

**CHANGE WITHOUT REGULATORY EFFECT EXPRESS TERMS
FOR PROPOSED BUILDING STANDARDS
OF THE CALIFORNIA BUILDING STANDARDS COMMISSION
REGARDING THE 2016 CALIFORNIA PLUMBING CODE
AND THE 2016 CALIFORNIA GREEN BUILDING STANDARDS CODE,
CALIFORNIA CODE OF REGULATIONS, TITLE 24, PARTS 5 AND 11**

(BSC 01/19 CWORE)

The State agency shall draft the regulations in plain, straightforward language, avoiding technical terms as much as possible and using a coherent and easily readable style. The agency shall draft the regulation in plain English. A notation shall follow the express terms of each regulation listing the specific statutes authorizing the adoption and listing specific statutes being implemented, interpreted, or made specific (Government Code Section 11346.2(a)(2)).

ITEM 1: 2016 CALIFORNIA PLUMBING CODE (PART 5, TITLE 24)

LEGEND FOR CWORE EXPRESS TERMS (Based on model codes - Part 5)

1. Model Code language appears upright.
 2. Existing California amendments appear in *italics*.
 3. Amended model code or new California amendments appear *underlined and in italics*.
 4. Deleted model code language appears ~~upright and in strikeout~~.
 5. Deleted California amendments appear in ~~*italics and strikeout*~~.
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RATIONALE FOR PROPOSING CHANGES WITHOUT REGULATORY EFFECT

The California Building Standards Commission (BSC) is deleting amendments of the 2016 California Plumbing Code (CPC) which were adopted by the California Building Standards Commission on June 20, 2017 pursuant to AB 2282 (Gatto, Chapter 606, Statutes of 2014—see BSC rulemaking file number BSC 02/16). Specifically, the amendments being deleted are in Sections 205.0, 206.0, 220.0, 601.2 Exception 5, 1501.1.1.1, 1501.1.1.2; 1501.6, 1501.7, and 1501.10 of the 2016 CPC. This deletion is in response to the Peremptory Writ of Mandate issued by the Superior Court of California, County of Los Angeles, which declared the regulations invalid and ordered BSC to vacate them (Case No. BS171958—see Building Standards Commission Information Bulletin 19-02: Invalidated AB 2282 Recycled Water Building Standards). In compliance with the writ, BSC is deleting these provisions from the 2016 and 2019 editions of Parts 5 and 11, Title 24, in coordination with the Department of Housing and Community Development, via a “change without regulatory effect.” The deletion of related provisions carried forward into the 2019 CPC and CALGreen Codes is addressed by a separate rulemaking file (BSC 02/19 CWORE).

The proposed changes do not materially alter any rights, responsibilities, conditions, prescription or other regulatory elements of the California Code of Regulations, Title 24, Parts 5 and 11, addressing requirements related to recycled water supply systems. These regulations have been declared legally invalid and are to be vacated. This change meets the criteria in the California Administrative Code, Section 1-421(c), Item 3 for a “change without regulatory effect,” which references deletion of a regulatory provision held invalid in a judgment that has become final, entered by a California court of competent jurisdiction and/or various United States courts of law, as specified.

SUMMARY OF CHANGES

Chapter 2, Sections 205.0, 206.0 and 220.0: *Construction Site, Disinfected Tertiary Recycled Water, and Recycled Water Supply System* are deleted pursuant to Case No. BS171958 and for consistency with the deletion of these definitions in the 2016 California Green Building Standards Code. Once republished as a supplement to the 2016 CPC, the BSC-CG banner will be removed and in some cases the definition will be deleted from the CPC. Please note that the Department of Water Resources, which was not subject to the court ruling, co-adopted definitions *Disinfected Tertiary Recycled Water* and *Recycled Water Supply System*, and those definitions are still applicable under DWR’s authority, when recycled water systems are installed.

Chapter 6, Section 601.2, Exc. 5: Pursuant to Case No. BS171958, BSC is deleting Exception 5 from Section 601.2. Once republished in the supplement, the BSC-CG banner will be removed, but the exception will remain. Please note that the Department of Water Resources co-adopted Exception 5 in Section 601.2 and this exception is still applicable under DWR’s authority, when recycled water systems are installed.

Chapter 15, Sections 1501.1.1.1 and 1501.1.1.2: Pursuant to Case No. BS171958, BSC is deleting sections 1501.1.1.1 and 1501.1.1.2 which contain the AB 2282 building standards that mandate new construction provide both potable water and recycled water supply systems, allowing the use of recycled water for irrigation. The Department of Housing and Community Development (HCD) co-adopted these sections, and pursuant to Case No. BS171958, HCD is also deleting these sections. Once republished in the supplement, the sections will be removed from the CPC.

Chapter 15, Sections 1501.6, 1501.7, and 1501.10: Pursuant to Case No. BS171958, BSC is deleting amendments to these sections applicable to recycled water supply systems that relate to the AB 2282 mandate. Once republished in the supplement, the BSC-CG banner will remain, but will only apply to existing amendments for graywater and on-site treated nonpotable water. Please note that the Department of Water Resources co-adopted specified amendments to these sections, which are still applicable under DWR’s authority when recycled water systems are installed.

EXPRESS TERMS

CHAPTER 2 DEFINITIONS

205.0

~~Construction Site [BSC-CG].~~ ~~A parcel of land bounded by lot line(s) or a designated portion of a public right-of-way where construction is taking place. A construction site may include, but not be limited to, buildings and accessory structures, walks, sidewalks, curbs, curb ramps, parking facilities, planting areas, pools, promenades, exterior gathering or assembly areas, raised or depressed paved areas, open spaces, golf courses, and/or landscape areas.~~

206.0

~~Disinfected Tertiary Recycled Water. [BSC-CG]~~ ~~Filtered and subsequently disinfected wastewater that meets the approved method of treatment and minimum level of water quality specified in California Code of Regulations, Title 22, Division 4, Chapter 3 for the purpose of direct beneficial use.~~

220.0

~~Recycled Water Supply System. [BSC-CG]~~ ~~The building supply pipe, the water distribution pipes, and the necessary connecting pipes, fittings, control valves, backflow prevention devices, and all appurtenances carrying or supplying reclaimed (recycled) water in or adjacent to the building or within the premises.~~

Notation:

Authority: Health and Safety Code Section 18931(f)

Reference: Health and Safety Code Section 18931(f)

CHAPTER 6 WATER SUPPLY AND DISTRIBUTION

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601.2 Hot and Cold Water Required. Except where not deemed necessary for safety or sanitation by the Authority Having Jurisdiction, each plumbing fixture shall be provided with an adequate supply of potable running water piped thereto in an approved manner, so arranged as to flush and keep it in a clean and sanitary condition without danger of backflow or cross-connection. Water closets and urinals shall be flushed by means of an approved flush tank or flushometer valve.

Exceptions:

1. Listed fixtures that do not require water for their operation and are not connected to the water supply.
2. "...".
3. "...".
4. **[BSC-CG]** For non-residential occupancies, alternate water sources may be allowed as specified in Chapter 15 of this code.

5. ~~[BSC-CG]~~ *Where a public agency requires a building to use recycled water to flush water closets and urinals in accordance with California Water Code 13554.*

In occupancies where plumbing fixtures are installed for private use, hot water shall be required for bathing, washing, laundry, cooking purposes, dishwashing or maintenance. In occupancies where plumbing fixtures are installed for public use, hot water shall be required for bathing and washing purposes. This requirement shall not supersede the requirements for individual temperature control limitations for public lavatories and public and private bidets, bathtubs, whirlpool bathtubs, and shower control valves.

Notation:

Authority: Health and Safety Code Section 18931(f)

Reference: Health and Safety Code Section 18931(f)

CHAPTER 15 ALTERNATE WATER SOURCES FOR NONPOTABLE APPLICATIONS

1501.1 Applicability. ~~BSC-CG~~ The provisions of this chapter shall apply to the construction, alteration, *discharge, use* and repair of alternate water source systems for nonpotable applications. **[no change, shown for clarity]**

1501.1.1 Allowable Use of Alternate Water. Where approved or required by the Authority Having Jurisdiction, alternate water sources [reclaimed (recycled) water, gray water, and on-site treated nonpotable *gray water*] shall be permitted to be used in lieu of potable water for the applications identified in this chapter. **[no change, shown for clarity]**

~~**1501.1.1.1 Outdoor Recycled Water Supply Systems.** [BSC-CG] All newly constructed residential and nonresidential developments, where disinfected tertiary recycled water is available from a municipal source to a construction site, shall be provided with both a potable water supply system and a recycled water supply system. The recycled water supply system shall allow the use of reclaimed (recycled) water for aboveground and subsurface irrigation to all landscape irrigation systems.~~

~~For the purposes of Section 1501.1.1.1, when a recycled water supply pipe is located within 300 feet from a construction site boundary, it shall be considered that reclaimed (recycled) water is available from a municipal source.~~

~~Exceptions:~~

~~(1) Service areas in which the only reclaimed (recycled) water is used for potable purposes, or in which not nonpotable deliveries are anticipated to remain level or decrease as a result of the potable reuse project.~~

~~(2) Where access to disinfected tertiary recycled water is not feasible and/or cost-efficient, as determined by the Authority Having Jurisdiction in consultation with the recycled water purveyor.~~

~~**Note:** A city, county, or city and county, in consultation with the recycled water purveyor, may further reduce the area for the mandate to install recycled water supply systems if the recycled water purveyor is unable to accommodate new services or unable to provide uninterrupted service.~~

~~(3) A potable water supply system is not required for landscape irrigation if the landscape irrigation system is supplied with recycled water at the time of final inspection.~~

~~(4) Potable water may be used with the recycled water supply system on a temporary basis, as allowed by the Authority Having Jurisdiction in consultation with the recycled water purveyor.~~

~~**1501.1.1.2 Technical Requirements for Outdoor Recycled Water Supply Systems.** Recycled water supply systems for outdoor applications shall meet the requirements of this code, and the California Code of Regulations, Title 17, Division 1, Chapter 5, Subchapter 1; Title 22, Division 4, Chapter 3; and Title 23, Division 2, Chapter 2.7, as applicable.~~

1501.6 Operation and Maintenance Manual. [BSC-CG] An operation and maintenance manual for gray water, and on-site treated *nonpotable* water, ~~and recycled water supply~~ systems required to have a permit in accordance with Sections 1501.3, ~~Section 1503.2 and Section 1504.2~~ shall be supplied to the building owner by the system designer or installer. The operating and maintenance manual shall include the following:

- (1) *Diagram(s)* of the entire system and the location of system components.
- (2) - (7) . . .

1501.7 Minimum Water Quality Requirements. The minimum water quality for alternate water source systems shall meet the applicable water quality requirements for the intended application as determined by the Authority Having Jurisdiction. In the absence of water quality requirements *for on-site treated nonpotable graywater systems, the requirements of NSF 350 shall apply. Water quality requirements for on-site treated nonpotable graywater shall comply with Section 1504.10.2. Recycled water shall comply with the water quality requirements of Section 1503.14.*

Exception: Water treatment is not required for gray water used *in a disposal field* or for subsurface or subsoil irrigation.

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1501.10 Signage. *[BSC-CG] Signage for on-site treated nonpotable gray water shall comply with Sections 1501.10.1 and 1501.10.2. ~~Signage for reclaimed (recycled) water shall comply with Section 1503.12.~~*

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Notation:

Authority: Health and Safety Code Section 18931(f)

Reference: Health and Safety Code Section 18931(f)

ITEM 2: 2016 CALIFORNIA GREEN BUILDING STANDARDS CODE (PART 11, TITLE 24)

LEGEND FOR EXPRESS TERMS (California only codes – Part 11)

1. Existing California amendments appear upright.
 2. Amended or new California amendments appear underlined.
 3. Deleted California language appears ~~upright and in strikeout~~.
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RATIONALE FOR PROPOSING CHANGES WITHOUT REGULATORY EFFECT:

The California Building Standards Commission (BSC) is deleting amendments of the 2016 California Green Building Standards Code (CALGreen) which were adopted by the California Building Standards Commission on June 20, 2017 pursuant to AB 2282 (Gatto, Chapter 606, Statutes of 2014—see rulemaking file number BSC 03/16). Specifically, the provisions being deleted are definitions in Section 202.0 and Sections 5.305.1, 5.305.1.1 and 5.305.1.2 of the 2016 CALGreen Code. This deletion is in response to the Peremptory Writ of Mandate issued by the Superior Court of California, County of Los Angeles, which declared the regulations invalid and ordered BSC to vacate them (Case No. BS171958—see Building Standards Commission Information Bulletin 19-02: Invalidated AB 2282 Recycled Water Building Standards). In compliance with the Writ, BSC is deleting these provisions from the 2016 and 2019 editions of Parts 5 and 11, Title 24, in coordination with the Department of Housing and Community Development, via a “change without regulatory effect.” The deletion of related provisions carried forward into the 2019 CPC and CALGreen Codes will be addressed by a separate rulemaking file (BSC 02/19 CWORE).

This change meets the criteria in the California Administrative Code, Section 1-421(c), Item 3 for a “change without regulatory effect,” which references deletion of a regulatory provision held invalid in a judgment that has become final, entered by a California court of competent jurisdiction and/or various United States courts of law, as specified.

SUMMARY OF CHANGES

Section 202 DEFINITIONS: *Construction Site, Disinfected Tertiary Recycled Water, and Recycled Water Supply System* are deleted pursuant to Case No. BS171958 and for consistency with the deletion of these definitions in the 2016 California Plumbing

Code. Once republished as a supplement to the 2016 CALGreen, the definitions will be removed from CALGreen.

Chapter 5, Division 5.3 WATER EFFICIENCY AND CONSERVATION: Sections 5.305.1, 5.305.1.1, and 5.305.1.2 are deleted which contain the AB 2282 building standards that mandate new construction provide both potable water and recycled water supply systems, allowing the use of recycled water for irrigation. Once republished in the supplement, the sections will be removed from the CALGreen Code. BSC proposes that the “(Reserved)” notation be printed below Section 5.305 Water Reuse Systems.

EXPRESS TERMS

CHAPTER 2 DEFINITIONS

SECTION 202

~~**CONSTRUCTION SITE.** A parcel of land bounded by lot line(s) or a designated portion of a public right-of-way where construction is taking place. A construction site may include, but not be limited to, buildings and accessory structures, walks, sidewalks, curbs, curb ramps, parking facilities, planting areas, pools, promenades, exterior gathering or assembly areas, raised or depressed paved areas, open spaces, golf courses, and/or landscape areas.~~

~~**DISINFECTED TERTIARY RECYCLED WATER.** Filtered and subsequently disinfected wastewater that meets the approved method of treatment and minimum level of water quality specified in California Code of Regulations, Title 22, Division 4, Chapter 3 for the purpose of direct beneficial use.~~

~~**RECYCLED WATER SUPPLY SYSTEM.** The building supply pipe, the water distribution pipes, and the necessary connecting pipes, fittings, control valves, backflow prevention devices, and all appurtenances carrying or supplying reclaimed (recycled) water in or adjacent to the building or within the premises.~~

Notation:

Authority: Health and Safety Code Section 18931(f)

Reference: Health and Safety Code Section 18931(f)

CHAPTER 5 NONRESIDENTIAL MANDATORY MEASURES

Division 5.3 - WATER EFFICIENCY AND CONSERVATION

SECTION 5.305 WATER REUSE SYSTEMS

5.305.1 Recycled Water Supply Systems. ~~Recycled water supply systems shall be installed in accordance with Sections 5.305.1.1, 5.3.5.1.2, and the California Plumbing Code.~~

5.305.1.1 Outdoor Recycled Water Supply Systems. ~~All newly constructed nonresidential developments, where disinfected tertiary recycled water is available from a municipal source to a construction site, shall be provided with both a potable water supply system and a recycled water supply system. The recycled water supply system shall allow the use of reclaimed (recycled) water for aboveground and subsurface irrigation to all landscape irrigation systems.~~

~~For the purposes of Section 5.305.1.1, when a recycled water supply pipe is located within 300 feet from a construction site boundary, it shall be considered that reclaimed (recycled) water is available from a municipal source.~~

Exceptions:

- ~~1. Service areas in which the only reclaimed (recycled) water is used for potable purposes, or in which net nonpotable deliveries are anticipated to remain level or decrease as a result of the potable reuse project.~~
- ~~2. Where access to disinfected tertiary recycled water is not feasible and/or cost-efficient, as determined by the Authority Having Jurisdiction in consultation with the recycled water purveyor.~~

Note: ~~A city, county, or city and county, in consultation with the recycled water purveyor, may further reduce the area for the mandate to install recycled water supply systems if the recycled water purveyor is unable to accommodate new services or unable to provide uninterruptable service.~~

- ~~3. A potable water supply system is not required for landscape irrigation if the landscape irrigation system is supplied with recycled water at the time of final inspection.~~
- ~~4. Potable water may be used with the recycled water supply system on a temporary basis, as allowed by the Authority Having Jurisdiction in consultation with the recycled water purveyor.~~

5.305.1.2 Technical Requirements for Outdoor Recycled Water Supply Systems. ~~Recycled water supply systems for outdoor applications shall meet the requirements of this code, and the California Code of Regulations, Title 17, Division 1, Chapter 5, Subchapter 1; Title 22, Division 4, Chapter 3; and Title 23, Division 2, Chapter 2.7, as applicable.~~

(Reserved)

Notation:

Authority: Health and Safety Code Section 18931(f)
Reference: Health and Safety Code Section 18931(f)