



CHARLES D. BAKER
GOVERNOR

KARYN E. POLITO
LIEUTENANT GOVERNOR

The Commonwealth of Massachusetts

Executive Office for Administration and Finance

Division of Capital Asset Management and Maintenance

One Ashburton Place

Boston, Massachusetts 02108

Tel: (617) 727-4050

Fax: (617) 727-5363

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OFFICE OF CONSUMER AFFAIRS

KRISTEN LEPORE
SECRETARY
ADMINISTRATION & FINANCE

CAROL W. GLADSTONE
COMMISSIONER

August 4, 2015

The Board of State Examiners of Plumbers and Gas Fitters
Division of Professional Licensure
100 Washington Street
Boston, MA 02118

Dear Members of the Board of State Examiners of Plumbers and Gas Fitters:

Thank you for the opportunity to provide comments in connection with your review of the Massachusetts Plumbing Regulations (the "Regulations"). DCAMM understands that your Board's review of the regulations is being considered and conducted pursuant to Executive Order 562 ("EO 562"). It is in the spirit of E.O. 562 that the comments and recommendations below are provided.

There are two Plumbing Code regulations with which DCAMM has extensive experience and would like to make recommendations for modifications to the Code. These include: requirements for gender-specific toilet rooms and toilet room requirements for Post-Secondary Educational Institutions.

1. Gender-specific Toilet rooms:

Issue: The Plumbing Code currently states that the plumbing fixtures in a single-user toilet room can only be counted in the total fixture requirements for a building if the toilet room is labeled male or female. Currently a unisex toilet may be counted only one time toward the total minimum fixture requirements. See 248 CMR 10.10(18)(m).

The minimum number of men's and women's bathrooms required in non-residential buildings is regulated by the Code of Massachusetts Regulations, 248 CMR 10.10 (18). The "Table 1: Minimum Facilities for Building Occupancy", summarizes the requirements. "Unisex" [single-user] toilets are provided for in the Regulations, and they must be accessible to persons with disabilities. See 248 CMR 10.10(18)(i). The definition of a unisex bathroom is "a room containing one toilet and one lavatory available for use by either sex."

Background: DCAMM has a policy of including at least one single-user toilet in its buildings. DCAMM has included single user toilets in most of its new buildings and many of its renovated buildings since 2002, including courthouses and educational facilities. These toilets rooms, which

generally include one sink, one toilet, and sufficient maneuvering space for a person using a wheeled mobility device, are being used by a wide variety of people with a broad range of needs including:

- persons with mobility disabilities who need maneuvering space for wheelchairs, scooters, and service animals;
- people who need to be able to use a sink adjacent to a toilet for personal hygiene or medical needs;
- people who need assistance in using the toilet when the assister is of a different gender,
- parents with young children of a different gender;
- people who need more privacy than usually afforded by a toilet stall in a multiuser toilet
- people whose gender identity or gender expression makes them or others uncomfortable in a women's or men's multi-user toilet room;
- college faculty and staff who may prefer privacy and separation from their students when separate toilet rooms are not provided;
- other people with unknown or unlabeled needs which can't be met in multi-user toilet rooms.

The single user toilet is a prime example of DCAMM's goal of achieving Universal Design, also known as Inclusive Design, because it addresses many different users' needs with a single design.

In existing buildings, a single user toilet is added where DCAMM or a state agency is doing a small number of repairs and must provide an accessible toilet for compliance with 521 CMR, the Rules and Regulations of the Massachusetts Architectural Access Board (MAAB). Under MAAB, providing a single user toilet, instead of renovating two multi-user toilet rooms, offers a significant cost savings with equivalent benefit to building users.

In new construction, constructing one or more single user toilet rooms, in addition to multi-user toilet rooms, is generally desirable to provide for the diversity of people who use the Commonwealth's buildings. The Americans with Disabilities Act, supports this approach: "*Advisory 213.2 Toilet Rooms and Bathing Rooms: ...it is advantageous to install unisex toilet rooms in addition to accessible single-sex[multi-user] toilet rooms in new facilities.*"

In DCAMM's experience there are two issues that need to be addressed in modifying the Plumbing Code for single user toilet rooms:

Signage at single user toilet rooms is integral to making them welcoming to people who may need them. DCAMM, in its post-construction review of buildings has found that agencies, upon occupancy, have replaced gender-specific signage with signs that identify the single-user toilet rooms as available to both men and women, with or without disabilities.

The types of fixtures in single-user toilet rooms may need flexibility. Section 10.03, 248 CMR defines a unisex [single-user] toilet room as "*a room containing one toilet and one lavatory available for use by either sex*". DCAMM has been asked on several occasions to consider providing both a urinal and toilet in single user toilet rooms, because the fixtures stay cleaner if both fixtures are available. This approach has been recommended by employees who share one toilet room, such as in security control rooms and detention command spaces. In fact, this approach is aligned with the recommendations of the 2010 ADA Standards for Accessible Design:

Section 213.2.1 Unisex (Single-User or Family) Toilet and Unisex Bathing Rooms. Unisex toilet rooms shall contain not more than one lavatory, and two water closets without urinals, or one water closet and one urinal. Doors to unisex toilet rooms and unisex bathing rooms shall have privacy latches.

Recommendations:

Fixture Count Calculation: 248 CMR should allow at least one (possibly more in larger buildings) single user toilet rooms to be counted towards the overall fixture count without gender designation. This could be done by subtracting one of each fixture from the number required by the total occupancy count before calculating the distribution by gender.

Gender-specific designation: 248 CMR should modify the strict requirement for gender-specific designation of all toilet rooms, to acknowledge the Commonwealth's non-discrimination obligations under the Act Relative to Gender Identity (Chapter 199 of the Acts of 2011) as well as the wide range of users listed above.

248 CMR (or any Board) should not prescribe the terminology requirements for signage at a single user toilet room. Specifying language about gender identity or gender expression gives the impression of limiting use to a specific population. The Department of Justice in 2010 stated, *"the Department believes that it is neither necessary nor appropriate to restrict the use of accessible toilet facilities. Like many other facilities designed to be accessible, accessible toilet facilities can and do serve a wide range of individuals with and without disabilities."*

Instead, terminology and symbols are selected to convey a room's purpose and the amenities available, as opposed to specifying the users, and that is likely to vary according to institutional purpose, user population, as well as cultural and language context. The designation should indicate only that "anyone can use this room."

2. Separate Toilet Rooms for Faculty in Post-secondary Educational Facilities

Issue: The Plumbing Code requires that toilet room facilities for faculty in post-secondary educational buildings be provided separate from toilet rooms for students and the public, similar to the requirement for Elementary and Secondary schools. Section 18.h.1.v states that "separate facilities shall be provided for teachers and other staff employees. These toilet facilities shall be in addition to the requirements of 248 CMR 10.10 (18): Table 1, See Educational Use Group E (staff) for teacher occupancy toilet facility requirements."

Background: Dedicated faculty and staff toilet rooms require additional square footage (especially since the federal ADA requires that they be accessible) and unnecessary additional expense to DCAMM's higher education projects. Using this rationale, the state's colleges and DCAMM have requested waivers from the Plumbing Board on numerous occasions in the past with little success.

Recommendation: DCAMM's recommendation is two-fold: 1) that the provision for separation of faculty and students toilet rooms be eliminated and 2) that Table 1 be modified for Post-Secondary

Facilities (E) so that the total fixture requirements for students and staff are combined in a single calculation.

Regards,

A handwritten signature in black ink, appearing to read 'Carol Gladstone', with a long horizontal flourish extending to the right.

Carol Gladstone
Commissioner, DCAMM

C.C. Kristen Lepore, Secretary of Administration and Finance
Jay Ash, Secretary of Housing and Economic Development
John Chapman, Undersecretary of Consumer Affairs and Business Regulations
Charles Borstel, Director of Division of Professional Licensure