CODE REFERENCE(S):

Senate Bill 407 (2009) / California Civil Code Sections 1101.1 through 1101.8
2013 California Green Building Standards Code (CALGreen) Section 301

BACKGROUND:

As of January 1, 2014, SB 407 requires non-compliant plumbing fixtures to be replaced with water-conserving plumbing fixtures when a property is undergoing additions, alterations or improvements. Applicants seeking to obtain permits for any of these types of work will be required to replace non-compliant fixtures prior to final permit approval or issuance of a certificate of occupancy by the local building department. This law applies only to properties built on or before January 1, 1994.

Per Civil Code Section 1101.4, for any single-family residential real property, on and after January 1, 2014, building addition, alteration or improvement will require all non-compliant plumbing fixtures to be replaced with water- conserving plumbing fixtures. On or before January 1, 2017, all non-compliant plumbing fixtures shall be replaced with water-conserving plumbing fixtures (regardless of whether property undergoes alterations or improvements).

Per Civil Code Section 1101.5, for any multifamily residential real property and any commercial real property, on and after January 1, 2014, specified building addition, alteration or improvement will require non-compliant plumbing fixtures to be replaced with water-conserving plumbing fixtures. On or before January 1, 2019, all non- compliant plumbing fixtures shall be replaced with water-conserving plumbing fixtures (regardless of whether property undergoes alterations or improvements).

ISSUE(S):

This policy is for the application and interpretation of SB 407/Civil Code Sections 1101.1 – 1101.8. The language in SB 407 appears to set very broad criteria for triggering plumbing fixture replacements. Based on the CALBO Legislative Analysis published on October 30, 2013, this policy will establish the application of SB 407 by clarifying definitions and triggers and providing interpretation.

POLICY:

<u>Work Not Triggering SB 407</u>

Consistent with CALBO's analysis of SB 407 and current building codes, based on the definitions in the California Building Code, alterations and improvements are interpreted as any construction to an existing structure that enhances or improves the structure. Construction related to repairs or maintenance of the structure is not considered to be an alteration or improvement. Through this interpretation, SB 407 only applies to permitted additions,

alterations or improvements. In other words, repair or maintenance will not trigger plumbing fixture upgrades.

In addition, in Civil Code Section 1101.4(a), the improvements to a single-family real property are interpreted to refer to the work on the building, not the land. For a multifamily residential or commercial real property, Civil Code Section 1101.5(d)(1)(A), (B) and (C) refers to the work on the building as the trigger. It is interpreted that the same intent was meant for single-family real property. Therefore, work on the land (work that does not require entry into the structure) is not considered to trigger plumbing fixture upgrades in the structure. Also, work that does not involve construction to the structure itself is not considered to trigger plumbing fixture upgrades in the structure.

Furthermore, work related to renewable energy systems, such as solar photovoltaic installations and electric vehicle charging stations, is interpreted to not trigger plumbing fixture upgrades as it would conflict with the state's goal of promoting and streamlining these systems.

Therefore, for existing single-family residential, multifamily residential and commercial buildings, the following list of work is considered **not** to trigger SB 407/Civil Code Sections 1101.1 through 1101.8:

Scope of Work	Addition/Remodel to Existing Building	Not Addition/Remodel to Existing Building	Repair	SB 407
Re-roof			X	No
Replace W/H			X	No
Replace HVAC			X	No
New AC		X		No
Remodel/Alteration	X			Yes
Garage Conversion	X			Yes
New Patio/Carport		X		No
New Detached Garage		X		No
Damage Repair			X	No
Detached Accessory Structures		X		No
Addition	X			Yes
New Solar Panel		X		No
New Pool/SPA		X		No
Electrical Panel			X	No
Sewer Line Repair			X	No
Siding or Stucco			X	No
Window Change-out			X	No
Site Work: Walls, Decks, Etc.		X		No
Repairs as determined by the Building Official			X	No

Permits for the above list of work may be obtained without triggering plumbing fixture upgrades.

When Work Triggers SB 407

When the work will trigger plumbing fixture upgrades, the following clarification and interpretation is made for each type of building:

Single-family residential:

All non-compliant plumbing fixtures will be required to be upgraded with water-conserving plumbing fixtures throughout the single-family residential building. [Civil Code Section 1101.4(a)]

Multifamily residential and commercial:

For building additions, if the sum of concurrent building permits by the same permit applicant would increase the floor area *of the building* by more than 10%, all non-compliant plumbing fixtures will be required to be upgraded with water-conserving plumbing fixtures throughout the building. [Civil Code Section 1101.5(d)(1)(A)] This would include all common area plumbing fixtures as well as plumbing fixtures in private individual dwelling unit or tenant unit owned by the same owner.

For building alterations or improvements, if the total construction cost in the building permit exceeds $150,000, all non-compliant plumbing fixtures that service the specific area of the alteration or improvement will be required to be upgraded with water-conserving plumbing fixtures. [Civil Code Section 1101.5(d)(1)(B)]

Any alteration to a room that contains non-compliant plumbing fixtures will require all the fixtures in that room to be upgraded to water-conserving plumbing fixtures. [Civil Code Section 1101.5(d)(1)(C)]

Interpretation for Duplex (Two-Family Dwelling) and Second Unit

Civil Code Section 1101.3 defines “single-family residential real property” as any real property that is improved with, or consisting of, a building containing not more than one unit that is intended for human habitation. It also defines “multifamily residential real property” as any real property that is improved with, or consisting of, a building containing more than one unit that is intended for human habitation.

To maintain consistency with the scope and application of the building and residential code, for purposes of applying Civil Code Sections 1101.1 through 1101.8, a real property consisting of a duplex (two-family dwelling) will be considered a single-family residential real property. Alterations to one dwelling unit will trigger plumbing fixture upgrades within that unit only and not the adjacent unit.

A real property consisting of a single-family residence with either a detached or attached

second unit will also be considered a single-family residential real property. Alterations to the residence will trigger plumbing fixture upgrades within the residence only and not the second unit, and vice versa.

NOTE:

Plumbing Fixtures in compliance with current building standards applicable to a newly constructed real property of the same type (2013 California Green Building Standards Code):

Water closet:	Effective flush volume shall not exceed 1.28 gallons per flush.
Urinal:	Effective flush volume shall not exceed 0.5 gallons per flush.
Showerhead:	Shall have a maximum flow rate of not more than 2.0 gallons per minute at 80 psi and shall be certified to the performance of the U.S. EPA WaterSense Specification for Showerheads.
Lavatory Faucet:	Shall have a maximum flow rate of 1.5 gallons per minute at 60 psi and a minimum flow rate of 0.8 gallons per minute at 20 psi.
Kitchen Faucet:	Shall have a maximum flow rate of 2.2 gallons per minute at 60 psi.