

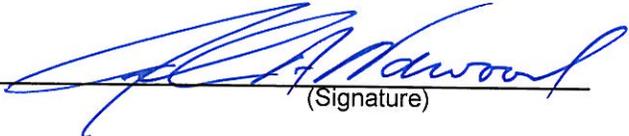
STATE OF CALIFORNIA  
GOVERNMENT OPERATIONS AGENCY  
CALIFORNIA BUILDING STANDARDS COMMISSION  
2525 NATOMAS PARK DR., SUITE 130  
SACRAMENTO, CA 95833  
(916) 263-0916 Phone  
Email: [cbsc@dgs.ca.gov](mailto:cbsc@dgs.ca.gov)

Office Use Item No. \_\_\_\_\_

**PARTICIPATION COMMENTS FOR THE NOTICE DATED NOVEMBER 23, 2015**  
Written comments are to be sent to the above address.

**WRITTEN COMMENT DEADLINE: December 8, 2015 (no later than 5:00 pm)**

Date: 12/03/2015

From: John Norwood  
Name (Print or type)   
California Pool and Spa Association  
(Signature)  
--  
Agency, jurisdiction, chapter, company, association, individual, etc.  
915 L Street, Suite 1110 Sacramento CA 95814  
Street City State Zip  
jnorwood@nalobby.net (916) 447-4113  
Email address Phone number

I/We (do)(do not) agree with:

The Agency proposed modifications As Submitted on Section No. 5.304.1, 5.304.2, and 5.304.4

and request that this section or reference provision be recommended:

Approve  Disapprove  Further Study Required  Approve as Amended

**Suggested Revisions to the Text of the Regulations:**

See attached.

**Reason:** [The reason should be concise if the request is for "Disapprove," "Further Study Required," or "Approve As Amended" and should identify at least one of the 9-point criteria (following) of Health and Safety Code §18930.]



December 3, 2015

California Building Standards Commission  
2525 Natomas Park Dr. Suite, 130  
Sacramento, CA 95833

To whom it may concern:

The California Pool & Spa Association (CPSA) respectfully requests that the California Building Standards Commission (CBSC) consider the amendments herein relative to the MWELO regulations being reviewed for adoption.

### ITEM 3

5304.1 **Scope.** The provisions of Section 5.304 Outdoor Water Use reference the mandatory Model Water Efficiency Landscape Ordinance (MWELO) contained within Chapter 2.7, Division 2, Title 23, California Code of Regulations. Section 5.304 Outdoor Water Use shall apply to:

- (1) New Development Projects, as defined in section 5.304.2
- (2) Rehabilitation Landscape Projects, as defined by Section 491(nnn) of MWELO

5.304.2 **New Development Projects:** ~~Outdoor water use in landscape areas equal to or greater than 500 square feet:~~ When water is used for outdoor irrigation for new construction development projects, defined as new construction for public agency projects and private development projects, with an aggregate landscape area equal to or greater than 500 square feet requiring a building or landscape permit, plan check or design review, one of the following shall apply:

- (1) A local water efficient landscape ordinance that is, based on evidence in the record, at least as effective in conserving water as the updated model ordinance adopted by the Department of Water Resources (DWR) per Government Code Section 6595(c).
- (2) The California Department of Water Resources Model Water Efficient Landscape Ordinance (MWELO) commencing with Section 490 of Chapter 2.7, Division 2, Title 2, California Code of Regulations.

**Rationale:** This item is inconsistent with Health and Safety Code Section 18930(a)(6) in that the proposed building standard is ambiguous or vague in whole or in part.

When amending MWELO, DWR failed to include clarifying language, including a definition of "new development project." It seems that "new development project" should be defined as "new construction for public agency projects and private development projects" as this was the language used to describe new projects in the previous version of MWELO. By specifically applying this definition to new development projects there will not be any ambiguity. CPSA advises that CBSC incorporate the following amendments into the new Standards to clarify the applicability of this section.

Protect • Educate • Promote

When MWELO was amended the applicability was changed, but the words “developer installed” were left out as a qualifier for rehabilitated projects. MWELO has a long history as only regulating developer installed landscapes for rehabilitated projects. This is because the enabling legislation for MWELO indicated that this was the focus of MWELO, to reduce water use regarding developer installed landscaping projects or developer installed large residential new construction. The addition of these words clarifies the MWELO's statute applicability so that there is no ambiguity to the California Green Building Statutes.

## ITEM 5

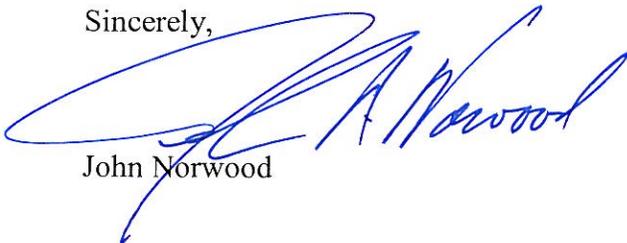
~~5.304.4 Outdoor water use in landscape areas of 2,500 square feet or less. Any project with an aggregate area of 2,500 square feet or less may comply with the performance requirements of MWELO or conform to the prescriptive compliance measures contained in MWELO's Appendix D.~~

**Rationale:** This item is inconsistent with Health and Safety Code Section 18930(a)(2) in that the proposed building standard is not within the parameters established by enabling legislation and is not expressly within the exclusive jurisdiction of another agency.

MWELO dealing with other outdoor water use in landscape areas other than the prescribed new construction with a threshold of 500 square feet and the developer installed rehabilitated landscape projects with a threshold of 2,500 square feet. The rationale CBSC gave was that the revised MWELO added a Prescriptive Checklist Option which simplifies compliance with smaller landscape areas. But, Appendix D in MWELO states, "This appendix contains prescriptive requirements which may be used as a compliance option to the Model Water Efficient Landscape Ordinance." It is specifically meant for the landscape projects already defined in the Ordinance, not an expansion of the Ordinance. This section is not consistent with the MWELO regulations contained in Title 23, Section 409.2 Applicability. What the inclusion of this section does is expand MWELO into areas that MWELO does not cover. CPSA urges CBSC to strike this language entirely based on the section's noncompliance with MWELO.

Thank you for your consideration of these amendments. Should you have any questions or concerns please feel free to contact us.

Sincerely,



John Norwood