effective as the MWEL0. The OSHPD proposed regulations refer to regulations promulgated by the CBSC that reference elements of the MWEL0 with regard to reductions in outdoor potable water use for landscape irrigation.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

OSHPD has determined that the proposed regulation would provide clarification and would not impose a mandate on local agencies or school districts.

FISCAL IMPACT STATEMENT (attached Form 399)

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

Estimate: OSHPD has prepared an Economic and Fiscal Impact Statement (Form 399) concerning the proposed action that reflects no fiscal impact in A through E above.