

Report on NSF Lead Task Group Meeting with California Building Standards Commission

Craig Selover (Masco), Richard Sykes (EBMUD), Pete Greiner (NSF), Joel Smith (Kohler) and Jerry Desmond, Jr. (PMI Lobbyist) met with Dave Walls, Executive Director of BSC on April 2 in Sacramento.

Dave Walls had been sent a copy of the background description of AB1953 and the NSF Lead Task Group activities in developing the Standard 61 Annex G language, as well as a copy of version 6 (with text edits visible), and he had reviewed them. We went through a brief review of our needs for plumbing products certification and related changes to the Plumbing Code (Title 24).

Mr. Walls related to us that the Building Standards Commission has the authority to make emergency regulations, and does so all too often, short cutting the normal 3-year Code revision process. At this point, the BSC has started the 2011 process (code becomes effective on a 1 year delay, or in 2012), and the 2008 (effective 2009) is in place. The BSC must use National Consensus standards, and so an NSF Standard 61 revision or a separate stand alone Standard that has gone through the full NSF/ANSI process would be acceptable to the BSC.

Bottom line, if we can complete the NSF process this summer, the BSC could incorporate it into the State Plumbing Code ahead of the 2011/12 cycle. Further, Mr. Walls indicated that this issue will be put on the May 21 BSC agenda and that we would have an opportunity to present a concise informational report on the NSF activities and standard content with respect to AB1953. We need to discuss TG participation during our next call.

Report on California Legislature Activities Relating to AB 1953 – SB1334 and SB1395

In 2007, the Plumbing Manufacturers Institute sponsored a bill (SB651) authored by Senator Ron Calderon in the California Senate aimed at providing emergency legislation to provide for more specific guidance to strengthen AB1953. Areas to be addressed were: “Enter into Commerce” clause definition; clarification of Weighted Surface Area calculation; explicit call out of plumbing products included and excluded from AB1953 requirements; and, requirement for ANSI Accredited 3rd Party Certification of products.

Following the initiation of NSF 61 Annex G by EBMUD through the NSF Lead TG, Senator Calderon initiated SB1334 in lieu of SB651. SB1334 only called for ANSI Accredited 3rd Party Certification. From the standpoint of other California legislators, this process would usurp authority for compliance rules from California, replaced by NSF. SB1395 was introduced by Senator Corbett, requiring that the Department of Toxic Substances Control (DTSC, part of Cal EPA) determine testing methodologies and conduct a random field sample testing program for plumbing products.

SB1395 has two shortcomings: AB1953 applies to water distribution system products, not just plumbing; and, random field sample testing will not provide the necessary surface area information upon which to make the weighed surface areas calculation, unless somehow that gets included in the methodology. Since certifiers have confidentiality agreements with the certified, they are not a likely source, and that information would not be available for non-certified products.

Last week, PMI agreed to modify SB1334 to require that the 3rd Party Certification be to the DTSC methodology, and to take effect only if SB1395 is enacted. In parallel, Senator Corbett agreed to tie SB1395 back to SB1334 – both need to be enacted.

Due to the changes to SB1334, it will be heard by the Senate Health Committee this week, while SB1395 passed through the Health Committee at last Wednesday’s hearing. It is expected that with support from both Senators, PMI and EBMUD, both bills will move through the Senate – first through the Environmental Quality Committee, then Finance.

In the meantime, both EBMUD and PMI have agreed to advance version 6 of the NSF 61 Annex G revision to the DTSC as a starting point. If there are no objections, the regulatory piece could move swiftly following bill enactment, and Annex G requirements at both the DTSC and with NSF for certifiers will be identical documents.

Lastly, while a number of the Task Group and Joint Committee members may feel that Annex G is only for California, there are already several states interested in similar legislation. From an Interstate Commerce and manufacturers standpoint, it is essential that all such laws have the same requirement. As soon as both bills in current version are available, I will post them for the Task Group.