

NOTICE OF PROPOSED ACTION
TO BUILDING STANDARDS OF THE
CALIFORNIA DEPARTMENT OF WATER RESOURCES

REGARDING THE
2019 CALIFORNIA PLUMBING CODE
CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 5

(DWR 01/18 - RECYCLED WATER)

Note to agencies: The laws associated with the instructions in this form are found primarily in Government Code Section 11346.5 et sequentes. For clarity during the administrative review process, do not remove the headings or statutory references to applicable sections being completed.

Notice is hereby given that the California Building Standards Commission (CBSC) on behalf of California Department of Water Resources (DWR) proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), Title 24, Part 5. The DWR is proposing building standards related to plumbing design standards for potable and recycled water systems that are within or a part of a building.

PUBLIC COMMENT PERIOD

Reference: Government Code Section 11346.5(a)(17).

A public hearing has not been scheduled; however, written comments will be accepted from September 14, 2018, until 5:00 pm on October 29, 2018.

Please address your comments to:

California Building Standards Commission
Attention: Mia Marvelli, Executive Director
2525 Natomas Park Drive, Suite 130
Sacramento CA 95833

Written comments may also be emailed to CBSC@dgs.ca.gov.

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.

The public will have an opportunity to provide both written and/or oral comments regarding the proposed action on building standards at a public meeting to be conducted by the CBSC to be scheduled at a date near the end of the current adoption cycle. A meeting notice will be issued announcing the date, time and location of the public meeting.

POST-HEARING MODIFICATIONS TO THE TEXT OF THE REGULATIONS

Reference: Government Code Section 11346.5(a)(18).

Following the public comment period, 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). 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/oral comments or request that you be notified of any modifications.

AUTHORITY AND REFERENCE

Reference: Government Code Section 11346.5(a)(2).

The DWR proposes to adopt these building standards under the authority granted by Water Code Section 13557. The purpose of these building standards is to implement, interpret, or make specific the provisions of Water Code Sections 13550, 13551, 13552.2, 13552.6, 13552.8, 13553, 13554, 13555.2 and 13555.3.

The Department of Water Resources is proposing this regulatory action based on Water Code Section 13557.

INFORMATIVE DIGEST

Reference: Government Code Section 11346.5(a)(3).

Summary of Existing Laws

Assembly Bill 371 (2006) (codified in Water Code, Section 13557) authorized DWR to adopt and submit to the BSC regulations to establish a state version of a plumbing code to provide design standards to safely plumb buildings with both potable and recycled water systems. Such regulations were first adopted by DWR in 2009. The regulations were last adopted by DWR in the 2016 Intervening Code Adoption Cycle, and are codified in Chapter 15 of the 2016 California Plumbing Code (CPC). Water Code Section 13557(b) also authorizes DWR to update these standards as necessary. To accomplish this, DWR must consider other state laws that regulate the various uses and applications of recycled water and regulations stemming from these laws adopted by other state agencies.

Assembly Bill 2282 (2014) (codified in Health and Safety Code Sections 17921.5 and 18940.6) directed BSC and the Department of Housing and Community Development (HCD) to adopt regulations regarding the plumbing of newly constructed commercial buildings, public buildings, and single family and multifamily residential buildings for recycled water. Specifically, BSC and HCD are required to establish provisions for the mandatory installation of recycled water supply systems and the standards for installation in the California Green Building Standards Code and the CPC. These standards for installation of recycled water supply systems overlap to some extent the existing standards adopted by DWR in the CPC. The regulations to mandate installation in newly constructed buildings however, do not overlap DWR authority.

Water Code Sections 13550, 13551, 13552.2, 13552.6, 13552.8, 13553, 13554, 13555.2 and 13555.3 declare that the use of potable water for certain indoor uses in certain structures and in outdoor landscape irrigation is an “unreasonable” use of water if recycled water is available. A general condition of availability is that the use

of recycled water from the proposed source will not be detrimental to public health. Section 13553(d)(1)(B) states “That any plumbing modifications in the condominium unit or any physical alteration of the structure will be done in compliance with state and local plumbing codes.” Water Code Section 10951 authorizes use of recycled water for car washes.

Water Code Section 13521 authorizes the State Water Resources Control Board to establish uniform statewide recycling criteria for each varying type of use of recycled water where the use involves the protection of public health. These criteria are contained in Title 22 of the CCR and contain requirements related to plumbing installation and periodic inspection and testing for indoor and outdoor uses.

The agencies that treat and distribute recycled water to users are regulated by permits issued by the State Water Resources Control Board or one of nine Regional Water Quality Control Boards as authorized by Water Code Sections 13523 and 13523.1. The CPC must take into consideration this permitting authority.

Health and Safety Code Section 116375 authorizes the State Water Resources Control Board to adopt requirements for the control of cross-connections between potable and nonpotable water. Section 116800 authorizes local regulation of water users to control cross-connections. Section 116815 designates the use of the color purple for recycled water pipes. Health and Safety Code Sections 8117 and 8118 authorize hose bibs for recycled water in cemeteries. These laws and the regulations stemming from these laws found in the CCR, Titles 17 and 22, must be taken into consideration in the Plumbing Code.

Summary of Existing Regulations

Regulations adopted by DWR governing recycled water are found in Chapters 1, 2, 6 and 15 of the 2016 California Plumbing Code. One other section relating specifically to recycled water is found in Chapter 16 of the Plumbing Code. At the time DWR last amended its regulations in the 2016 Intervening Code Adoption Cycle, the main provisions for recycled water were in Chapter 15, Section 1503.0. The next version of the CPC is now being reorganized based on the planned adoption by BSC of the 2018 Uniform Plumbing Code as the foundation for the 2019 California Plumbing Code.

Regulations specifying authorized uses of recycled water, use practices, and inspections and cross-connection testing of recycled water systems are found in Title 22, California Code of Regulations, Division 4, Chapter 3, Section 60301.050 et seq. Regulations related to cross-connection control and backflow prevention are found in Title 17, Division 1, Chapter 5, Group 4, Articles 1 and 2, Section 7583 et seq.

Summary of Effect

The main effect of the proposed amendments by DWR would be to move existing requirements in Chapter 15, Section 1503.0 of the CPC into Chapter 15, Section 1505.0 and harmonize the language to avoid duplication and achieve clarity for users of the CPC. Because BSC and HCD are currently proposing regulations related to recycled water in the Plumbing Code, especially in Chapter 15, amending DWR’s regulations at this time will allow for consistent use of terminology among the three agencies, where possible. There is also a need to update the language describing DWR’s authority in Chapter 1 to more accurately reflect state law and

regulations. The adoption of clear and effective regulations facilitates the expanded use of recycled water and its public acceptance. The use of recycled water may offset the cost of more expensive or less environmentally acceptable water supplies to meet the growing water needs of the state. Recycled water is also a more resilient source of water during water shortages and drought.

Comparable Federal Statute or Regulations

There are no comparable federal statutes or regulations.

Policy Statement Overview

The primary benefit of the proposed amendments is the continuation of design standards which facilitate the safe use of recycled water. A secondary benefit is that by updating and harmonizing the plumbing code language with regard to recycled water, the regulations are clear, understandable, and implementable and thereby facilitate the expanded use of recycled water. Having consistent design standards which are easy to follow can improve the public acceptance of the use of recycled water. The use of recycled water may offset the cost of more expensive or less environmentally acceptable water supplies to meet the growing water needs of the state. Recycled water is also a more resilient source of water during water shortages and drought.

Evaluation of Consistency

The Department of Water Resources has determined that the proposed amendments are not inconsistent or incompatible with existing state regulations.

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

Reference: Government Code Section 11346.5(a)(4).

None

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

Reference: Government Code Section 11346.5(a)(5).

DWR has determined that the proposed regulatory action would not impose a mandate on local agencies or school districts.

ESTIMATE OF COST OR SAVINGS

Reference: Government Code Section 11346.5(a)(6).

An estimate, prepared in accordance with instructions adopted by Department of Finance, of cost or savings to any state agency, local agency, or school district.

- A. Cost or Savings to any state agency: **NO**
- B. Cost to any local agency required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **NO**
- C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **NO**
- D. Other nondiscretionary cost or savings imposed on local agencies: **NO**
- E. Cost or savings in federal funding to the state: **NO**

Estimate: \$0

INITIAL DETERMINATION OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESSES

Reference: Government Code Section 11346.5(a)(8).

DWR has made an initial determination that the amendment of this regulation will not have a significant statewide adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states.

DECLARATION OF EVIDENCE

Reference: Government Code Section 11346.5(a)(8).

The proposed amendments of the CPC primarily migrate existing standards on how to design, construct, maintain, and test a dual plumbed building from Chapter 15, Section 1503.0 to Chapter 15, Section 1505.0 of the 2019 CPC, and redesignate such sections appropriately. The proposed amendments by DWR do not require any business or individual to install recycled water systems in a building. The authority for DWR's proposed amendments is in California Water Code Section 13557. DWR's proposed amendments are based on the 2016 CPC and the reorganized 2018 Uniform Plumbing Code.

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

Reference: Government Code Section 11346.5(a)(11).

The Legislature declared in Water Code Section 13510 "that the people of the state have a primary interest in the development of facilities to recycle water containing waste to supplement existing surface and underground water supplies and to assist in meeting the future water requirements of the state." Because the source of recycled water is municipal wastewater, there is concern that the use of recycled water may be unsafe if not adequately treated for the intended use or not properly managed. The proposed amendments to the CPC, promulgated under the authority of Water Code Section 13557, carry forward existing standards from the 2016 CPC which provides design standards to safely plumb buildings with both potable and recycled water systems. The existing standards incorporate protections to comply with the requirements of the State Water Resources Control Board, which are designed to protect public health, safety, and welfare.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

Reference: Government Code Section 11346.5(a)(9).

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

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

Reference: Government Code Section 11346.5(a)(10).

The Department of Water Resources has assessed whether or not and to what extent this proposal will affect the following:

A. The creation or elimination of jobs within the State of California.

The proposed amendments will not create or eliminate jobs.

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

The proposed amendments will not create or eliminate businesses.

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

The proposed amendments will not affect the expansion of businesses currently doing business with the State of California. The CPC as currently in effect and as changed by the proposed amendments facilitates the use of recycled water, and thereby could allow business to expand in areas that are constrained by water availability.

D. The benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment.

The proposed amendments will update and improve the clarity of CPC standards for the safe use of recycled water in buildings and surrounding landscape with both potable and recycled water.

ESTIMATED COST OF COMPLIANCE OF STANDARDS THAT WOULD IMPACT HOUSING

Reference: Government Code Section 11346.5(a)(12).

The DWR has made an initial determination that this proposal would not have a significant effect on housing costs.

CONSIDERATION OF ALTERNATIVES

Reference: Government Code Section 11346.5(a)(13).

DWR has determined that no reasonable alternative considered by DWR or that has otherwise been identified and brought to the attention of DWR 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, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

AVAILABILITY OF RULEMAKING DOCUMENTS

Reference: Government Code Sections 11346.5(a)(16) and 11346.5(a)(20).

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 be accessed from the [CBSC website](http://www.bsc.ca.gov): www.bsc.ca.gov.

Reference: Government Code Section 11346.5(a)(19).

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 [CBSC website](http://www.bsc.ca.gov): www.bsc.ca.gov

Reference: Government Code Section 11346.5(a)(21).

DWR shall provide, upon request, a description of proposed changes included in the proposed action, in the manner provided by Section 11346.6, to accommodate a person with a visual or other disability for which effective communication is required under state or federal law and that providing the description of proposed changes may require extending the period of public comment for the proposed action.

CBSC CONTACT PERSON FOR PROCEDURAL AND ADMINISTRATIVE QUESTIONS

Reference: Government Code Section 11346.5(a)(14).

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

Michael L. Nearman, Deputy Executive Director
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Telephone: (916) 263-0916

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

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

Richard Mills, Chief
Water Recycling and Desalination Section
California Department of Water Resources
(916) 651-0715
Richard.Mills@water.ca.gov

or

Nancy King, Engineer, Water Resources
Water Recycling and Desalination Section
California Department of Water Resources
(916) 651-7200
Nancy.King@water.ca.gov