

**NOTICE OF PROPOSED ACTION  
TO  
BUILDING STANDARDS  
OF THE  
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (HCD)  
REGARDING THE 2007 CALIFORNIA PLUMBING CODE (CPC)  
EMERGENCY REGULATIONS FILED WITH THE SECRETARY OF STATE ON AUGUST 4, 2009  
CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 5, CHAPTER 16A, PART I  
HCD EF 01/09**

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Notice is hereby given that the California Building Standards Commission (CBSC) on behalf of the Department of Housing and Community Development (HCD) proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), Title 24, Part 5, Chapter 16A, Part I. HCD is proposing building standards related to graywater systems.

**PUBLIC COMMENT PERIOD**

A public hearing has not been scheduled; however, written comments will be accepted from **September 4, 2009**, until **5:00 PM** on **October 19, 2009**. Please address your comments to:

**California Building Standards Commission,  
2525 Natomas Park Drive, Suite 130  
Sacramento, California 95833  
Attention: Dave Walls, Executive Director**

Written comments may also be faxed to (916) 263-0959 or e-mailed to [CBSC@dgs.ca.gov](mailto: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.

**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). The 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 and/or oral comments or request that you be notified of any modifications.**

**AUTHORITY AND REFERENCE**

The CBSC proposes to adopt these building standards under the authority granted by Health and Safety Code Section 18949.5. The purpose of these building standards is to implement, interpret and make specific the provisions of Health and Safety Code Sections 17922.12 and 18941.7. HCD is proposing this regulatory action based on Health and Safety Code Sections 17040, 17921, 17922 and 19990.

## **INFORMATIVE DIGEST**

### **Summary of Existing Laws**

Existing state law governs the erection, reconstruction, movement, enlargement, conversion, alteration, repair, removal, demolition or arrangement of apartment houses, hotels and dwellings, including accessory buildings, facilities and uses thereto.

The existing Health and Safety Code 17922.12 directs HCD to adopt and submit for approval at the next triennial code adoption cycle, building standards for the construction, installation, and alteration of graywater systems for indoor and outdoor uses.

Additionally, current state law requires the building department of every city, county and city and county to enforce regulations published in the California Building Standards Code, as well as other rules and regulations promulgated by HCD.

### **Summary of Existing Regulations**

Existing building standards pertaining to this regulatory action are contained in the 2007 California Plumbing Code (California Code of Regulations, Title 24, Part 5). The regulations being modified by this action are contained in Appendix G which governs "Gray Water Systems". To correlate with the format of the 2009 model Plumbing Code, HCD proposed a new Chapter 16A, Part I "Nonpotable Water Reuse Systems" for adoption, which was filed with the Secretary of State as an emergency on August 4, 2009. Previous standards applicable to the construction, installation or alteration of graywater systems for subsurface irrigation and other safe uses, were not practical and the Legislature directed HCD to develop and modernize the graywater standards.

### **Summary of Effect**

This regulatory action makes critically needed changes to California building standards pertaining to graywater systems for residential dwellings. Specifically, this action clarifies and makes specific the provisions of SB 1258 requiring HCD to develop within the 2009 triennial code adoption cycle, graywater building standards for statewide application to residential structures. Because SB 1258 was signed into law by the Governor and is currently in effect, these regulations clarify the requirements of these new provisions of law for the affected public.

An in-depth discussion of the effect of the amendments may be found in the Initial Statement of Reasons.

### **Comparable Federal Statute or Regulations**

None.

### **Policy Statement Overview**

The broad objective of these proposed building standards is to comply with the Governor's executive order, proclamation and the purpose of SB 1258 (Ch. 172, Stats. of 2008). HCD proposes to continue the emergency regulations filed with the Secretary of State on August 4, 2009, and make them permanent in the 2007 California Plumbing Code (CCR, Title 24, Part 5):

- This bill charged HCD with developing building standards for the construction, installation, and alteration of graywater systems for residential application. The requirements of the bill specified that HCD:
  1. Convene and consult a stakeholder's group that includes members with expertise in public health, water quality, geology or soils, residential plumbing, home building, and environmental stewardship.
  2. Ensure protection of water quality in accordance with applicable provisions of state and federal water quality law.
  3. Consider existing research available on the environmental consequences to soil and groundwater of short-term and long-term graywater use for irrigation purposes, including, but not limited to, research sponsored by the Water Environment Research Foundation.
  4. Consider how graywater use impacts human health.

5. Consider the circumstances under which the use of in-home graywater treatment systems is recommended.
  6. Consider the use and regulation of graywater in other jurisdictions within the United States and in other nations.
- This bill specifies that a city, county or other local agency may adopt after public hearing and enactment of an ordinance or resolution, building standards that prohibit entirely the use of graywater, or building standards that are more restrictive than the graywater standards adopted by the CBSC.
  - The proclamation directed state agencies to prioritize and streamline permitting and regulatory compliance actions for desalination, water conservation and recycling projects to provide drought relief.
  - Upon adoption of graywater building standards, the provisions in the Water Code, specifically Section 14877.1, terminate the authority of the Department of Water Resources to adopt and update standards for the installation, construction, and alteration of graywater systems in residential occupancies.

Therefore, the specific objectives of these proposed regulations are to:

- Implement the provisions of the Governor's executive order, proclamation and SB 1258;
- Make permanent the emergency adoption of graywater building standards filed with the Secretary of State on August 4, 2009;

These building standards within the 2007 California Plumbing Code must remain in effect to ensure that California has clear and usable standards regarding the installation of graywater systems.

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

None.

**MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS**

HCD has determined that the proposed regulatory action would not impose a mandate on local agencies or school districts; and therefore, does not mandate state reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

**ESTIMATE OF COST OR SAVINGS**

- A. Cost or Savings to any state agency: Health and Safety Code Section 17921 requires HCD to propose the adoption, amendment or repeal of building standards to the Commission pursuant to the provisions of Chapter 4 (commencing with Section 18935) of Part 2.5 of the Government Code. Part 2.5 of the Government Code requires state agencies to ensure that regulatory language meets the requirements of clarity and non-duplication. This proposed rulemaking incorporates specific provisions into one location with the California Building Standards Code to meet these requirements. This action will result in a minimal cost to HCD which will be absorbed in the current budget.
- 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: YES; Energy and water savings due to a reduction in the amount of water needed to satisfy residential demand.
- E. Cost or savings in federal funding to the state: NONE.

Estimate: The proposed regulatory changes may impose costs on manufacturers, installers, contractors and homeowners involved with the construction, installation or alteration of graywater systems. The extent of these costs is dependent on the use and type of system or features which have been designed into the system. The cost or savings of this regulatory action is unknown because the application of the building standards provides manufacturers, installers, contractors and homeowners specific requirements when designing and constructing graywater systems for residential occupancies. These proposed building standards have both prescriptive and

performance criteria.

### **INITIAL DETERMINATION OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESSES**

HCD has made an initial determination that the proposed action will not have a significant statewide adverse economic impact on businesses, including the ability of California businesses to compete with business in other states. (See *Economic Impact of the Proposed California Plumbing Code Regulations on Private Persons and Businesses in the State of California* in the rulemaking file.)

### **DECLARATION OF EVIDENCE**

HCD has determined that there are minimal facts, evidence, documents, testimony, or other evidence upon which the agency relied to support its initial determination of no effect pursuant to Government Code Section 11346.5(a)(8). The public is welcome to submit any information, facts or documents either supporting HCD's initial determination or finding to the contrary.

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

HCD 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(c) is not required.

### **COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS**

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

### **SMALL BUSINESS EFFECT**

HCD has initially determined that a small business may be affected by these proposed regulations. (See *Economic Impact of the Proposed California Plumbing Code Regulations on Private Persons and Businesses in the State of California* in the rulemaking file.)

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

HCD has initially 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.

**These regulations will not affect the creation, or cause the elimination, of jobs within the State of California.**

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

**These regulations will not affect the creation or the elimination of existing business within the State of California.**

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

**These regulations will not affect the expansion of businesses currently doing business within the State of California.**

(See *Economic Impact of the Proposed California Plumbing Code Regulations on Private Persons and Businesses in the State of California* in the rulemaking file.)

### **INITIAL DETERMINATION OF SIGNIFICANT EFFECT ON HOUSING COSTS**

HCD has made an initial determination that this proposal would not have a significant effect on housing costs. The CBSC contact person designated below will make HCD's initial evaluation of the effect of the proposed regulatory action on housing costs available upon request. (See *Economic Impact of the Proposed California Plumbing Code Regulations on Private Persons and Businesses in the State of California* in the rulemaking file.)

## **CONSIDERATION OF ALTERNATIVES**

HCD must determine that no reasonable alternative considered by HCD, or that has otherwise been identified and brought to the attention of HCD, 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.

## **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 also be accessed from the California Building Standards Commission website at <http://www.bsc.ca.gov>; in addition, the rulemaking documents will be posted on HCD's website at [http://www.hcd.ca.gov/codes/shl/graywater\\_emergency.html](http://www.hcd.ca.gov/codes/shl/graywater_emergency.html).

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 or HCD's website.

## **CBSC CONTACT PERSON FOR PROCEDURAL AND ADMINISTRATIVE QUESTIONS**

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

**CBSC Contact:** Tom Morrison ([tom.morrison@dgs.ca.gov](mailto:tom.morrison@dgs.ca.gov))

**CBSC Back-up:** If the contact person is unavailable, please contact Jane Taylor ([jane.taylor@dgs.ca.gov](mailto:jane.taylor@dgs.ca.gov)) at the phone number or fax number provided below.

**CBSC Address:** California Building Standards Commission  
2525 Natomas Park Drive, Suite 130  
Sacramento, CA 95833

**CBSC Telephone:** (916) 263-0916

**CBSC Fax:** (916) 263-0959

**CBSC E-mail:** [CBSC@dgs.ca.gov](mailto:CBSC@dgs.ca.gov)

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

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

James Rowland, District Representative II  
Division of Codes and Standards  
Department of Housing and Community Development  
Telephone: (916) 327-3809  
E-mail: [jrowland@hcd.ca.gov](mailto:jrowland@hcd.ca.gov)  
Fax: (916) 327-4712

Back-up:

Shawn Huff, Housing Standards Programs Manager  
Division of Codes and Standards  
Department of Housing and Community Development  
Telephone: (916) 445-9471  
E-mail: [shuff@hcd.ca.gov](mailto:shuff@hcd.ca.gov)  
Fax: (916) 327-4712