

**NOTICE OF PROPOSED ACTION
TO
BUILDING STANDARDS
OF THE
OFFICE OF STATEWIDE HEALTH PLANNING AND DEVELOPMENT**

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

Outdoor Irrigation

Notice is hereby given that the California Building Standards Commission (CBSC) on behalf of Office of Statewide Health Planning and Development (OSHDP) proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), Title 24, Part 11. The OSHPD is proposing building standards related to outdoor irrigation.

PUBLIC COMMENT PERIOD

(Government Code Section 11346.5(a)(1))

A public hearing has not been scheduled; however, written comments will be accepted from **September 11, 2015**, until 5:00PM on **October 26, 2015**. Please address your comments to:

California Building Standards Commission
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Attention: Jim McGowan, Executive Director

Written Comments may also be faxed to (916) 263-0959 or emailed 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.

The public will have an opportunity to provide both written and/or oral comments regarding the proposed action on building standards at a public meeting to be conducted by the California Building Standards Commission to be scheduled at a date near the end of the current adoption cycle. A meeting notice will be issued announcing the date, time and location of the public meeting.

POST-HEARING MODIFICATIONS TO THE TEXT OF THE REGULATIONS

Following the public comment period, the CBSC may adopt the proposed building standards substantially as proposed in this notice or with modifications that are sufficiently related to the original proposed text and notice of proposed changes. If modifications are made, the full text of the proposed modifications, 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 building standards during the 15-day period.

NOTE: To be notified of any modifications, you must submit written/oral comments or request that you be notified of any modifications.

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). 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

An informative digest drafted in plain English in a format similar to the Legislative Counsel's Digest shall include the following:

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 OSHPD to adopt and enforce building standards for the physical plant of health facilities including hospitals, skilled nursing facilities and intermediate care facilities.

Health and Safety Code Section 129790 authorizes the OSHPD 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 and nonresidential buildings, and health 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 nonresidential mandatory requirements promulgated by the CBSC 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. OSHPD promulgates building standards regarding the design and construction of licensed health facilities.

Evaluation of consistency

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

OTHER 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 MWELo or a local water efficiency landscape ordinance that is at least as effective as the MWELo. OSHPD's proposed regulations refer to regulations promulgated by the CBSC that reference elements of the MWELo with regard to reductions in outdoor potable water use for landscape irrigation.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The OSHPD has determined that the proposed regulatory action would not impose a mandate on local agencies or school districts.

ESTIMATE OF COST OR SAVINGS

- 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 regarding A through E above.

INITIAL DETERMINATION OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESSES

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

DECLARATION OF EVIDENCE

The OSHPD has not relied on any other facts, evidence, documents, testimony or other evidence to make its final determination of no statewide adverse economic impact.

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

The OSHPD has made an assessment of the proposal regarding the economic impact of recordkeeping and reporting requirements and has determined that a report pursuant to Government Code Section 11346.3(d) is not required.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

The OSHPD 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 OSHPD 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.**

The proposed regulations will not create or eliminate jobs within the State of California.

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

The proposed regulations will not create new businesses or eliminate existing businesses within the State of California.

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

The proposed regulations will not cause expansion of businesses currently doing business with the State of California.

- **The benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment.**

The proposed action is in response to the Governor's Executive Order No. B-29-15 proclaiming a State of Emergency due to the severe drought conditions throughout California.

OSHPD promulgates building standards regarding the design and construction of licensed health facilities to ensure the protection of the public's health and safety in the facilities. The proposed regulation clarifies that the local authority, not OSHPD, has jurisdiction for the enforcement of exterior landscape requirements.

ESTIMATED COST OF COMPLIANCE OF STANDARDS THAT WOULD IMPACT HOUSING

The proposed regulation pertains to health facilities' outdoor irrigation and will not result in a cost impact on housing.

CONSIDERATION OF ALTERNATIVES

The OSHPD must determine that no reasonable alternative considered by the state 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 or 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 provisions of law.

AVAILABILITY OF RULEMAKING 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. This notice, the express terms and initial statement of reasons can be accessed from the California Building Standards Commission website:

<http://www.bsc.ca.gov/>

Interested parties may obtain a copy of the final statement of reasons, once it has been prepared, by making a written request to the contact person named below or at the California Building Standards Commission website.

Government Code Section 11346.5(a)(21) states that OSHPD shall provide, upon request, a description of proposed changes included in the proposed action, in the manner provided by Section 11346.6, to accommodate a person with a visual or other disability for which effective communication is required under state or federal law and that providing the description of proposed changes may require extending the period of public comment for the proposed action.

CBSC CONTACT PERSON FOR PROCEDURAL AND ADMINISTRATIVE QUESTIONS

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

Michael L. Nearman, Deputy Executive Director

2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833

Telephone No.: (916) 263-0916

Facsimile No.: (916) 263-0959

Michael.Nearman@dgs.ca.gov

**PROPOSING STATE AGENCY CONTACT PERSON FOR SUBSTANTIVE AND/OR TECHNICAL
QUESTIONS ON THE PROPOSED CHANGES TO BUILDING STANDARDS**

Specific questions regarding the substantive and/or technical aspects of the proposed changes to the building standards should be addressed to:

Glenn S.A. Gall, Supervisor, Building Standards Unit
Office of Statewide Health Planning and Development
Facilities Development Division
400 R Street, Suite 200
Sacramento, CA 95811

(916) 440-8300
FAX (916) 324-9188
regsunit@oshpd.ca.gov