

**FINAL STATEMENT OF REASONS
FOR PROPOSED BUILDING STANDARDS
OF THE CALIFORNIA DEPARTMENT OF WATER RESOURCES
REGARDING THE 2022 CALIFORNIA PLUMBING CODE,
CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 5**

(DWR 01/21)

The Administrative Procedure Act requires that every agency shall maintain a file of each rulemaking that shall be deemed to be the record for that rulemaking proceeding. The rulemaking file shall include a Final Statement of Reasons. The Final Statement of Reasons shall be available to the public upon request when rulemaking action is being undertaken. The following are the reasons for proposing this particular rulemaking action:

UPDATES TO THE INITIAL STATEMENT OF REASONS:

Government Code Section 11346.9(a)(1) requires an update of the information contained in the Initial Statement of Reasons. If the update identifies any data or any technical, theoretical or empirical study, report, or similar document on which the state agency is relying that was not identified in the Initial Statement of Reasons, the state agency shall comply with Government Code Section 11347.1.

The California Department of Water Resources (DWR) has not added any additional data or any technical, theoretical or empirical studies, reports or similar documents on which the DWR relied on in proposing these amendments to Title 24, Part 5 into this Final Statement of Reason.

DWR has made changes to the Express Terms as originally proposed for the 45-day public comment period as a result of public comment. DWR coordinated with the commenter and the California Building Standards Commission (CBSC) and the State Water Resources Control Board to update the language. The rationale for each change was included with the 15-day Express Terms document.

DWR proposed amendments to Section 1505.1 and went out for a 15-day public comment period that ended on September 03, 2021. DWR received no public comments during the 15-day public comment period, and did not make modifications after that period.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

Pursuant to Government Code Section 11346.9(a)(2), if the determination as to whether the proposed action would impose a mandate, the agency shall state whether the mandate is reimbursable pursuant to Part 7 of Division 4. If the agency finds that the mandate is not reimbursable, it shall state the reasons for the finding(s).

The California Department of Water Resources has determined that the proposed regulatory action would not impose a mandate on local agencies or school districts.

OBJECTIONS OR RECOMMENDATIONS MADE REGARDING THE PROPOSED REGULATION(S).

Government Code Section 11346.9(a)(3) requires a summary of EACH objection or recommendation regarding the specific adoption, amendment, or repeal proposed, and an explanation of how the proposed action was changed to accommodate each objection or

recommendation, or the reasons for making no change. This requirement applies only to objections or recommendations specifically directed at the agency's proposed action or to the procedures followed by the agency in proposing or adopting the action, or reasons for making no change. Irrelevant or repetitive comments may be aggregated and summarized as a group.

Item 4

**Chapter 15 - ALTERNATE WATER SOURCES FOR NONPOTABLE APPLICATIONS,
Section 1501.2 - System Design**

DWR proposes to amend Section 1501.2 in Chapter 15 of the 2021 UPC to restore existing California language in the 2019 California Plumbing Code for adoption into the 2022 edition of the California Plumbing Code (CPC). Note that DWR is not adopting the Exceptions to this section.

Commenters: WaterReuse California and Irvine Ranch Water District

Commenters' 45-Day Recommendation:

Commenters support the proposed change.

Agency Response:

DWR acknowledges the comment.

Section 1501.6 – Operation and Maintenance Manual

DWR proposes to rescind its existing amendment of Section 1501.6 in Chapter 15 of the 2019 CPC and amend Section 1501.6 in the 2021 UPC for use in the 2022 edition of the CPC.

Commenters: WaterReuse California and Irvine Ranch Water District

Commenters' 45-Day Recommendation:

Commenters are requesting that the requirement for an operation and maintenance manual for recycled water be removed.

Agency Response:

DWR acknowledges the comment and proposes no change in response to the comment. This requirement was present in previous and current versions of the CPC. The proposed amendment does not add a new requirement, but simply consolidates existing DWR requirements into similar provisions adopted by CBSC and Department of Housing and Community Development. As DWR is retaining existing requirements, we are making no substantive change.

Item 5

Chapter 15 - ALTERNATE WATER SOURCES FOR NONPOTABLE APPLICATIONS, Section 1505.1 - General

DWR proposes to carry forward existing amendments and to add new amendments in Section 1505.1 in Chapter 15 of the 2019 CPC as shown in the Express Terms for adoption into the 2022 edition of the CPC.

Commenters: WaterReuse California and Irvine Ranch Water District

Commenters' 45-Day Recommendation:

In first comment on the section, the commenters are requesting that recycled water landscape irrigation systems that connect to a building containing potable water plumbing not be subject to the same requirements as the plumbing within a building containing both recycled water and potable water plumbing.

Part of the basis of the commenters' recommendation is their claim that DWR is expanding the definition of "dual plumbed systems". The commenters' also claim the proposed changes are outside DWR's authority.

Agency Response:

DWR acknowledges the comment and proposes no change in response to the comment. The commenters incorrectly state that DWR is expanding the definition of dual plumbed. The word "dual plumbed" or "dual plumbed system" is neither used nor defined in Section 1505.1.

The DWR authority is to adopt design standards to safely plumb buildings with both potable and recycled water systems. The presence of both potable and recycled water plumbing systems within a building presents a risk of water contamination to the occupants, which is within the purview of DWR's authority. The proximity of recycled and potable plumbing increases the chances of an inadvertent cross-connection. In consultation with the State Water Resources Control Board, DWR is continuing the provisions to require recycled water landscape plumbing systems that are within or a part of a building containing potable water plumbing be subject to the same requirements as recycled water systems intended for indoor use only.

Commenters: WaterReuse California and Irvine Ranch Water District

Commenters' 45-Day Recommendation:

In the second comment on this section, the commenters are objecting to language pointing to other applicable recycled water provisions in the California Code of Regulations as the language is not related to dual plumbed buildings. The commenter claims the pointer language is outside the scope of AB 371 (Goldberg, 2006).

Agency Response:

DWR acknowledges the comment and proposed changes in the last sentence of Section 1505.1. For the 15-day public comment period, DWR proposed two sentences in place of the last sentence.

First, DWR proposed a new sentence specifying that the section does not apply to plumbing systems using recycled water that do not enter the interior of a building.

Because stakeholders have reported confusion regarding requirements for landscape and other recycled water uses, this section has language to help clarify when this section does and does not apply. Section 1505 of the CPC contains regulatory requirements that apply to recycled water systems that are within or part of buildings, which may include landscape irrigation systems.

Furthermore, in consultation with the commenters and other state agencies, DWR used the phrase “the interior of a building” to emphasize and clarify the use of the phrase “within or a part of a building” used within this code section. The use of the term “interior” clarifies the boundary at which the section is applicable.

Second, DWR proposed to revise the last sentence as part of the 15-day public comment period. This revised sentence references other provisions, outside of the CPC, in the California Code of Regulations, that are also applicable to recycled water systems that are within or part of buildings. Many CPC users need to be familiar with these other regulations in Titles 17, 22, and 23 to protect public health, in particular, to protect the occupants of buildings. For this reason DWR’s proposed amendment includes pointer language for informational purposes to assist code users to be aware of other applicable regulations. These other regulations were not adopted by DWR, and it is not the intent to override the authority of the state agencies that did adopt these regulations. To emphasize that DWR does not have authority, the changes include clarifying word changes. The phrase “must comply with applicable provisions” is changed to “is subject to applicable provisions”.

A CPC user may be designing or installing plumbing for recycled water systems that are not connected in any way with a building containing potable water, such as a recycled water irrigation system. For this user the proposed language also serves to point to other applicable state regulations dealing with recycled water. DWR is not changing those requirements, but rather adding clarity by providing locations where the directions for the various requirements can be found. Many CPC users are not familiar with Titles 17, 22, and 23. Without the pointer language in the CPC, those users may not be aware of where to go for more information.

Commenters’ 15-Day Recommendation:

DWR received no comments during the 15-day public review period.

Section 1505.1.1 – Allowed Uses

DWR proposed to carry forward existing amendments in Section 1505.1.1 in Chapter 15 of the 2019 CPC and restore language in the 2021 UPC for use in the 2022 CPC.

Commenters: WaterReuse California and Irvine Ranch Water District

Commenters' 45-Day Recommendation:

The commenters are recommending deleting the entire section. They object to the restatement of any allowed uses as the uses are already presented in Title 22. More specifically, the commenters object the inclusion of the irrigation uses (aboveground and subsurface irrigation) as they claim the terms confuse the code user and do not apply to the scope of dual-plumbed buildings.

Agency Response:

DWR acknowledges the comment and proposes no change in response to the comment. DWR is following the UPC language by including the list of allowed uses, including aboveground and subsurface irrigation. Section 1505 does apply to irrigation systems using recycled water when those systems are within or a part of a building. These systems would serve uses for aboveground and subsurface irrigation. For this reason, DWR proposes these uses, shown in the UPC, be restored into the CPC.

Many CPC users are not familiar with Title 22. Without the pointer language in the CPC, the code users may not be aware of where to go for more information.

Section 1505.4 - Connections to Potable or Recycled Water Supply Systems

DWR proposes to carry forward existing amendments in Section 1505.4 in Chapter 15 of the 2019 CPC and to add exception (4) as shown in the Express Terms for adoption into the 2022 edition of the CPC.

The purpose of Exception (4) is to allow the use of a swivel ell or other changeover device when there are interruptions in recycled water supply pursuant to AB 1671 (Chapter 533, Statutes of 2017).

Commenters: WaterReuse California and Irvine Ranch Water District

Commenters' 45-Day Recommendation:

The commenters are proposing simplified language for Exception (4) emphasizing that potable water is permitted to be used as an auxiliary water supply.

Agency Response:

DWR acknowledges the comment and proposes no change in response to the comment. The commenters' proposed language does not focus on the use of a change-over device in place of an air gap. Note that the change-over device is the main exception and not the auxiliary water use.

At the Plumbing, Electrical, Mechanical and Energy Code Advisory Committee public meeting, committee members were concerned that the change-over devices would become permanent and not be sufficiently monitored, and also expressed concern that the use of a changeover device could occur without adequate regulatory oversight and backflow prevention.

The initially proposed Exception 4 was restructured, and detail added to inform the code user that many requirements and regular surveillance are required to allow the use of the changeover device.

Therefore, we do not believe commenters' proposed change should be made.

DETERMINATION OF ALTERNATIVES CONSIDERED AND EFFECT ON PRIVATE PERSONS

Government Code Section 11346.9(a)(4) requires a determination with supporting information that no alternative considered would be more effective in carrying out the purpose for which the regulation is proposed, or would be as effective and less burdensome to affected private persons than the adopted regulation, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

The proposed amendments are intended to clarify existing regulatory standards and have no regulatory effect.

REJECTED PROPOSED ALTERNATIVE THAT WOULD LESSEN THE ADVERSE ECONOMIC IMPACT ON SMALL BUSINESSES:

Government Code Section 11346.9(a)(5) requires an explanation setting forth the reasons for rejecting any proposed alternatives that would lessen the adverse economic impact on small businesses, including the benefits of the proposed regulation per 11346.5(a)(3).

No alternatives were identified to lessen the adverse impact on small business. The proposed amendments are intended to have no regulatory effect. Proposed amendments are justified to implement the statutory mandate contained in Water Code Section 13557, which is to provide design standards to safely plumb buildings with both potable and recycled water systems.