NOTICE OF PROPOSED ACTION

TO

BUILDING STANDARDS

OF THE

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

REGARDING AMENDMENT OF THE 2007 AND 2010 CALIFORNIA PLUMBING CODE (CPC)

CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 5

(HCD EF 01/10)

Notice is hereby given that the California Building Standards Commission (CBSC) on behalf of the Department of Housing and Community Development (HCD) proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), Title 24, Part 5.

This rulemaking action covers Chapter 6, Table 6-4 and Sections 604.1.2, 604.11, 604.11.1 and 604.11.2.

PUBLIC COMMENT PERIOD

A public hearing has not been scheduled; however, written comments will be accepted from **August 5, 2010**, until 5:00 PM on **September 20, 2010**. Please address your comments to:

California Building Standards Commission,
2525 Natomas Park Drive, Suite 130
Sacramento, California 95833
Attention: Dave Walls, Executive Director

Written comments may also be faxed to (916) 263-0959 or e-mailed to CBSC@dgs.ca.gov.

Pursuant to Government Code Section 11346.5(a)(17), 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.

POST-HEARING MODIFICATIONS TO THE TEXT OF THE REGULATIONS

Following the public comment period, the 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 the CBSC adopts, amends, or repeals the regulation(s). The 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 and/or oral comments or request that you be notified of any modifications.

AUTHORITY AND REFERENCE

The CBSC proposes to adopt these building standards under the authority granted by Health and Safety Code Sections 18928, 18934.5 and 18949.5. HCD is proposing this regulatory action based on Health and Safety Code Sections 17040, 17921, 17922, 18300, 18630, 18640, 18865, 18865.3, 18873.1, 18873.2 and 19990; and Government Code Sections 12955.1 and 12955.1.1. The purpose of these building standards is to implement, interpret, and make specific the provisions of Health and Safety Code Sections 17000-17060, 17910-17990, 18200-18700, 18860-18874 and 19960-19998; and Government Code Sections 12955.1 and 12955.1.1.

INFORMATIVE DIGEST

Summary of Existing Laws

Section 17921 of the Health and Safety Code and Section 12955.1 of the Government Code require HCD to propose the adoption, amendment, or repeal of building standards by the CBSC.

Section 17922 of the Health and Safety Code requires that the building standards be essentially the same as the most recent editions of the uniform industry codes. The CBSC is authorized to adopt these building standards under the authority granted by Health and Safety Code Section 18949.5.

Health and Safety Code Section 17922 states that the most recent editions of the uniform codes referred to in the section shall be considered to be adopted one year after the date of publication of the uniform codes.

Health and Safety Code Section 17040 requires HCD to adopt building standards for employee housing for "… the protection of the public health, safety, and general welfare of employees and the public, governing the erection, construction, enlargement, conversion, alteration, repair, occupancy, use, sanitation, ventilation, and maintenance of all employee housing."

Health and Safety Code Sections 18300, 18620, 18630, 18640, 18865, 18865.3, 18873, 18873.1 and 18873.2 require HCD to adopt building standards for plumbing, including toilets, showers, and laundry facilities, in mobilehome parks and special occupancy parks which HCD determines are reasonably necessary for the protection of life and property and to carry out the purposes of the Mobilehome Parks Act and the Special Occupancy Parks Act.

Health and Safety Code Section 19990 requires HCD to adopt building standards for factory-built housing.

Summary of Existing Regulations

The California Plumbing Code, Part 5 of Title 24 of the California Code of Regulations (CCR), also known as the California Building Standards Code, adopted by reference the 2006 Uniform Plumbing Code with California amendments, effective on January 1, 2008, and the 2009 Uniform Plumbing Code with California amendments, effective on January 1, 2011. The purpose of this code is to establish the minimum requirements necessary to safeguard the public health, safety and general welfare.

Summary of Effect

HCD proposes to amend the 2007 and 2010 editions of the California Plumbing Code (CPC), Part 5, Title 24, CCR for the following programs:

a) State Housing Law: relative to residential occupancies, buildings or structures accessory thereto and as provided for through the federal Fair Housing Amendments Act and state law accessibility requirements, except where the application is for public use only.

b) Employee Housing Act: relative to the use of plumbing equipment and systems in or on any building or structure or outdoors on premises or property in accordance with Health and Safety Code Section 17040.

c) Mobilehome Parks or Special Occupancy Parks: relative to the use of plumbing equipment and systems in or on any permanent buildings and accessory buildings and structures within the park in accordance with Health and Safety Code Sections 18300, 18630, 18640, 18873.1 and 18873.2.

d) Factory-Built Housing Law: relative to residential buildings, dwellings or portions thereof, or building components, or manufactured assemblies in accordance with Health and Safety Code Section 19990.

The proposed action amends Part 5 of Title 24, CCR (2007 California Plumbing Code, currently in effect, and 2010 California Plumbing Code, effective January 1, 2011) by modifying Table 6-4 Footnotes 2, 3 and 4, which prescribe some of the requirements for the use of PEX Tubing. It also adds Section 604.1.2 and amends Sections 604.11, 604.11.1 and 604.11.2. The amendments to Table 6-4 Footnotes 2, 3 and 4, reflect the proposed changes in the Second Revised Draft Environmental Impact Report (SRDEIR) and address concerns raised after the release of the SRDEIR (Sections 604.1.2, 604.11 and 604.11.1) with additional restrictions on the use of PEX.

Comparable Federal Statute or Regulations

None.

Policy Statement Overview

The proposed regulations will adopt, amend or repeal existing plumbing standards and establish new plumbing standards which will affect the following: residential occupancies and buildings or structures accessory thereto, as provided for by federal and state accessibility requirements; the use of plumbing equipment and systems in or on any building or structure or outdoors on premises or property; the use of plumbing equipment and systems in or on any permanent buildings, accessory buildings or structures relative to residential buildings, dwellings or portions thereof, or building components, or manufactured assemblies, housing construction, buildings and structures accessory thereto, and permanent buildings in mobilehome parks and special occupancy parks.

OTHER MATTERS PRESCRIBED BY STATUTE APPLICABLE TO THE AGENCY OR TO ANY SPECIFIC REGULATION OR CLASS OF REGULATIONS

None.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

HCD has determined that the proposed regulatory action would not impose a mandate on local agencies or school districts. Therefore, it does not mandate state reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

ESTIMATE OF COST OR SAVINGS

A. Cost or Savings to any state agency: Health and Safety Code Section 17922 requires HCD to adopt by reference the most recent edition of the model building code. This action will result in a minimal cost to HCD which will be absorbed in the current budget.
B. Cost to any local agency required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: NONE.
C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: NONE.
D. Other nondiscretionary cost or savings imposed on local agencies: NONE.
E. Cost or savings in federal funding to the state: NONE.

Estimate: HCD believes that any additional expenditure resulting from this proposed action will be minimal and will be able to be absorbed within existing budgets and resources.

INITIAL DETERMINATION OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESSES

HCD has made an initial determination that the proposed action will not have a significant statewide adverse economic impact on businesses, including the ability of California businesses to compete with business in other states. (See *Economic Impact of the Proposed California Plumbing Code Regulations on Private Persons and Businesses in the State of California* in the rulemaking file.)

DECLARATION OF EVIDENCE

HCD has determined that there are minimal facts, evidence, documents, testimony, or other evidence upon which the agency relied to support its initial determination of no effect pursuant to Government Code Section 11346.5(a)(8). The public is welcome to submit any information, facts or documents either supporting HCD's initial determination or finding to the contrary.

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

HCD has made an assessment of the proposal regarding the economic impact of recordkeeping and reporting requirements and has determined that a report pursuant to Government Code Section 11346.3(c) is not required.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

HCD is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

SMALL BUSINESS EFFECT

HCD has initially determined that a small business may be affected by these proposed regulations. (See *Economic Impact of the Proposed California Plumbing Code Regulations on Private Persons and Businesses in the State of California* in the rulemaking file.)

ASSESSMENT OF EFFECT OF REGULATIONS UPON JOBS AND BUSINESS EXPANSION, ELIMINATION OR CREATION

HCD has initially assessed whether or not, and to what extent, this proposal will affect the following:

- The creation or elimination of jobs within the State of California.

  These regulations will not affect the creation, or cause the elimination, of jobs within the State of California.

- The creation of new businesses or the elimination of existing businesses within the State of California.

  These regulations will not affect the creation or the elimination of businesses within the State of California.

- The expansion of businesses currently doing business within the State of California.

  These regulations will not affect the expansion of businesses currently doing business within the State of California.

(See *Economic Impact of the Proposed California Plumbing Code Regulations on Private Persons and Businesses in the State of California* in the rulemaking file.*)*

INITIAL DETERMINATION OF SIGNIFICANT EFFECT ON HOUSING COSTS

HCD has made an initial determination that this proposal would not have a significant effect on housing costs. The CBSC contact person designated below will make HCD's initial evaluation of the effect of the proposed regulatory action on housing costs available upon request. (See *Economic Impact of the Proposed California Plumbing Code Regulations on Private Persons and Businesses in the State of California* in the rulemaking file.*)*

CONSIDERATION OF ALTERNATIVES

HCD must determine that no reasonable alternative considered by HCD, or otherwise identified and brought to the attention of HCD, 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. (See *Economic Impact of the Proposed California Plumbing Code Regulations on Private Persons and Businesses in the State of California* in the rulemaking file.*)*

AVAILABILITY OF RULEMAKING DOCUMENTS

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 a Finding of Emergency can be accessed from the California Building Standards Commission website at http://www.bsc.ca.gov and also will be posted on HCD's website at http://www.hcd.ca.gov/codes/shl/2007and2010cpc_part5.html.

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, at HCD's website or at the California Building Standards Commission website.

CBSC CONTACT PERSON FOR PROCEDURAL AND ADMINISTRATIVE QUESTIONS

General questions regarding procedural and administrative issues should be addressed to:

CBSC Contact: Jane Taylor, Senior Architect (Jane.Taylor@dgs.ca.gov)

CBSC Back-up: Dave Walls, Executive Director (Dave.Walls@dgs.ca.gov)

CBSC Address: California Building Standards Commission
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833

CBSC Telephone: (916) 263-0916

CBSC Fax: (916) 263-0959

CBSC E-mail: CBSC@dgs.ca.gov

PROPOSING STATE AGENCY CONTACT PERSON FOR SUBSTANTIVE AND/OR TECHNICAL QUESTIONS ON THE PROPOSED BUILDING STANDARDS

Specific questions regarding the substantive and/or technical aspects of the proposed changes to the building standards should be addressed to:

Shawn Huff
State Housing Law Programs Manager
Department of Housing and Community Development
Division of Codes and Standards
Telephone: (916) 445-9471
E-mail: shuff@hcd.ca.gov
Fax: (916) 327-4712

Back-up:

Doug Hensel
Assistant Deputy Director
Department of Housing and Community Development
Division of Codes and Standards
Telephone: (916) 445-9471
E-mail: dhensel@hcd.ca.gov
Fax: (916) 327-4712