

STATE OF NEW YORK
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter of a Request for a Declaratory Ruling DECLARATORY
by the NEW YORK STATE PLUMBING & HEATING WHOLESALERS, RULING 15-03
INC. under Section 204 of the State Administrative
Procedure Act

The New York State Plumbing and Heating Wholesalers, Inc., ("PHWI") has sent a letter from Harold Williams to Robert Wood, Associate Water Management Program Coordinator, Department of Environmental Conservation, dated October 30, 1980, and received November 1, 1980, a copy of which is attached hereto. The Department of Environmental Conservation of the State of New York ("Department") has decided that this letter is in fact a request for a determination pursuant to 6 NYCRR §619 as to the applicability of Article 15, Title 3, Section 15-0314 of the Environmental Conservation Law to the importation and installation of blow-out style toilets and urinals in New York State. This type of fixture does not conform to the water saving standards of the law.

Section 15-0314 prohibits any individual, public or private corporation, political subdivision, government agency, department or bureau of the state, municipality, industry, co-partnership, association, firm, trust, estate or other legal entity, from distributing, selling, offering for sale, importing or installing after January 1, 1980, any sink faucet or lavatory faucet, shower head, urinal or toilet and associated flush valve, if any, which does not meet the water saving standards specified therein.

The Act also states that its provisions shall not apply to fixtures which, in order to perform a specialized function, cannot meet the specified standards.

The information below comes both from staff research and from many conversations with the Applicant and others in the plumbing industry.

Blowout fixtures, both toilets and urinals, have been used extensively in public washrooms and in areas subject to vandalism, such as schools and jails, because their design includes a large trapway diameter which allows them to pass material that would clog other types of toilets and cause a water overflow.

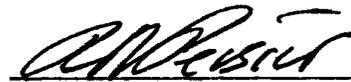
Blowout fixtures contribute to a more sanitary condition in public washrooms than do siphon or whirlpool jet bowls because they are plugged and overflow less frequently. In addition, they are usually wall mounted with a high outlet pipe, which permits more thorough cleaning of the floor under them. They are hardly ever used in residences because they are noisier during operation than siphon or whirlpool jet toilets.

Blowout fixtures represent a small percentage of the total fixtures in use. No data are available on the number of fixtures in use in New York State nor the percentage of total fixtures in use. However, two of the major fixture manufacturers have supplied information on the percentage of their total yearly national sales that the blowout fixtures represent. In one instance, in 1979, blowout toilets and urinals represented 0.5% and 3.9%, respectively, of a major company's national sales. In another instance, blowout fixtures represent about 0.1% of another major company's sales, nationally.

One major objection that has been raised by the PHWI and many others with the blowout fixtures being excluded from sale in New York State is the replacement issue. Until this ruling, when a blowout fixture had to be replaced, an approved water saving fixture had to be used. Blowout toilets and urinals are bolted to metal carriers placed behind the wall. The water saving fixtures' bolt configuration does not normally match the bolts extending through the walls from the carriers. Holes must be made in the wall to adjust or replace the carrier. Regardless of whether the fastening configuration matches, the outlet pipe of a water saving fixture is smaller than for a blowout fixture. Because the fixture bolts to the wall, there is no room for an adapter or reducer. Plumbing, concrete and often tile work are involved. Cost estimates for this work range from \$250 to \$700. Generally, however, replacement of a blowout fixture with the same or similar model is usually handled by in-house maintenance workers. Replacement of a blowout fixture with a water saver is therefore, much more expensive than replacement with a like blowout unit.

The engineering staffs of the major fixture manufacturers have been working many years on trying to reduce the flushing volume of the blowout fixture. They don't believe that they will be able to meet the standards of 15-0314 in the near future.

I find that until a design breakthrough, sufficient evidence has been presented to verify that the blow-out style fixture performs a specialized function and is necessary for sanitary and efficient operation of public restrooms. Therefore, the blow-out fixture may be imported, sold and installed in the State of New York.



Richard A. Persico
General Counsel/Deputy Commissioner

DATED: December 23, 1980
Albany, New York

TO: Mr. Harold Williams
Security Supply Corporation
475 Central Avenue
Albany, New York 12206