

**FINAL STATEMENT OF REASONS  
FOR  
PROPOSED BUILDING STANDARDS  
OF THE  
CALIFORNIA BUILDING STANDARDS COMMISSION**

**REGARDING THE  
2013 CALIFORNIA GREEN BUILDING STANDARDS CODE (CALGreen)  
CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 11**

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 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)

No data or any technical, theoretical or empirical study, report, or similar document on which the California Building Standards Commission (CBSC) is relying, has been added to the rulemaking file that was not identified in the Initial Statement of Reasons.

The California Building Standards Commission (CBSC) rulemaking file number BSC EF 01/15 emergency regulations, approved by the CBSC on May 29, 2015 have been modified during the certifying rulemaking process. CBSC began the certifying rulemaking to make the emergency regulations permanent per Government Code Sections 11346.2-11347.3 by posting the original emergency regulations text for the 45-day public comment period. Five comments were received during the 45-day public comment period including comments submitted by the CBSC staff suggesting amendments to better align the CALGreen provisions with the revised Department of Water Resources Model Water Efficient Landscape Ordinance regulations.

On July 16, 2015 the California Water Commission approved the revised Department of Water Resources (DWR) Model Water Efficient Landscape Ordinance (MWELO) regulations contained in the Water Code, Title 23, Chapter 2.7 beginning with Section 490. The revised MWELO regulations were significantly enhanced to lower the ET Adjustment Factor as well as the landscape square footage threshold triggering compliance with MWELO in non-residential and residential applications. As a result, it was necessary for CBSC to modify the CALGreen emergency regulations to better align with the revised MWELO regulations.

The California Building Standards Commission made modifications to the following 2013 CALGreen sections after the 45-day public comment period concluded on October 26, 2015:

- Chapter 2, Definitions
- Chapter 5, Section 5.304
- Appendix A5, Section A5.304.2
- Appendix A5, Division A5.6 Voluntary Tiers
- Chapter 8, Compliance Forms and Worksheets

**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 Building Standards Commission has determined that the proposed regulatory action would not impose a mandate on local agencies, or school districts. CBSC does not have authority to adopt regulations for school districts. The mandate does not require reimbursement pursuant to Part 7 (commencing with section 17500) of Division 4, Government Code. H&SC section 18928 requires the CBSC to adopt the most current edition of the model codes. H&SC 18938(b) makes applicable the most current edition of the model building code to all occupancies throughout the State of California as prescribed.

### **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 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.)

The California Building Standards Commission (CBSC) received public comments during the 45-day comment period. CBSC made sufficiently related modifications to its Express Terms and which were made available to the public during an additional 15-day public comment period. CBSC received additional public comments to the 15-day language. Specific comments received during the 45-day and 15-day comment periods, as well as CBSC responses to each comment, are as follows:

#### **Comments received during the 45-Day Public Comment Period from September 11, 2015 through October 26, 2015:**

**45-day Comment 1: California Building Standards Commission:** Recommends Approve as Amended on the following:

- Chapter 2 Definitions
- Chapter 5.3, Section 5.304 Outdoor Water Use
- Division A5.3, Section A5.305 Outdoor Water Use

CBSC's comments to their own 45-day certifying rulemaking suggest amending the various chapters and sections to align with the Department of Water Resources' July 15, 2015 revised Title 23 MWELo regulations.

**CBSC response:** Staff concurred with the comments and made sufficiently related changes in response to the public comments and in compliance with H&SC 18930(a)(1) which requires that a proposed building standards do not conflict with , overlap, or duplicate other building standards; and H&SC 18930(a)(2) which requires that a proposed building standard is within the parameters established by enabling legislation and is not expressly within the exclusive jurisdiction of another agency.

- **Chapter 2 Definitions**
  - CBSC proposes to repeal the **ET Adjustment Factor (ETAF)** definition which was proposed in the 45-day Express Terms. This definition was necessary as it specified the ETAF factors for the emergency rulemaking. DWR's MWELo was revised July 15, 2015, requiring a more restrictive ETAF rate. CBSC determined during the emergency regulation certifying rulemaking process that the CALGreen regulations should reference MWELo, rather than restate the MWELo regulations.
  - CBSC proposes to repeal the **Special Landscape Area (SLA)** definition which was proposed in the 45-day Express Terms. This definition was necessary as it specified the additional water allowance for Special

Landscape Areas. As stated above, CBSC determined the CALGreen regulations should reference MWELo, rather than restate the MWELo regulations.

- **Chapter 5.3, Section 5.304 Outdoor Water Use**
  - **Section 5.304.1:** CBSC proposes to create a new scoping section to clarify the mandatory provisions in CALGreen Section 5.304 to reference DWR's MWELo regulations contained in Title 23.
  - **Section 5.304.2:** CBSC proposes to renumber Section 5.304.1 to 5.304.2 and amend this section to align with DWR's July 15, 2015 revised MWELo regulations, specifically Section 409.1 Applicability, which reduced the outdoor water use trigger from 2,500 square feet of landscape area to 500 square feet of landscape area. In addition, CBSC proposes to renumber the section as necessary to accommodate the new scoping section.
  - **Section 5.304.2 - Items 1 and 2:** CBSC proposes to repeal the ETAF and SLA factors in the body of text as the revised MWELo regulations are more restrictive, thereby avoiding a conflict with Title 23. These suggested edits are consistent with the MWELo regulations.
  - **Section 5.304.3:** CBSC proposes to add a new Section to address outdoor water use in rehabilitated landscape projects equal to or greater than 2,500 square feet. DWR's July 15, 2015 MWELo update to Section 490.1 Applicability, added water efficient requirements for rehabilitated landscape projects. This section is consistent with the MWELo regulations contained in Title 23, Section 490.1 Applicability.
  - **Section 5.304.4:** CBSC proposes to add this new section to address outdoor water use in landscape areas 2,500 square feet or less. DWR's July 15, 2015 update to MWELo Section 490.1 Applicability added water efficient requirements for these smaller landscape areas. The revised MWELo added a Prescriptive Checklist Option which simplifies compliance with smaller landscaped areas. This section is consistent with the MWELo regulations contained in Title 23, Section 490.1 Applicability.
  - **Section 5.304.5** CBSC proposes to add this new section to address the use of graywater or rainwater in landscape areas. DWR's July 15, 2015 MWELo Section 490.1 Applicability contains regulatory language to address these alternative water sources used in landscape areas. This section is consistent with the MWELo regulations contained in Title 23, Section 490.1 Applicability.
  - **Note 1:** CBSC proposes to repeal Note 1 and Note 2 and replace with a link to DWR's MWELo regulations, definitions, and supporting documents, which combines the information previously provided in Notes 1 and 2.
  - **Note 2:** CBSC proposes to amend Note 3 by repealing the ETAF factor as it is included in the ETAF definition. CBSC suggests linking directly to DWR's revised water budget calculator as previously provided in the prior emergency rulemaking. CBSC also suggests renumbering Note 3 to Note 2.
  - **Note 3:** CBSC proposes to add Note 3 directing the code user to the MWELo prescriptive compliance measures contained in Appendix D and providing a link to those regulations for code user convenience. In addition,

CBSC proposes to indicate that MWELO's Appendix D may be found in Chapter 8 of CALGreen.

- **Section 5.304.2:** CBSC proposes to repeal Section 5.304.2 Methods to reduce potable water use. The Commission and the public commented on this section during the May 29, 2015 Commission meeting, stating the language is more informative than regulatory. Although the language was Approved as Submitted during the emergency rulemaking hearing, CBSC staff was directed to review the language during the certifying rulemaking process. As part of the 45-day review, CBSC staff suggests repealing the language.
- **Section 5.304.2.1:** CBSC proposes to repeal Section 5.304.2.1 Authorized potable water use. The Commission and the public commented on this section during the May 29, 2015 Commission meeting, stating the language is more informative than regulatory. Although the language was Approved as Submitted during the emergency rulemaking hearing, CBSC staff was directed to review the language during the certifying rulemaking process. The use of potable water is already authorized for outdoor water use. As part of the 45-day review, CBSC staff suggests repealing the language.
- **Sections 5.304.3, 5.304.3.1 and 5.304.3.2:** CBSC proposes to repeal these sections, which require irrigation controllers and sensors in landscape areas 1,000 - 2,500 square feet. DWR's revised MWELO regulation reduced the performance compliance measures from 2,500 square feet of landscape area to 500 square feet of landscape area. CBSC suggests adding a new Section 5.304.3, which directs the code user to MWELO's Appendix D for outdoor water use in landscape areas of 2,500 square feet or less. Irrigation controllers and weather based sensors are required in the prescriptive compliance measures contained in Appendix D of the MWELO regulations. Therefore, Section 5.304.3 – 5.304.3.2 CALGreen provisions are no longer necessary and are in conflict with the revised MWELO regulations.
- **Section 5.304.4:** DWR's revised MWELO regulation now requires landscape water meters to be installed for all non-residential irrigated landscape areas of 1,000 square feet, but not more than 5,000 square feet as part of the Irrigation Design Plan in MWELO Section 492.7. Therefore CBSC proposes to repeal Section 5.304.4 as it is no longer necessary.
- **Division A5.3, Section A5.305 Outdoor Water Use**
  - **Section A5.304.2:** CBSC proposes to delete the reference to CALGreen Section 5.304.2. DWR revised the MWELO regulation requiring landscape water meters to be installed for all non-residential irrigated landscape areas of 1,000 square feet, but not more than 5,000 square feet as part of the Irrigation Design Plan. Therefore, the CALGreen Section is no longer necessary.

As a result of the public comment, CBSC published revised language for a 15-day public review comment period (November 23 – December 8, 2015).

**45-day Comment 2: California Pool and Spa Association (CPSA), John Norwood & Amanda Gualderama:** Recommends Disapprove.

The CPSA generally supports the MWELO's goal of water conservation and efficiency in landscape areas. However, CPSA cites the DWR MWELO Ordinance is unclear and ambiguous and applies unevenly to homeowners and the swimming pool and spa industry. The CPSA asks:

- 1) When does the ordinance apply to homeowners?

- 2) Is the application reasonable and consistent?
- 3) Does the effect of application of the ordinance unfairly discriminate against the swimming pool and spa industry?

**CBSC response:** CBSC appreciates the California Pool and Spa Association (CPSA) participation in the rulemaking process. CBSC understands the CPSA's concerns for potential water budget penalties for residentially installed pools. The majority of the comments pertain to the Title 23 MWELo regulations and MWELo's effects on residential pool installations. CBSC forwarded the comment to the Department of Water Resources' so they are aware of the CPSA organization's concerns about the application of the MWELo regulations. In addition, CBSC forwarded the comment to the Department of Housing and Community Development as their CALGreen provisions apply to residential occupancies. CBSC does not have authority to amend the Title 23 MWELo regulations, therefore is unable to modify the MWELo items CPSA cites in their letter. The approval and adoption of the MWELo Ordinance is within the authority of the California Water Commission. Requesting CBSC to disapprove the proposed CALGreen, Title 24 regulations would not resolve the issues noted by CPSA in the MWELo regulations.

**45-day Comment 3: California Building Industry Coalition, Bob Raymer** Recommends Approve as Amended. The Industry Coalition letter cites several concerns regarding having CALGreen Title 24 provisions reference (not reprint) the MWELo regulations contained in Title 23, including the following:

- Potential hurdle for field compliance by referencing another regulation
- Which agency is responsible for interpreting proper application of MWELo?
- DWR's MWELo provisions have not gone through the code development and adoption process administered by the CBSC, including but not limited to compliance with the H&SC 18930 nine point criteria
- DWR's MWELo regulatory effective dates and updates do not align with Title 24's Triennial and Intervening cycle making it difficult to have accurate regulations printed in Title 24.

The Industry Coalition letter suggests two options as a temporary solution until a better resolution can be accomplished in a future rulemaking.

- **Option 1:** Reprint in its entirety DWR's *Appendix D- Prescriptive Compliance Option* in CALGreen's Chapter 8 *Compliance Forms and Checklist*, or
- **Option 2:** Produce a checklist of items based on DWR's *Appendix D- Prescriptive Compliance Option* for inclusion in CALGreen's Chapter 8 *Compliance Forms and Checklist*.

**CBSC response:** CBSC appreciates the Industry Coalition's continued support and participation in the development of Title 24.

- **Option 1:** CBSC staff concurs with the suggestion to reprint MWELo Appendix D in Chapter 8 of the CALGreen. CBSC has made many attempts to assist the code user in finding the regulations and support documents in the Title 23 regulations. As suggested in the public comment submitted by the California Building Industry Association (on behalf of the multiple stakeholders that make up the Industry Coalition), CBSC proposes to reprint the MWELo Appendix D Prescriptive Compliance Option within CALGreen Chapter 8. According to the Coalition's comments, "there is significant benefit to having an easy-to-read listing of the basic provisions of the updated MWELo available to code users in the same document with all of the other provisions of CALGreen." CBSC has determined that reprinting MWELo Appendix D within Chapter 8 of CALGreen, which currently contains compliance forms and worksheets, would be an appropriate way to assist local enforcement agencies without having to duplicate Title 23 regulations within Title 24, which would violate the nine point criteria in Health & Safety Code Section 18930. As

MWELo Appendix D would be reprinted for reference only, CBSC proposes to add a note that clarifies the source of the appendix (Title 23), and directs code users to contact DWR for questions regarding interpretation, effectiveness, applicability, etc. Lastly, the heading of Chapter 8 is proposed for amendment to include the term "Reference Material," which would encompass the reprinting of MWELo Appendix D. CBSC also proposes to amend the matrix adoption table at the beginning of CALGreen Chapter 8 to clarify that MWELo Appendix D is not adopted by CBSC.

As a result of the public comment, CBSC published revised language for a 15-day public review comment period (November 23 – December 8, 2015).

**45-day Comment 4: California Statewide Utility Codes and Standards Team, Ed Pike**  
Recommends Approve as Amended.

- The letter suggests CBSC amend Section 5.304.1 to reduce the landscape project area from 2,500 square feet to 500 square feet consistent with MWELo.
- The letter suggests CBSC amend Section 5.304.3.1 and 5.304.3.2 related to Irrigation controllers.
- The letter suggests CBSC amend Section 5.304.4 by adding a customer service meter dedicated to landscape use provided by the local water purveyor or a privately owned meter or submeter.
- The letter suggests CBSC propose a new Section 5.304.5 Irrigation System Efficiency Verification.

**CBSC response:** CBSC appreciates the comments provided by the California Statewide Utility Codes and Standards Team and looks forward to continued coordination with this group.

- **Section 5.304.1:** CBSC concurs with the commenter and proposes to amend this section to align with DWR's July 15, 2015 revised MWELo regulations, specifically Section 409.1 Applicability, which reduced the outdoor water use trigger from 2,500 square feet of landscape area to 500 square feet of landscape area. As noted in Comment 1 above, CBSC renumbered and amended this section to align with the 500 square foot threshold consistent with MWELo.
- **Section 5.304.3.1 and 5.304.3.2:** While CBSC concurs with the commenter to amend the irrigation controller and sensor threshold to a landscape area of 500 square feet or less, CBSC proposes to repeal these sections as discussed in **45-day Comment 1**.
- **Section 5.304.4:** As noted in **45-day Comment 1**, CBSC proposes to repeal Section 5.304.4 as DWR's revised MWELo regulation now requires landscape water meters to be installed for all non-residential irrigated landscape areas of 1,000 square feet, but not more than 5,000 square feet as part of the Irrigation Design Plan in MWELo Section 492.7. Therefore Section 5.304.4 is no longer necessary. In accordance with Government Code (GC), Section 65596(l), the Department of Water Resources is required to include specified provisions in the MWELo to foster long-term landscape water conservation, including, in part, landscape maintenance practices such as conducting water audits and prescribing the amount of water applied per landscaped acre. Proposing this duplicative language and adding additional requirements is in conflict with Building Standards Law, Health and Safety (HSC) Section 18930(a)(2), which requires that a proposed building standard is within the parameters established by enabling legislation and is not expressly within the exclusive jurisdiction of another agency.
- **Section 5.304.5:** The commenters proposed text largely duplicates Section 492.12 of MWELo, and additionally requires a copy provided to the local building inspector and preparation of an irrigation schedule "for the irrigation controller." As stated in the comment response for Section 5.304.4, this is in conflict with HSC Section 18930(a)(2). In addition, this proposal is outside the scope of this rulemaking

and was not discussed with stakeholders. For these reasons CBSC is not proposing a new section as suggested by the commenter.

As a result of the public comment, CBSC published revised language for a 15-day public review comment period (November 23 – December 8, 2015).

**45-day Comment 5: Joyce Dillard** Recommends *unclear*. Ms. Dillard's comment letter cites MWELo lacks jurisdiction issues including testing and monitoring of storm water collection devices or storage in relationship to contaminants and vector control issues. In addition, she mentions "Most of the documents are related to the construction process only and not the outgoing monitoring required for this type of use."

**CBSC response:** CBSC would like to thank Ms. Dillard's for her comments and participation in the development of Title 24. It appears the comments are pertaining to the MWELo, Title 23 regulations as opposed to the CALGreen, Title 24 regulations posted for the 45-day comment period. CBSC forwarded the comment to the Department of Water Resources' so they are aware of Ms. Dillard's concerns. CBSC does not have authority to amend the Title 23 MWELo regulations, therefore is unable to modify the MWELo to include testing and monitoring of storm water collection devices for contaminants and vector control.

No modifications have been proposed to BSC's rulemaking package as a result of this comment.

**Comments received during 15-Day Public Comment Period from November 23, 2015 through December 8, 2015:**

**15-day Comment 1: California Pool and Spa Association, John Norwood:** Recommends Approve as Amended. The CPSA comment suggests amendments to CALGreen Sections:

- Section 5.304.1 add clarity to the scoping section's applicability
- Section 5.304.2 replace "new construction projects" with "new development projects"
- Section ~~5.304.4~~ repeal the section

**CBSC response:** CBSC appreciates the comments provided by the California Pool and Spa Association (CPSA) and looks forward to continued coordination in the future. CBSC wishes to clarify for the commenters the mandatory provisions in Chapter 5, CALGreen apply to non-residential construction as cited in CALGreen, Chapter 5 and Chapter A5 are applicable to non-residential occupancies as cited in CALGreen, Chapter 1, Section 103.1 (2) and Chapter 3, Section 301.3. Regulations applicable to residential occupancies are contained in Chapters 4 & A4. CBSC and the Department of Housing and Community have coordinated their efforts to reference corresponding Title 23 MWELo provision within CALGreen.

- **Section 5.304.1:** The intent of Section 5.304.1 Scope as written is to let the code user know the following sections reference an existing mandatory regulation found in Title 23. Sub-sections 5.304.2, 5.304.3, 5.304.4 and 5.304.5 offer application specificity as outlined in Title 23, Section 490.1 Applicability (a) (1), (a)(2), (c) and (d).
- **Section 5.304.2:** CBSC respectfully disagrees with the commenters' suggestion to replace "new construction projects" with "new development projects". MWELo's Section 490.1 Applicability (a)(1), cites new construction projects. "New construction" is defined in MWELo Section 491 Definitions (yyy). CBSC does not have the statutory authority to interpret or make specific the MWELo regulations (this authority is delegated to the Department of Water Resources). CBSC must use the approved Title 23 regulations as published by the Office of Administrative Law. If the MWELo regulations are modified in the future CBSC will correct the CALGreen references.

The Department of Water Resources facilitates regular meetings of the Independent Technical Panel on Demand Management Measures (ITP), a public-private

partnership that collaborates on various statewide water policy issues. Recent activities of the ITP include discussion on possible updates to the Model Water Efficient Landscape Ordinance (strengthening/streamlining local enforcement, etc.).

CBSC forwarded this comment to DWR as it appears to address provisions within the Title 23 MWELO regulations, which the ITP is currently reviewing for possible updates.

- **Section 5.304.4:** This section references MWELO's provisions found in Title 23, Section 490.1 (c) which reads "Any project with an aggregate landscape area of 2,500 square feet or less may comply with the performance requirements of this ordinance (MWELO) or to the prescriptive measures found in Appendix D."

CBSC's understanding of the Section 490.1 Applicability in Title 23 is that landscape areas required by Section 490.1 (a) (1) equal to or greater than 500 sq ft to 2500 sf or less may comply the MWELO performance provisions or the prescriptive measures contained in Appendix D. It is not CBSC's intent to increase the mandatory regulations beyond the scope of MWELO.

No modifications have been proposed to BSC's rulemaking package as a result of this comment.

**15-day Comment 2: City of Santa Rosa, David Guhin:** Recommends Approve as Amended. Mr. Guhin suggests CBSC add language to Section 503.4.4 to include that a local water efficient landscape ordinance may also be used as compliance method for outdoor water use in landscape areas of 2,500 square feet or less.

**CBSC response:** CBSC appreciates Mr. Guhin's comment and involvement in the rulemaking process. However, as written Section 5.304.1 (and MWELO 490.1(c)) uses the word "may" allowing the code user to comply with the performance requirements of MWELO or the prescriptive measures in MWELO Appendix D. Using the word "shall" would limit the code user to use either of those methods.

If a local water efficient landscape ordinance is in place, then via the ordinance, the code user would be required to comply with the local ordinance. The intent of Section 5.304.4 is to direct the code user to the prescriptive compliance measures contained in MWELO's Appendix D.

In future rulemakings CBSC will revisit this comment to further clarify this section as suggested.

No modifications have been proposed to BSC's rulemaking package as a result of this comment.

**15-day Comment 3: California Council, America Society of Landscape Architects, Jon Wreschinsky:** Recommends Approve as Amended. Mr. Wreschinsky suggests changes to **Section A5.304.2 Outdoor water use** by adding non-residential vs. residential to the section for clarity.

**CBSC response:** CBSC appreciates Mr. Wreschinsky's thorough comment to the CALGreen regulations. CBSC agrees with Mr. Wreschinsky's comment that adding non-residential vs. residential to Section A5.304.2 would add clarity for the code user. The language Mr. Wreschinsky's suggests better aligns with the MWELO regulations found in Title 23, Chapter 2.7 – MWELO, Section 492.7. However, the regulations in CALGreen, Chapter 5 and Chapter A5 are applicable to non-residential occupancies as cited in CALGreen, Chapter 1, Section 103.1 (2) and Chapter 3, Section 301.3. Regulations applicable to residential occupancies are contained in Chapters 4 & A4. CBSC and the Department of Housing and Community have coordinated their efforts to reference corresponding Title 23 MWELO provision within CALGreen.

At this time CBSC opts not to modify the proposed language as suggested by Mr. Wreschinsky. MWELO continues to be reviewed and enhanced by the Independent Technical Panel on Demand Management Measures (ITP) as stated in CBSC's response to 15-day Comment 1.

No modifications have been proposed to BSC's rulemaking package as a result of this comment.

**15-day Comment 4: California Statewide Utilities Codes and Standards, multiple signatures**  
Recommends Approve as Amended.

- The letter suggests CBSC update rather than eliminate pre-existing CALGreen requirements for landscape irrigation controllers and metering in Section 5.304.4. In addition, the letter suggests CALGreen cross-reference other MWELO requirements such as water budgets, maximum slope, etc. as information notations to indicate the additional MWELO scope.
- The letter suggests CBSC include a pointer to the MWELO Irrigation System Efficiently Audit requirements and adopt additional requirements during the intervening code cycle.
- The Utility C&S Team supports the proposed addition of MWELO Appendix D into CALGreen Chapter 8.
- The letter suggests CBSC amend section A5.304.2 to base applicability on whether a new landscape has been installed rather than whether a new water service has been installed.
- The letter recommends CBSC evaluate opportunities to streamline future alignment with the MWELO.

**CBSC response:** CBSC appreciates the support and suggestions offered by the California Statewide Utilities Codes and Standards Team. A response to each comment is listed below.

- **Section 5.304.4:** CBSC's rationale for repealing the landscape irrigation controllers and metering in Section 5.304.4 is stated in the **45-day Comment 4**. At this time CBSC's focus was to amend the emergency regulations to align with the updated MWELO regulations. In future rulemaking cycles, CBSC will consider including other pointers to MWELO. As stated in previous responses, the MWELO regulations are being reviewed and proposed for updates.
- As stated in other responses, CBSC may consider in future rulemakings including additional pointers to the MWELO requirements. CBSC rationale for not including this suggestion is stated in the responded to **45-day Comment 4**.
- CBSC thanks the Utility C&S Team for their support regarding the proposed addition of MWELO Appendix D into CALGreen Chapter 8.
- **Section A5.304.2:** This suggested is outside the scope of this rulemaking and was not discussed with stakeholders. For this reason CBSC is not proposing to amend this section as suggested by the commenter.
- CBSC appreciates the Utility C&S Team support and continued input for the development of CALGreen provisions. CBSC is working closely with the Department of Water Resources and the ITP team for ongoing development of the MWELO regulations and CALGreen regulations.

No modifications have been proposed to BSC's rulemaking package as a result of this comment.

**15-day Comment 5: National Resources Defense Council, Tracy Quinn** Recommends Approve as Amended. The commenter states that the building code will play an important role in the enforcement of MWELO. The comment is of the opinion that for enforcement purposes it is essential the language in CALGreen accurately reflect the MWELO directly rather than by reference, as currently proposed by CBSC. Therefore, the commenter recommends including

several key elements in the current update and considering additional options to align with MWELO landscape irrigation water efficiency requirements during future code adoption cycles.

The commenter expressed concern about the lack of transparency, specifically the lack of response to stakeholder comments and concerns, during the public process. The commenter further recommends that stakeholder comments be posted to the rulemaking website and that agencies provide public responses to the comments, concerns and recommendations.

The NRDC comment suggests amendments to CALGreen as follows:

- Chapter 2 Definitions
- 5.304.2 Outdoor water use in landscape areas equal to or greater than 500 square feet.
- 5.304.3.1 Irrigation controller and sensor application
- 5.304.3.2 Irrigation controllers.
- 5.304.4 Outdoor water use meters.
- The letter suggests CBSC propose a new Section 5.304.5 Irrigation System Efficiency Verification.

**CBSC response:** CBSC appreciates the **National Resources Defense Council** point of view and suggestions. Similar comments and suggestions were also submitted by the California Statewide Utility Codes and Standards Team during the 45-day and the 15-day comment periods. The commenter's suggested amendments, not addressed in previous comments, are discussed in detail below. Regarding the commenter's concern about a lack of transparency in the public process, CBSC conducted a 45-day public comment period and an additional 15-day public comment period (Pursuant to the Administrative Procedure Act (commencing with Government Code Section 11340) and Building Standards Law (commencing with Section 18901)). CBSC's responses to each of the comments received are published in this Final Statement of Reasons as follows:

- **Chapter 2 Definitions:** CBSC proposes to repeal the MWELO related definitions as stated in the 45-day Comment provided by CBSC. These definitions were necessary as the specified the ETAF factors for the emergency rulemaking. DWR's MWELO was revised July 15, 2015, requiring a more restrictive ETAF rate. CBSC determined during the emergency regulation certifying rulemaking process that the CALGreen regulations should reference MWELO, rather than restate the MWELO regulations as described in other comment responses.
- **Section 5.304.2** Outdoor water use in landscape areas equal to or greater than 500 square feet.: CBSC concurs with the commenter and proposes to amend this section to align with DWR's July 15, 2015 revised MWELO regulations, specifically Section 409.1 Applicability, which reduced the outdoor water use trigger from 2,500 square feet of landscape area to 500 square feet of landscape area. The commenter suggests the ETAF factors be added to the sub-sections. CBSC respectfully disagrees as this duplicates some of the provisions in MWELO. Choosing to repeat certain items of MWELO and not other items may cause confusion for the code user. In addition, there is an Independent Task Force
- **Section 5.304.3.1** Irrigation controller and sensor application: Please see response to similar comments in the **45-day Comment 1**
- **Section 5.304.3.2** Irrigation controllers: Please see response to similar comments in the **45-day Comment 1**
- **Section 5.304.4** Outdoor water use meters: Please see response to similar comments in the **45-day Comment 1**
- The letter suggests CBSC propose a new Section 5.304.5 Irrigation System Efficiency Verification. Please refer to the response in **45-day Comment 4**.

No modifications have been proposed to BSC's rulemaking package as a result of this comment.

**15-day Comment 6: California Landscape Contractors Association (CLCA), David Silva, QWEL** Recommends Approve. CLCA sent a letter fully supporting the CBSC Part 11 amendments.

**CBSC response:** CBSC appreciates the CLCA support letter.

**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 CBSC has determined that no alternative considered would be more effective in carrying out the purpose for which the regulation is proposed, 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.

**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).

There were no proposed alternatives. The CBSC has determined that the proposed regulations will have no adverse impact on small businesses.