

**INITIAL STATEMENT OF REASONS
FOR
PROPOSED BUILDING STANDARDS
OF THE
CALIFORNIA BUILDING STANDARDS COMMISSION (CBSC)
REGARDING PROPOSED AMENDMENT OF THE
2007 and 2010 CALIFORNIA PLUMBING CODE (CPC) FOR THE CALIFORNIA
CODE OF REGULATIONS (CCR), TITLE 24, PART 5 (DPH-10-001)**

The Administrative Procedure Act (APA) requires that an Initial Statement of Reasons be available to the public upon request when rulemaking action is being undertaken. The following information required by the APA pertains to this particular rulemaking action:

STATEMENT OF SPECIFIC PURPOSE AND RATIONALE:

In January 2009, the CBSC adopted regulations that allowed the statewide use of cross-linked polyethylene piping (PEX) by removing the CPC's former prohibition against using PEX. The PEX regulations are the subject of litigation in the Alameda County Superior Court (*Center for Environmental Health, et al. v. California Building Standards Commission, et al.*, No. RG09437040). As part of the litigation, the court has ordered that the PEX regulations must be "vacate[d] and set aside" until there is full compliance with the requirements of the California Environmental Quality Act (CEQA). As required by the court order, the CBSC has prepared a Second Revised Draft Environmental Impact Report (SRDEIR), which, if certified by the CBSC, will constitute full compliance with CEQA and will allow the CBSC to adopt and approve PEX regulations. To comply with the court order, the CBSC and the California Department of Public Health (CDPH) propose to repeal the current PEX regulations and concurrently adopt PEX regulations.

CHAPTER 6 – WATER SUPPLY AND DISTRIBUTION

SECTIONS: 604.11, 604.11.1, AND 604.11.2

CBSC/CDPH proposes to adopt the above-listed model code sections into Title 24, Part 5, CPC, with modifications. CBSC/CDPH has previously proposed adoption of the UPC without amendment to restrict the use of PEX piping. In these previous adoptions, state agencies have received comments asserting that the CEQA must be satisfied in order to adopt the model code as written for use in California. In these previous adoptions, CBSC has not agreed with the comments, but decided to include a restriction for PEX to avoid legal challenges that could potentially delay the adoption of the UPC or force to withdraw the entire UPC adoption package due to the voluminous comments received from stakeholders who want the use of PEX restricted in California.

CBSC anticipates receiving similar comments and intends to complete the necessary tasks to legally adopt these sections with necessary amendments. If necessary, CBSC will either propose amendments or withdraw all or portions of the initial proposal. The banners have been proposed for removal from Sections 604.11, 604.11.1 and 604.11.2 to maintain consistency with the format of this code.

The proposed action also amends Part 5 of Title 24 (2010 CPC) by amending footnote #3 contained in Table 6-4, which prescribes some of the requirements for the use of PEX water supply piping. CBSC/CDPH propose to amend Table 6-4 footnote #3 to reflect the proposed changes in the SRDEIR for PEX.

TECHNICAL, THEORETICAL, AND EMPIRICAL STUDY, REPORT, OR SIMILAR DOCUMENTS:

As required by the court order, the CBSC has prepared a Second Revised Draft Environmental Impact Report.

FACTS, EVIDENCE, DOCUMENTS, TESTIMONY, OR OTHER EVIDENCE OF NO SIGNIFICANT ADVERSE IMPACT ON BUSINESS.

CBSC/CDPH have no evidence indicating any potential significant adverse impact on business with regard to this proposed action.

DUPLICATION OR CONFLICTS WITH FEDERAL REGULATIONS

The regulations proposed for adoption do not duplicate or conflict with federal regulations.

STATEMENTS OF DETERMINATIONS

Economic Impact Determination.

CBSC/CDPH have made an initial determination that the proposed regulations would not have a significant statewide adverse economic impact directly effecting businesses, including the ability of California businesses to compete with businesses in other states.

CBSC/CDPH have determined that the regulations would not significantly affect the following:

1. The creation or elimination of jobs within the State of California.
2. The creation of new businesses or the elimination of existing businesses within the State of California.
3. The expansion of businesses currently doing business within the State of California.

Affect on Small Business

CBSC/CDPH have determined that the regulations may impact small businesses.

Alternatives Considered.

No reasonable alternative considered by CBSC/CDPH or that has otherwise been identified and brought to the attention of CBSC/CDPH 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.

Local Mandate Determination.

CBSC/CDPH have determined that the proposed regulations would not impose a mandate on local agencies or school districts, nor are there any costs for which reimbursement is required by part 7 (commencing with Section 17500) of division 4 of the Government Code.

Housing Costs Determination. CBSC/CDPH have determined that the proposed regulations will not impact housing costs.