

**NOTICE OF PROPOSED ACTION
TO BUILDING STANDARDS OF THE
DEPARTMENT OF WATER RESOURCES
REGARDING THE 2019 CALIFORNIA PLUMBING CODE
CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 5
(DWR 01/19)**

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 the 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 **April 10, 2020**, until **5:00 P.M.** on **May 26, 2020**.

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 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 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

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 DWR 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 CBSC 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 2019 Triennial Code Adoption Cycle and are codified in Chapter 15 of the 2019 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 CBSC 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, CBSC 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 (SWRCB) 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 SWRCB 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 SWRCB 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.

Pursuant to AB 1671 (Chapter 533, Statutes of 2017) the SWRCB on or before January 1, 2020, shall adopt standards for backflow prevention and cross-connection control and may do this through the adoption of a policy handbook. Pursuant to AB 1180 (Chapter 455, Statutes of 2019), the policy handbook shall include provisions for the use of a swivel or changeover device to supply potable water to a dual-plumbed system during an interruption in recycled water service.

Summary of Existing Regulations

Regulations adopted by DWR governing recycled water are found in Chapters 1, 2, 6 and 15 of the CPC. 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 2019 Triennial Code Adoption Cycle, the main provisions for recycled water were in Chapter 15, Section 1505.0. The CPC is now being amended based on 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.

Should SWRCB develop language in a policy handbook pursuant to AB 1180, this may necessitate a corresponding code change to the recycled water building standards developed by the DWR in Chapter 15 of the California Plumbing Code (CPC). As such, DWR may include an addendum to its CPC initial express terms and initial statement of reasons reflecting this pending code change prior to the 45-day public comment period. DWR's initial express terms has placeholder language to facilitate an addendum if the SWRCB has adopted requirements in its policy handbook before review by CBSC's Code Advisory Committee.

Summary of Effect

The main effect of the proposed amendments by DWR would be to make clarifying editorial changes without regulatory effect to existing requirements in Chapter 15,

Sections 1503.0, 1505.0, and 1506.0. The adoption of clear and effective regulations facilitates the expanded use of recycled water and its public acceptance. The effect of a new exception to Section 1505.4 would be to incorporate new requirements adopted by the SWRCB into the CPC to allow a backup potable water supply for recycled water systems while protecting the potable water supply. 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 improved clarity of existing design standards that facilitate the safe use of recycled water. A secondary benefit is that by making clarifying editorial changes to 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 benefit of incorporating new requirements adopted by the SWRCB into the CPC to allow a swivel or changeover device to supply potable water to a dual-plumbed system during an interruption in recycled water service is to ensure that users of the CPC are aware of these requirements to protect public potable water supplies. 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 DWR 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).

If the agency makes an initial determination that the adoption/amendment/repeal of this regulation will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states, it shall make a declaration to that effect.

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).

In making the declaration, the agency shall provide in the record of facts, evidence, documents, testimony, or other evidence that the agency relies upon to support its initial determination of no effect.

The proposed amendments of the CPC primarily make clarifying editorial changes to existing standards on how to design, construct, maintain, and test a dual plumbed building in Chapter 15. Additionally, there is placeholder language to incorporate provisions under development at the SWRCB for the use of a swivel or changeover device to supply potable water to a dual-plumbed system during an interruption in recycled water service

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.

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

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

Any regulation that requires a report shall not apply to businesses, unless the agency makes a finding that it is necessary for the health, safety, or welfare of the public that the regulations apply to businesses.

Not Applicable

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

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

Describe all cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. If no cost impact, provide the following statement:

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 DWR 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](https://dgs.ca.gov/BSC): dgs.ca.gov/BSC.

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://dgs.ca.gov/BSC): dgs.ca.gov/BSC.

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:

Primary Contact:

Nancy King, Engineer, Water Resources
Division of Regional Assistance
California Department of Water Resources
(916) 651-7200
Nancy.King@water.ca.gov

Back up Contact:

Fethi BenJemaa, PhD, Program Manager II
Division of Regional Assistance
California Department of Water Resources
(916) 651-7025
Fethi.Jemaa@water.ca.gov