

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT****DIVISION OF CODES AND STANDARDS**

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**NOTICE OF PROPOSED RULEMAKING****TITLE 25. DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
(MANUFACTURED HOUSING PROGRAM)**

**NOTICE IS HEREBY GIVEN** that the California Department of Housing and Community Development (HCD), proposes to permanently adopt existing emergency regulations governing manufactured homes, mobilehomes, multifamily manufactured homes, and commercial modulars by adopting California Building Code ignition resistant construction standards.

**PUBLIC HEARING**

A public hearing has been scheduled at which time any interested party may present statements, orally or in writing, about this proposed regulatory action. The hearing will continue until all oral comments are received, and will be held as follows:

Date: February 23, 2009  
Location: Victim Compensation and Government Claims Board  
400 R Street, Conference Room 101  
Sacramento, CA 95814  
Time: 9:00 a.m.

Pre-hearing registration will be conducted prior to the hearing. Those registered will be heard in order of their registration. Anyone else wishing to speak at the hearing will be afforded an opportunity after those registered have presented their oral comments. The time allowed for each person to present oral comments may be limited if a substantial number of people wish to speak.

Individuals presenting oral comments are requested, but not required, to submit a written copy of their statements. The hearing will be adjourned immediately following the completion of the oral comments.

**SUBMISSION OF WRITTEN COMMENTS**

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to HCD. All written comments must be received by HCD at this office no later than 5:00 p.m. on February 23, 2009, in order to be considered. Written comments may be submitted by mail, e-mail, or facsimile as follows:

By mail to: Department of Housing and Community Development  
Division of Codes and Standards  
P. O. Box 1407  
Sacramento, CA 95812-1407  
ATTN: Manufactured Housing Program

By e-mail to: [ribarra@hcd.ca.gov](mailto:ribarra@hcd.ca.gov)

By facsimile to: (916) 327-4712 ATTN: Ruth Ibarra

## **PERMANENT ADOPTION OF REGULATIONS**

Following the public comment period, HCD may adopt the proposals substantially as described below or may modify the proposals if the modifications are sufficiently related to the original text. With the exception of minor technical or grammatical changes, the text of any modified proposal will be available for at least 15 days prior to its adoption from the contact person(s) designated in this Notice, and will be mailed to those persons who have submitted written or oral testimony related to this proposal or who have requested notification of any changes to the proposal. HCD will accept written comments on the modified regulations during the 15-day period.

## **AUTHORITY AND REFERENCE**

Health and Safety Code sections 18015, 18020(a), 18028(a), 18029, 18029.5 and 18030.5 grant HCD the authority to adopt regulations governing construction, alteration, and fire safety prevention of manufactured homes, mobilehomes, and commercial modulars. The actual text of these statutes is available on the official California Legislative information website and at <http://www.leginfo.ca.gov>. The standards adopted are in Title 24, California Code of Regulations, Part 2 (California Building Code), Chapter 7A.

The purpose of these regulations is to implement, interpret, and make specific the provisions of Health and Safety Code Sections 13143, 13108.5(a), 18015, 18020(a), 18028(a), 18029, 18029.5, and 18030.5, and Government Code Section 51189 relating to building materials and construction methods used in Wildland-Urban Interface Fire Area, as well as California Code of Regulations (CCR), Title 24, Part 2, Chapter 7A

## **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

### **Summary of Existing Laws**

#### **Federal Provisions**

24 Code of Federal Regulations (CFR) §3282.11 and 42 U.S.C. Section 5403(d) prohibit any state or political subdivision of a state from establishing a construction standard for manufactured homes that is not identical to the corresponding federal standard, if a federal standard exists. Since federal construction standards for manufactured homes in 24 CFR Part 3280 do not expressly provide standards for installation of an ignition resistant construction system for manufactured homes, California proposes to establish installation requirements for ignition resistant construction systems in manufactured homes under authority provided by the Health and Safety Code.<sup>1</sup>

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**HSC Section 18015** – Existing law makes construction standards for manufactured homes, mobilehomes, multifamily manufactured homes, and commercial modulars adopted pursuant to Part 2 (commencing with section 18000) of the Health and Safety Code applicable to all parts of the state and supersedes conflicting local ordinances. It authorizes HCD to promulgate regulations to interpret and make specific the provisions of this part relating to construction and other related or specifically enumerated activities. Under this authority, HCD proposes to permanently adopt installation standards for ignition resistant construction system installed in new or existing manufactured homes, mobilehomes, multifamily manufactured homes, and commercial modular structures.

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<sup>1</sup> In a letter dated January 31, 2008, from William W. Matchneer III, HUD Associate Deputy Assistant Secretary of the federal Regulatory Affairs and Manufactured Housing, Mr. Matchneer states, “*Exterior fire resistance is an element of performance that is not addressed by the Federal Manufactured Home Construction and Safety Standards, 24 CFR 3280. Accordingly we would not consider the application of the WUI standards to manufactured housing to be a violation of the preemption provisions of the National Manufactured Housing Construction and Safety Standards Act, 42 U.S.C 5403(d).*”

**HSC Section 18020(a)** – Existing law authorizes HCD to enforce the provisions of Part 2 (commencing with section 18000) of the Health and Safety Code and rules and regulations adopted pursuant to that part, except for recreational vehicle standards covered by HSC 18027.3 and manufactured home standards covered by 42 U.S.C. Section 5401, et seq., of the National Manufactured Housing Construction and Safety Standards Act (NMHCSSA) of 1974. Under this authority, HCD proposes to permanently adopt installation standards for ignition resistant construction systems installed in new or existing manufactured homes, mobilehomes, multifamily manufactured homes, and commercial modular structures.

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**HSC Section 18028(a)** – Existing law authorizes HCD to adopt regulations regarding the construction of commercial modulars and special purpose commercial modulars, except mobile food facilities subject to Article 11, commencing with Section 114250 of Chapter 4 of Part 7 of Division 104, and multifamily manufactured homes, manufactured homes, and mobilehomes not subject to the NMHCSSA. HCD is authorized to determine whether the proposed regulations are reasonably necessary to protect the health and safety of the occupants and the public. Under this authority, HCD proposes to permanently adopt installation standards for ignition resistant construction systems installed in new or existing manufactured homes, mobilehomes, multifamily manufactured homes and commercial modular structures.

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**HSC Section 18029** – Existing law authorizes HCD to adopt regulations governing the alteration or conversion of fire safety systems, installations, and equipment in manufactured homes, mobilehomes, multifamily manufactured homes, commercial modulars, and special purpose commercial modulars. Under this authority, HCD proposes to permanently adopt installation standards for ignition resistant construction systems installed in new or existing manufactured homes, mobilehomes, multifamily manufactured homes, and commercial modular structures.

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**HSC Section 18029.5** – Existing law authorizes HCD to adopt regulations that are reasonably consistent with generally recognized fire protection standards and that govern conditions relating to the protection of life against fire in a newly-built manufactured home, mobilehome, multifamily manufactured home and commercial modular.<sup>2</sup> Under this authority, HCD proposes to permanently adopt the installation standards for ignition resistant construction systems in newly built manufactured homes and multifamily manufactured homes and commercial modulars.<sup>3</sup>

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**HSC Section 18030.5** – Existing law exempts manufactured homes, mobilehomes, multifamily manufactured homes, commercial modulars, and special purpose commercial modulars from compliance with local ordinances prescribing requirements in conflict with the standards prescribed by Chapter 4 (commencing with section 18025), of Part 2 of Division 13 of the Health and Safety Code and adopted regulations. Under this authority, HCD proposes to permanently adopt language preempting local ordinances prescribing requirements in conflict with the standards prescribed by Chapter 4 (commencing with section 18025), of Part 2 of Division 13 of the Health and Safety Code and adopted regulations.

### **Summary of Existing Regulations**

Uniform statewide standards were developed to assure owners, occupants, and users of manufactured

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<sup>2</sup> HSC §18029.5 states in-part: “The department may adopt rules and regulations...governing conditions relating to the prevention of fire or for the protection of life and property against fire in manufactured homes, mobilehomes, special purpose commercial coaches... commercial coaches...”

<sup>3</sup> HSC §18008.7 defines “multifamily manufactured home” and requires that, “...all provisions of law that apply to manufactured homes shall apply equally to multifamily manufactured homes....”

homes, mobilehomes, multifamily manufactured homes, commercial modulars, and special purpose commercial modulars protection from risks to their health and safety, and property. For manufactured homes subject to preemptive United States Department of Housing and Urban Development (HUD) standards, this generally includes just the HUD standards; however, HCD also has adopted preemptive fire sprinkler standards for HUD-code homes (Title 25, CCR, Article 2, commencing with section 4300) and various installation requirements. HCD also has adopted construction standards for mobilehomes, multifamily manufactured homes, and commercial modulars in Title 25, CCR. Current conditions required emergency additions to these regulations which HCD proposes to permanently adopt to address fire safety of residents and the general public in specified wildfire areas. Current standards for ignition resistant construction are in Title 24, CCR, Part 2 (California Building Code) Chapter 7A, but are currently temporarily applicable to these manufactured structures pursuant to recently adopted emergency regulations.

### **Summary of Effect of Proposed Regulatory Action**

The purpose of these proposed regulations is to permanently establish requirements for the installation of ignition resistant construction system for manufactured homes, mobilehomes, multifamily manufactured homes and commercial modulars intended to be placed in areas designated as Fire Hazard Severity Zones, including both substantive and procedural requirements, by adopting by reference, the Office of State Fire Marshal standards in Title 24, Part 2, Chapter 7A.

Those sections within Title 25, California Code of Regulations, affected by this rulemaking (see "Summary of Sections Affected," above), and the specific purpose for each requirement in these proposed regulations, is described in the Initial Statement of Reasons.

### **Summary of Effect of Proposed Amendments**

Uniform statewide standards were developed to assure owners, occupants, and users of manufactured homes, mobilehomes, multifamily manufactured homes, commercial modulars, and special purpose commercial modulars protection from risks to their health and safety, and property. For manufactured homes subject to preemptive HUD standards, this generally includes just the HUD standards; however, HCD also has adopted preemptive fire sprinkler standards for HUD-code homes (Article 2, commencing with section 4300) and various installation requirements. Current conditions now require additions to these regulations and HCD regulations governing standards for mobilehomes, multifamily manufactured homes, and commercial modulars to address fire safety of residents and the general public in specified wildfire areas.

### **SECTIONS AFFECTED:**

- The specific sections of 25 CCR, Division 1, Chapter 3, Subchapter 2, to be permanently added by this proposed action are Article 2.3, sections 4200, 4202, 4204, 4206, 4208, 4210, 4212, 4214, and 4216.

### **POLICY STATEMENT OVERVIEW:**

The Manufactured Housing Program within HCD is responsible for adopting and enforcing preemptive state regulations for the construction, alteration, conversion, sale, rent or lease of manufactured homes, mobilehomes, multifamily manufactured homes, commercial modulars and special purpose commercial modulars within California. HCD's mission includes promoting both safety and affordability of housing and related structures in California.

HCD is proposing to adopt permanent regulations relating to the Manufactured Housing Act of 1980, sections 18000 through 18153, to incorporate the ignition resistant construction standards in Title 24, CCR, Part 2 (California Building Code), Chapter 7A.

### **SMALL BUSINESS IMPACT STATEMENT**

Small businesses will be affected by these regulations. (See "Cost Impact on Representative Private

Person or Business" paragraph, below)

**DISCLOSURES REGARDING THE PROPOSED ACTION**

Mandate on local agencies and school districts: NONE.

Costs or savings to any state agency: NONE.

Costs or savings to local agencies or school districts which must be reimbursed in accordance with Part 7 (commencing with Section 17500) of Division 4 of the Government Code: NONE.

Other non-discretionary costs or savings imposed upon local agencies: NONE.

Costs or savings in federal funding to the state: NONE.

Significant effect on housing costs: SOME.

**BUSINESS IMPACTS**

HCD has made an initial determination that the proposed amendments will not have a significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states. However, there exists the need to permanently adopt these regulations to alleviate a potential adverse economic impact on business, should businesses manufacture certain residential and nonresidential structures for use in California without a consistent set of ignition resistant construction systems within Wildlife Urban Interface Areas requirements applicable statewide.

**COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS**

There will be some additional cost impact to manufacturers of new manufactured homes, multifamily manufactured homes and commercial modulars structures in the form of costs associated with specific materials and installations necessary to comply with ignition resistant construction. Cost estimates received from manufacturers of new manufactured homes revealed that the labor and material costs of construction in compliance with these regulations will add approximately \$1,000 - \$2,000 to the manufacturing costs of new manufactured homes intended to be installed in a designated fire hazard area. Since all structures are not required to comply with these proposed regulations, but only structures installed in locations subject to severe fire hazards, associated costs are minimal and reasonable. Owners of existing manufactured homes, mobilehomes, multifamily manufactured homes or commercial modular structures also will have some cost impacts when intending to install or alter their structures in a Fire Hazard Severity Zone as the structures will be required to be constructed to resist fire and fire embers. Permits and inspections would be required. It should be noted that all these costs are similar to costs attributable to new conventional home construction or home alterations in the same fire hazard areas. Thus, it is the geographic location of the structure, not these regulations, which triggers the added costs. HCD estimates obtained from two dealers specializing in the purchase and resale of used mobilehomes and manufactured homes indicates that the costs associated with the alteration and repair of an existing structure may add \$10,000 - \$15,000 in material and labor to the cost of the used home.

HCD's data reveals that in 2007, there were 2,701 used mobilehomes and manufactured homes sold in California that were relocated to a new site, of those approximately 642 involved transactions by licensed mobilehome dealers. Such sales represented 23% of the total number of new and used manufactured homes and mobilehomes sold in California. It is not known how many of those relocated homes were installed in a designated fire hazard area.

The increased costs of ignition resistant construction systems are likely to be partially offset over time by reduced annual fire insurance costs as well as reduced likelihood of catastrophic damage, destruction, or personal injuries in the event of a wildland fire.

HCD is not aware of any other cost impacts that a representative private person or business would

necessarily incur in reasonable compliance with the proposed action. The proposed adoption of emergency language as a permanent basis serve to improve fire resistive construction to help ensure the occupants and structures survive a wildfire.

### **ASSESSMENT OF JOB/BUSINESS CREATION OR ELIMINATION**

HCD has determined that this regulatory proposal will not have a significant impact on the creation or elimination of jobs in the State of California. Due to the low number of relocated used homes sold through a dealer, HCD has determined that the impact on most dealers will not be significant and should not result in the elimination of existing businesses. However, HCD is unaware of the number of dealers who specialize primarily, in sales of used homes in designated fire areas. The effect on these dealers could be significant if potential buyers chose not to purchase or relocate a used home due to the costs to retrofit.

### **CONSIDERATION OF ALTERNATIVES**

Throughout the development of this proposed rulemaking, HCD must determine that no alternative will be more effective in carrying out the purpose for which the action is proposed or that no alternative will be as effective as and less burdensome to affected private persons than the proposed action.

During the development of this rulemaking, the following alternatives were determined not to be acceptable and were rejected:

- **New Performance-Based Requirements for Ignition Resistant Construction Systems**  
Performance based standards, while worthy of consideration, were found not to be acceptable because they may not be equivalent to the prescriptive requirements provided in Chapter 7A, causing resistance from local building, planning and fire marshal offices, and, as such, do not meet the objective of providing uniform standards. They also might be unnecessarily more expensive for businesses and consumers.
- **Not Establishing Preemptive Statewide Standards**  
Not establishing preemptive statewide standards, and leaving standards to local jurisdictions, would have significant cost impacts on manufacturers and consumers because of the disruption of the factory-line production system and because unnecessarily rigorous standards could be imposed to provide extreme fire protection. This alternative did not meet the department standard of promoting both safe and affordable housing.

### **AVAILABILITY OF DOCUMENTS AND CONTACT PERSON**

HCD has prepared an Initial Statement of Reasons for the proposed regulatory action and has available all the information upon which the proposal is based. Copies of the exact language of the proposed regulations, the Initial Statement of Reasons, the rulemaking file, the Final Statement of Reasons (when available) and other information, if any, may be obtained upon request from HCD at the following location or from the contact people listed below:

Department of Housing and Community Development  
Division of Codes and Standards  
1800 Third Street, Room 260  
Sacramento, CA 95814  
Fax (916) 327-4712

In addition, the Notice, the exact language of the proposed regulations, and the Initial Statement of Reasons may be found on the Department's website at the following address:

<http://www.hcd.ca.gov/codes/mhp/>

Questions regarding the regulatory process may be directed to:

Ruth Ibarra, Staff Services Analyst  
Telephone Number: (916) 327-2796/ Fax (916) 327-4712  
E-mail: [ribarra@hcd.ca.gov](mailto:ribarra@hcd.ca.gov)

Clarification regarding the substance of this regulatory proposal may be directed to:

Richard Weinert, Manufactured Housing Programs Manager  
Telephone Number: (916) 327-2838/ Fax (916) 327-4712  
E-mail: [rweinert@hcd.ca.gov](mailto:rweinert@hcd.ca.gov)

Written comments may be submitted by any of the following methods:

By mail to: Department of Housing and Community Development  
Division of Codes and Standards  
P. O. Box 31  
Sacramento, CA 95812-0031  
ATTN: Manufactured Housing Programs

By e-mail to: [ribarra@hcd.ca.gov](mailto:ribarra@hcd.ca.gov)

By facsimile to: (916) 327-4712      ATTN: Ruth Ibarra