

**NOTICE OF PROPOSED RULEMAKING
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
CALIFORNIA CODE OF REGULATIONS, TITLE 25, DIVISION 1,
CHAPTER 3, ARTICLE 2.5**

NOTICE IS HEREBY GIVEN that the California Department of Housing and Community Development (HCD) proposes to amend regulations administered by its Manufactured Housing Program.

AUTHORITY AND REFERENCE

Health and Safety Code (HSC), Division 13, Part 2, commencing with Section 18000 establishes requirements for enforcement and standards that guides the Manufactured Housing Program within HCD. Specifically, Sections 18015, 18020 and 18031 grant HCD the authority to promulgate regulations to interpret and make specific provisions relating to the design and construction of various structures manufactured, altered, remanufactured, or converted under HCD's jurisdiction.

INFORMATIVE DIGEST

Summary of Existing Laws

State laws governing HCD's Manufactured Housing Program are found in the HSC, Division 13, Part 2, commencing with Section 18000. Specifically, Chapters 3 and 4, commencing with Section 18020, establish requirements for enforcement and standards. Federal laws governing manufactured housing built on or after June 15, 1976, are found in Title 42, United States Code, Chapter 70, beginning with Section 5401.

In order to implement, interpret, clarify and otherwise carry out state law, regulations are promulgated by HCD. These regulations are contained in the California Code of Regulations, Title 25, Division I, Chapter 3, Subchapter 2, commencing with Section 4000. Federal regulations governing manufactured housing built on or after June 15, 1976, are located in Title 24, Code of Federal Regulations beginning with Section 3282.1. Construction standards for manufactured homes manufactured on or after June 15, 1976, are found in Title 24, Code of Federal Regulations, Chapter XX, Part 3280.

Summary of Existing Regulations

The Manufactured Housing Program regulation requirements for the installation of fire sprinkler systems are found in California Code of Regulations (CCR), Title 25 (T25), Division 1, Chapter 3, Subchapter 2, Article 2.5, beginning with Section 4300. These regulations currently provide preemptive standards for the optional installation of fire sprinkler systems in new and used manufactured homes (MH), and multifamily manufactured homes (MFMH) with two dwelling units.

Summary of Effect of Proposed Regulatory Action

The proposed regulatory action will continue to provide preemptive requirements and standards for the installation of fire sprinkler systems in new and used MH/MFMH units; provide updated construction, testing and listing standards; and replace an outdated term.

The proposed regulatory action adopts, with amendments, the National Fire Protection Association (NFPA) 13D 2010 edition "Standard for the Installation of Sprinkler Systems in One

and Two Family Dwellings and Manufactured Homes.” Currently, T25, Chapter 3, Article 2.5 references the 1999 edition of NFPA 13D, thus making the current referenced standards out-of-date. This regulation package will bring MH/MFMH into line with conventionally-built new homes by adopting and enforcing current standards.

MH/MFMH are currently constructed and installed under preemptive state and federal construction standards. Preemptive and uniform standards are a key component of MH/MFMH affordability due to the use of standardized factory-built procedures. Otherwise, MH/MFMH would be subject to various city and county rules and ordinances that are more restrictive and with differing degrees of enforcement. These differences would greatly interfere with uniformity and the use of standardized factory-built procedures thus raising the costs of homes. Additionally, referencing the most current standards used for conventionally-built homes leads to greater acceptance of the homes by both the public and local jurisdictions.

Summary of Sections Affected

The specific sections of CCR, Title 25, Division 1, Chapter 3, Subchapter 2, Article 2.5 to be amended, including the Subchapter 2 heading, are – Sections 4300, 4302, 4304, 4306, 4308, 4310, 4312, 4314, 4316, 4318, 4320, 4322, and 4324.

CCR, Title 25, Division 1, Chapter 3, Subchapter 2, Section 4313 is to be added.

Comparable Federal Statutes or Regulations

None.

POLICY STATEMENT OVERVIEW

The Manufactured Housing Program within HCD is responsible for adopting and enforcing preemptive state regulations for the construction, alteration, remanufacture, conversion, sale, rent or lease of manufactured homes, multifamily manufactured homes, mobilehomes, commercial modulars and special purpose commercial modulars within California. Program staff also performs activities on behalf of the U.S. Department of Housing and Urban Development (HUD), as a State Administrative Agency. HCD's mission includes promoting both safety and affordability of housing and related structures in California.

SMALL BUSINESS IMPACT STATEMENT

Small businesses will not be significantly affected by these regulations. Small businesses benefit from the promulgation of uniform standards to the same degree noted for all like businesses.

DISCLOSURES REGARDING THE PROPOSED ACTION

HCD has made the following initial determinations:

- 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: NONE.

BUSINESS IMPACTS

HCD has made an initial determination that the proposed regulatory action 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 propose amendment of these regulations to alleviate a potential adverse economic impact on business, should businesses manufacture structures for use in California without a consistent set of requirements applicable statewide. The potential adverse impact of not adopting these amendments would result in cities and counties passing their own fire sprinkler ordinances, adopting more restrictive sprinkler rules, and making compliance more costly and difficult for small businesses.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON(S) OR BUSINESS(ES)

Currently, the cost to the consumer of an NFPA 13D fire sprinkler system installed in the manufacturing facility in a two-section manufactured home ranges from \$2,500 - \$4,000 if installed by a licensed fire sprinkler contractor. The costs to the manufacturer and consumer are less if a factory installs its own fire sprinkler systems, with those costs ranging from \$1,000 - \$3,500¹. If the water supply at the home's installation site is not adequate to operate the system (private well, or low water pressure), the consumer may incur the additional expense of installing adequate or additional water storage, such as a holding tank. The cost associated with installation of holding tank storage equipment is approximately \$2,500 - \$3,000.

Nationwide costs of installation of a fire sprinkler system in site-built dwellings during construction average \$1.50 to \$2.00 a square foot². Under the proposed amendments, those costs would be slightly less when installed in a factory using production-line techniques. An average cost of \$1.50 – \$2.00 per square foot nationally is equivalent to installation of a solid-surface counter top or other similar upgrades homeowners typically purchase when buying a home. The sprinkler system is paid for over the life of the mortgage, same as the electrical or mechanical systems installed in the home during construction.

These additional costs generally may be mitigated by lower insurance costs as it relates to fire damage. As an incentive for its customers, some insurance companies offer discounts from 5 percent to 30 percent off the fire protection portion of the homeowner's insurance premium.

Cost analysis of the installation of a multipurpose NFPA 13D fire sprinkler system using PEX piping in a single-story site-built home indicates that total material and labor costs are \$701.16, including design approval. Cost estimates factoring in a 100 percent material markup for the same system resulted in total costs of \$946.32.³

This regulatory action results in no additional cost to the public or business than what is already in place. Adoption of the updated NFPA 13D results in little to no additional cost to the public or businesses. The balance of the regulatory package consists of minor clean-up and grammatical changes to regulatory language.

¹ Data provided by Terry Richardson, Hydro Fire Systems Inc., San Juan Capistrano, CA.

² Data provided by the "Home Fire Sprinkler Coalition", www.homefiresprinkler.org

³ Data provided by U.S. Department of Commerce, National Institute of Standards and Technology, "Economic Analysis of Residential Fire Sprinkler Systems" published December 2005.

ASSESSMENT OF JOB/BUSINESS CREATION OR ELIMINATION

HCD has determined that this regulatory proposal will not have impact on the creation or elimination of jobs in the State of California as sprinkler systems have been installed in manufactured homes in many cities and counties in California for over ten years. HCD has determined that the impact on manufacturers and dealers will not be significant and will not result in the elimination of existing businesses.

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 or 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:

- Installation of Sprinkler Systems, One- and Two- Family Dwellings and Manufactured Homes NFPA 13D 1999 Edition. A comparison analysis of the 1999 and 2010 editions was performed by HCD staff in order to determine the need to adopt the 2010 edition. It was determined that the 2010 edition would be adopted for the following reasons:
 1. The 2010 edition and the 1999 editions are very different in format and content. Since local enforcement agencies and inspectors will be most familiar with the most current edition using the 2010 edition will foster greater acceptance.
 2. The California Residential Code references the 2010 edition for site-constructed dwellings. In order to provide consistency among state and local enforcement agencies, use of the same standards are preferable in order to provide more consistent enforcement and foster greater acceptance of manufactured housing units by the local enforcement agencies providing on-site testing approval.

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 be held as follows:

- Date: October 18, 2010
- Time: 9am – 12pm
- Place: Department of Housing and Community Development
1800 3RD Street – Conference Rooms 183/185
Sacramento, CA 95811

Pre-hearing registration will be conducted on the day of 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 testimony. The time allowed for each person to present oral testimony may be limited if a substantial number of people wish to speak.

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

The public hearing facilities are accessible to persons with mobility impairments. If any special assistance is required (e.g., interpreter), please notify the contact person named in this notice at least 15 days prior to the public hearing.

WRITTEN COMMENT PERIOD

Any interested person, or their authorized representative, may submit written comments relevant to the proposed regulatory action to HCD. All written comments must be received at this office no later than 5:00 p.m. on October 18, 2010 in order to be considered.

Written comments may be submitted by regular mail, electronic mail (e-mail), facsimile transmission or hand-delivery as follows:

By mail to: Department of Housing and Community Development
Division of Codes and Standards
Attn: Shasta Sanborn
PO BOX 31
Sacramento, CA 95812-0031

By e-mail to: ssanborn@hcd.ca.gov

By facsimile to: (916) 327-4712
Attn: Shasta Sanborn

By hand-delivery to: Department of Housing and Community Development
Division of Codes and Standards
1800 3rd Street, Room 260
Sacramento, CA 95811
Attn: Shasta Sanborn or Kevin Cimini

AVAILABILITY OF DOCUMENTS AND CONTACTS

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

Department of Housing and Community Development	
Division of Codes and Standards	
1800 3 rd Street, Room 260	PO BOX 31
Sacramento, California 95811	Sacramento, California 95812-0031

In addition, this Notice, the exact language of the proposed regulations and the *Initial Statement of Reasons* may be found on HCD's website at <http://www.hcd.ca.gov/codes/mhp/>.

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

Mr. Kevin Cimini, Manufactured Housing Programs
Telephone: (916) 445-3338, Fax: (916) 327-4712
E-mail: kcimini@hcd.ca.gov

Questions regarding the regulatory process may be directed to:

Ms. Shasta Sanborn, Codes and Standards Administration
Telephone: (916) 327-2797, Fax: (916) 327-4712
E-mail: ssanborn@hcd.ca.gov

AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the 45-day public comment period, HCD may adopt substantially related proposals or may modify the proposals if the modifications are sufficiently related to the original text. The text of any modified proposal, with the exception of minor technical or grammatical changes, will be made available from the contact person(s) designated in this Notice. The modified text will be available for at least a 15-day comment period prior to adoption and 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.