

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

**REGARDING THE CALIFORNIA PLUMBING CODE
CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 5**

OSHPD EF 02/15

Notice is hereby given that the California Building Standards Commission (CBSC) on behalf of the Office of Statewide Health Planning and Development (OSHPD) proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), Title 24, Part 5. The OSHPD is proposing building standards related to water-conserving flow rates for water closets and urinals.

PUBLIC COMMENT PERIOD

(Government Code Section 11346.5(a)(17))

A public hearing has not been scheduled; however, written comments will be accepted from **January 1, 2016, until 5:00 PM on February 15, 2016**. Please address your comments to:

California Building Standards Commission
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Attention: Michael L. Nearman, Acting Executive Director

Written Comments may be E-mailed to CBSC@dgs.ca.gov.

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

(Government Code Section 11346.5(a)(18)), (Government Code Section 11346.8(c))

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

(Government Code Section 11346.5(a)(2))

The California Building Standards Commission proposes to adopt these building standards under the authority granted by Health and Safety Code Section 18949.3. The purpose of these building standards is to implement, interpret, and make specific the provisions of Health and Safety Code Sections 1226, 1275,

and 129790. The OSHPD is proposing this regulatory action based on Health and Safety Sections 1226, 1275, 129790 and 129850; Government Code Section 11152.5; and Section 30, Governor's Executive Order No. B-29-15 (April 1, 2015).

INFORMATIVE DIGEST

Summary of Existing Laws

- Health and Safety Code Section 1226 authorizes the Office to prescribe, in consultation with the Community Clinics Advisory Committee, minimum building standards for the physical plant of clinics, for adoption in the California Building Standards Code.
- 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.
- Government Code Section 11152.5 authorizes a state department to adopt regulations pursuant to the Government Code. Regulations which are building standards, must be adopted pursuant to State Building Standards Law of the Health and Safety Code (commencing with 18901).

Summary of Existing Regulations

Title 24, Part 5, 2013 California Plumbing Code, is based on the 2012 Uniform Plumbing Code (model code) with California amendments. The code contains plumbing system requirements for the design and construction of hospitals, skilled nursing facilities, licensed clinics, and correctional treatment centers. Specifically, the California Plumbing Code contains water-flow volume requirements for low-consumption and water-saving toilets and urinals that are based on the model code.

Summary of Effect

This proposed action will make modifications to the 2013 California Plumbing Code that reference appropriate standards pertaining to health facilities under OSHPD jurisdiction, with amendments necessitating immediate action to avoid serious harm to the public peace, health, safety, and general welfare in response to ongoing drought conditions and the subsequent State of Emergency proclamations and Executive Order No. B-29-15 issued by the Governor.

Comparable Federal Statute or Regulations

This proposal is based on Title 20, California Code of Regulations Appliance Efficiency Standards and will provide consistency within the state regulations. There is no Federal regulation related to this proposal.

Policy Statement Overview

OSHPD is responsible for the development of regulations regarding the physical plant for hospitals, skilled nursing facilities, licensed clinics and correctional treatment centers.

Evaluation of consistency

The proposed action is consistent and compatible with existing state regulations. This proposed action will align specified standards in Title 24 with those in Title 20 and prevent incompatible/inconsistent regulations.

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

(Government Code Section 11346.5(a)(4))

The California Energy Commission develops and maintains the Appliance Efficiency Regulations contained within Sections 1601-1609 of Title 20, California Code of Regulations, which prohibit the sale or offer for sale of specified noncompliant plumbing fixtures, effective January 1, 2016. Additionally, the California Energy Code (Part 6, Title 24, California Code of Regulations) states that any appliance regulated by the Appliance Efficiency Regulations, Title 20 California Code of Regulations, Section 1601 et seq., may be installed only if the appliance fully complies with Section 1608(a) of those regulations. In

order to prevent a conflict between Title 20 and Title 24, Part 5, California Plumbing Code, OSHPD is proposing this building standard regulation that will align the water-consumption requirements for water closets and urinals to those recently adopted by the California Energy Commission in Title 20.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

(Government Code Section 11346.5(a)(5))

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: **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: None.

OSHPD has prepared an Economic and Fiscal Impact Statement (Form 399) pertaining to the proposed action that reflects no fiscal impact for item A through E above. The proposed code change will prevent confusion and provide consistency between Title 24 and Title 20 California Code of Regulations. There is no cost for compliance with this proposed code change.

INITIAL DETERMINATION OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESSES

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

DECLARATION OF EVIDENCE

The proposed action makes a minor technical change to Title 24 which provides code users with a reference to specific plumbing fixture water-flow rates located in Title 20. The proposed code change will prevent confusion and provide consistency between Title 24 and Title 20 California Code of Regulations. There is no cost for compliance with this proposed code change.

There are no other facts, evidence, documents, testimony or additional evidence that OSHPD relied on to determine that there will not be an adverse economic impact on businesses in California and their ability to compete with businesses in other states.

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

The OSHPD has made an assessment of this proposal and has determined that the regulation does not require a report pursuant to Government Code Section 11346.3(d).

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

(Government Code Section 11346.5(a)(10), Government Code Section 11346.3(b)(1))

The OSHPD has made an assessment as to 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 regulation will not create or eliminate jobs within California.

- **The creation of new businesses or the elimination of existing businesses within the State of California.**
The proposed regulation will not create new businesses or eliminate existing businesses within California.
- **The expansion of businesses currently doing business with the State of California.**
The proposed regulation will not cause expansion of businesses that are currently doing business in California.
- **The benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment.**
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 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.

ESTIMATED COST OF COMPLIANCE OF STANDARDS THAT WOULD IMPACT HOUSING

The OSHPD has determined that the proposed regulation would not have a cost impact on housing.

CONSIDERATION OF ALTERNATIVES

(Government Code Section 11346.5(a)(13))

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

(Government Code Section 11346.5(a)(20)), (Government Code Section 11346.5(a)(19))

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

(Government Code Section 11346.5(a)(14))

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

Michael L. Nearman, Acting Executive Director (916) 263-0916
Kevin Day, Staff Services Manager I (Specialist) (916) 263-0355

Michael.Nearman@dgs.ca.gov
kevin.day@dgs.ca.gov

Department of General Services / California Building Standards Commission
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Telephone No.: (916) 263-0916

**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 & Development
Telephone: (916) 440-8300
E-mail: regsunit@oshpd.ca.gov
FAX: (916) 324-9188