

**INITIAL STATEMENT OF REASONS**  
**The Mobilehome Parks Act and Special Occupancy Parks Act Regulations**  
**California Code of Regulations**  
**Title 25, Division 1. Housing and Community Development**  
**Chapter 2. Mobilehome Parks and Installations**  
**Chapter 2.2. Special Occupancy Parks**

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**Program Overview**

The Mobilehome Parks Act (MPA) and Special Occupancy Parks Act (SOPA) were enacted for the benefit of mobilehome and special occupancy park owners, operators, and residents to assure their health, safety and general welfare; to provide them a decent living environment, and to protect their investments in their manufactured homes, mobilehomes, multifamily manufactured homes and recreational vehicles.

The Mobilehome Parks and Special Occupancy Parks Programs within the Department of Housing and Community Development (HCD) develops, administers, and enforces uniform statewide standards which assure owners, residents, and users of mobilehome and special occupancy parks protection from risks to their health, safety and general welfare. The HCD maintains responsibility for adopting and enforcing preemptive state regulations for the construction, use, maintenance, and occupancy of privately owned or operated mobilehome parks (MP) and special occupancy parks (SOP) within California.

**Specific Purpose of These Regulations.**

Those sections within Title 25, California Code of Regulations (CCR) affected by this rulemaking, and the specific purpose for each adoption or amendment contained in these proposed regulations, are set forth below.

These proposed regulatory amendments address issues and concerns which were raised by the Legislature, the general public, industry groups, local jurisdictions, other government agencies, and HCD field staff. These issues include amending the reference to the applicable building code for one and two family dwellings, including manufactured home installations and their accessory structures from the California "Building" Code to the California "Residential" Code, procedures for closing a park, clarification of lot electrical service requirements, LPG tank anchoring requirements, amendments to soil ratings to align with federal standards, Federal Emergency Management Agency (FEMA) requirements for skirting in floodplains, cabana tiedowns, cabana energy requirements, handrail and ramp amendments, and clarifications related to informal hearing procedures. Also included are nonsubstantive, technical and editorial changes.

Additionally, this package includes amendments necessitated by recent legislation addressing requirements for emergency preparedness plans for parks (Stats. of 2009, Ch. 551), and standards for truck campers when occupied off a truck (Senate Bill 166, 2009, see veto message from the Governor) required adding new regulations.

**Sections Affected:**

- Add Sections 1013, 1052, 1119, 1757, 1759, 2013, 2052, 2119, 2757, and 2759.
- Amend Chapter 2, Sections 1002, 1008, 1018, 1104, 1118, 1180, 1211, 1230, 1333, 1334, 1334.2, 1336.1, 1346, 1377, 1426, 1429, 1432, 1446, 1450, 1458, 1464, 1468, 1474, 1498, 1500, 1502, 1504, 1506, 1612, 1613, 1615, 1616, 1750, 1754, 1756 and 1758.
- Amend Chapter 2.2, Sections 2002, 2008, 2018, 2104, 2118, 2211, 2230, 2334, 2346, 2426, 2429, 2432, 2468, 2474, 2498, 2500, 2502, 2504, 2506, 2612, 2613, 2615, 2616, 2750, 2754, 2756, 2757, and 2758.

**Necessity for the Proposed Regulations.**

**Chapter 2. Mobilehome Parks (MP) and Installations Initial Statement of Reasons**

**Amend Section 1002**

**Subsection (c) Paragraph (7)** is amended by adding a definition to the new reference for one and two family dwellings, the California Residential Code contained in the CCR, Title 24, Part 2.5. Effective January 1, 2011, California will adopt the California Residential Code for one and two family dwellings. Because manufactured homes are one or two family dwellings, this code will apply to manufactured home installations, their foundations, and their accessory structures.

By the addition of this definition, a code user will know that HCD is adopting the California Residential Code for certain express purposes identified in other parts of this Chapter.

While the Office of Administrative Law generally questions the validity of prospective incorporations by reference (e.g., these proposed HCD regulations adopt a portion of CCR Title 24, the California Residential Code, as it will be in effect and as amended in the future), the situation with this incorporation by reference differs from those which are the basis of OAL's past rejections. OAL's objections are based on issues related to the limited opportunity for public participation in the decision by the promulgating agency (e.g., HCD) because another agency creates or adopts the standards being adopted by reference. The process for adopting the proposed HCD regulations, the regulated public affected by them, and the process for adoption of the California Residential Code clearly distinguish these regulations from those which are the basis for OAL's precedential decisions on prospective incorporation by reference.

OAL relies on decisions in *California Ass'n of Nursing Homes, Etc. v. Williams* (1970) 4 Cal.App.3d 800, 814, 84 Cal.Rptr. 590, and its internal citation, *Olive Proration etc. Com. v. Agric. etc. Com.*, 17 Cal.2d at p. 209, 109 P.2d 918. In the *Nursing Home* decision, as well as the *Olive Proration* decision, the problem was that the welfare agency was adopting regulations based on a "Schedule of Maximum Allowances" established by the Department of Finance (DOF) without any hearings, any evidence, etc. and in fact were the result of "ex parte studies by staff personnel" of DOF (referred

to by the court as the state agency's adoption of "DOF's fiat"). A similar circumstance existed in the *Olive Proration* decision, where the agency completed its hearings and then, without notice to parties, received and considered a field survey and report by DOF; the parties were not apprised that this survey was undertaken or the result of it until the commission's orders were promulgated, depriving them of opportunity to comment and rebut.

Headnote 10 in *Nursing Homes* summarizes that there is no procedural barrier prohibiting adoption by reference if supporting evidence is made available at a public hearing, an opportunity to refute is given, pro-and-con evidence is considered, etc. In these MPA/SOPA regulations, proponents and opponents will have those opportunities. Prior to being adopted by the California Building Standards Commission (CBSC) based on HCD's recommendations, HCD reviews the model code the California Residential Code is derived from (International Residential Code or IRC) and proposes changes consistent with California interests. Other parts might be considered for amendment or deletion as well, depending upon comments during the public input phase. Then, both HCD and all stakeholders can participate in the CBSC hearings: these were not adopted under the cover of darkness, as were the DOF "Schedule" and the DOF "Study" in the *Nursing Home* and *Olive Proration* decisions. If anything, builders participating in 90% of the residential construction in the state fully vetted those standards in public hearings. Finally, park owners/operators and those performing construction in those parks already are cognizant of their need to follow CBSC proceedings and code adoptions, as evidence by the adoption of other standard California building standards codes included in subsection (c) paragraphs (2) through (6).

Another example of the problem with prospective incorporation by reference cited by OAL involves the Regional Water Board and its attempted adoption of federal standards. Not only is there a question of illegal delegation to a federal agency—an issue not applicable in is MP/SOP situation—but the ability to participate in and influence the development and adoption of federal regulations is far different than that accorded by OAL with respect to the development and promulgation of state regulations.

As to adoption by reference for future modifications, again the record here is totally different than that in *Nursing Homes*. In "Nursing Homes", the reference to "the incorporated material" refers to the DOF schedules created by faceless DOF staff personnel in ex parte proceedings, resulting in the nursing home industry not having opportunity to comment, refute, etc. In the current situation, there are three striking differences:

1. Any changes by the CBSC in the California Residential Code will occur with full public study, comment, and opportunity to rebut from residential builders throughout the state, as well as public agencies such as HCD. The adoption of building standards by the CBSC is subject, in part, to the APA and is much like the process used with OAL-processed regulations, rather than the process used for federal regulation review and adoption.

2. Knowing that the California Residential Code will provide the template standards immediately upon adoption by HCD, the mobilehome/special occupancy parks industry can register as “interested parties” and be provided direct notice and opportunity to participate in any further CBSC consideration of the California Residential Code, if amended.
3. The mobilehome/special occupancy parks industry, if dissatisfied by an OSFM standard can immediately petition HCD to modify or delete that standard from the Title 25 regulations.

In conclusion, HCD greatly respects the OAL internal regulations regarding prospective incorporation by reference and validity of future modifications in most circumstances. In the current situation, however, the rationale does not apply. Not only have the standards been vetted by the construction industry, and not only may the commenter’s comment again regarding what HCD has chosen to incorporate or not incorporate in the MP/SOP regulations, but, in the future, the mobilehome/special occupancy parks industry has the right to, and may merely request to, participate in the development and adoption of future MP/SOP regulations before they become effective for those parks.

In addition, HCD does not believe that its adoption of the California Residential Code of the California Building Code, Title 24, Part 2.5, of CCR violates Section 20(c)(5) of Title 1, CCR. HCD does not believe that it is adopting a “document” (such as a form, study, etc.) but instead is adopting the standards in another California regulation. If this interpretation were carried to its full extent, every time an agency regulation cross-referenced even one of its own regulations such as an internal definition, (even in the same package being adopted), it would have to add a date of adoption to that internally cross-referenced regulation. (e.g., “This section is applicable to “mobilehome” as defined by section 1111 of this title, *as adopted July 1, 2006.*”) We believe that the term, “document”, as used in Section 20 can be and should be distinguished from “regulation”.

**Subsection (c) Paragraphs (8) through (18)** have been renumbered because of the addition of the new language in subsection (c) paragraph (7). There are no other amendments in this subsection.

**Subsection (g) Paragraph (7)** is amended to add to the types of proceedings where the enforcement agency may find good cause for a cited person or entity’s failure to appear or failure to comply with an enforcement order. Currently, the enforcement agency has authority to make a finding of good cause only for a failure to appear in an informal conference or a hearing or for complying with specified timelines. The addition will provide authority to find good cause to apply to a request to defer or postpone a hearing date, rather than making the appellant miss the hearing and then plead “good cause” as a mitigating factor.

The regulations also will be amended to change the “formal hearing” reference to only that of a “hearing”. This is because the definition of “hearing” in subsection (h) of this section is being added to make clear that all hearings conducted under this chapter are “informal hearings”, as allowed by the Government Code 11445.10, et seq.

**Subsection (h) Paragraph (3)** is amended so that it specifically clarifies the type of hearing procedure that is contemplated in appeals of notices of violation and notices of impending permit to operate suspensions issued by the enforcement agency. Currently, as a result of various procedural references throughout this chapter, HCD's hearing practices have been consistent with the informal hearing procedures of the Administrative Procedures Act, Government Code sections 11445.10, et seq. However, the regulations did not specify whether the enforcement agency was following the informal hearing proceedings or hearing proceedings of the Administrative Procedure Act. Pursuant to the authority in subdivision (c) of Government Code section 11445.20, this amendment defines the term "hearing" as "informal hearing" and uses a definition so that the full term does not have to be repeated throughout the regulations. It also provides the appropriate cross-references to the applicable Government Code section so that the regulated public has easy access to the implications of this type of hearing.

The new definition provides that the hearing is to be "conducted by the director or his or her designee" because this is the most common terminology for the highest-level manager in either HCD or a local enforcement agency building or similar department. It identifies the seven most common types of notices which trigger informal hearings by their Health and Safety Code sections to permit easy reference by the regulated public.

**Subsection (h) Paragraph (4)** was renumbered because of the addition of the new language in subsection (h) paragraph (3). There are no other changes in this subsection.

**Subsection (s) Paragraph (6)** is amended by adding the definition "signed". This is necessary to clarify that an original or so called "wet" signature or stamp is required on a permit application, plan, or other document to prevent fraudulent use of the permit application, plan or other document by persons other than the one signing the document. Additionally, language is added to clarify that if the regulations in this chapter do not require that signature, no enforcement agency can then require it.

**Subsection (s) Paragraphs (7 through 13)** have been renumbered because of the addition of the new subsection (s) paragraph (6). There are no other amendments in this subsection.

**Authority and Reference note** is amended to add to the Reference HSC sections 18403, 18404, 18420, 18421 , 18513 and 18613.7 because these sections relate to the notices of violation impacted by the amendments to "good cause" and the addition of a definition of "hearing" clarifying the nature of the appeals hearing process. In addition, a reference to Section 11445.2, Government Code, is added because it is referenced in the definition of "hearing".

### **Amend Section 1008**

**Subsection (c)** is added to formalize the annual billing dates for local enforcement agencies. Local enforcement agency billing has always occurred on a calendar basis although there was nothing requiring it. All local enforcement agencies and the hundreds of parks they have enforcement over have traditionally billed and been billed on a calendar basis, this amendment is simply to formalize the billing dates to eliminate any possible misunderstanding and grant clear authority to local government to bill on this basis.

### **Adopt Section 1013**

This section is added to provide clarifying regulations for the adoption of emergency preparedness plans in parks. Senate Bill 23 (Stats. 2009 Ch. 551) amended Health and Safety Code (HSC) 18603 and required parks to adopt and notify the residents of an emergency preparedness plan by September 10, 2010. This legislation also requires the enforcement agency to determine if a park is in compliance with the requirements. The statutory requirements include providing notice to all existing and new residents on how to access the plan and information on individual emergency preparedness information from the appropriate state or local agencies. This may be accomplished in a manner that includes, but is not limited to, distribution of materials and posting notice of the plan or information on how to access the plan via the Internet. The statutorily referenced standard entitled "Emergency Plans for Mobilehome Parks", and compiled by the former Office of Emergency Services in compliance with the Governor's Executive Order W-156-97, requires a plan to contain certain minimum requirements. A thorough review of the booklet revealed that a plan would need to include at least the items listed under subsection (d) for a plan to be comparable to the plans and procedures contained in the booklet. Additionally, subsection (e) is added to clarify the legislative intent contained in SECTION 1 of the new law that it is not the park management's responsibility to physically evacuate residents, but to only inform the residents how to prepare themselves and that residents will take personal responsibility for themselves.

### **Authority and Reference**

The authority to adopt this regulation from section 18300 of the Health and Safety Code is added and a reference to section 18500 is added because the legislation (Stats. 2009, Ch. 551) requires the park to have an Emergency Preparedness Plan in order to obtain a permit to operate. Section 18603 is also added to the reference area because this is the location of the legislative amendment requiring the emergency plan.

### **Amend Section 1018**

**Subsection (d) Paragraph (8)** of this section is amended by deleting the definition of a “surcharge”. This is necessary because this definition not only conflicts with the long-standing and universally accepted definition of a surcharge contained in the building code, but does not adequately provide the soil retention requirements necessary for construction within the retained soil area. It is also deleted to maintain consistency with the accepted requirements to which all inspecting agencies are familiar.

### **Adopt Section 1052**

This section is added to provide specific procedures necessary to make a park inoperative upon an owner’s decision to close the park and cease operation. These requirements are in addition to those which may be imposed by a local government pursuant to its land use and zoning authority or pursuant to Government Code section 65863.7, or by a local utility or other local district. This is necessary in general because (a) there may be a multitude of different requirements from different local governments and districts which may be in conflict or inadequate; (b) failure to properly make the park inoperative may result in persons squatting or otherwise inappropriately using the park; and (c) clear standards are necessary for an inspection to ensure that the park is inoperative.

**Subsection (a)** is added to define that the steps to ensure the park management is incapable of renting lots.

**Subsection (a) Paragraph (1)** is added to require the disconnection of utilities by the service provider. This is necessary because the service provider will not reenergize the utility for any part of the park unless it obtains approval from the enforcement agency.

**Subsection (a) Paragraph (2)** is added to ensure the lot utilities cannot be reused within the park.

**Subsection (a) Paragraph (3)** is added to require that all sewer connections are sealed to prevent the escape of sewer gases from the vacant lots.

**Subsection (a) Paragraph (4)** is added to ensure septic systems are safely abandoned in accordance with local health department requirements because local health departments are responsible for septic system standards.

**Subsection (a) Paragraph (5)** is added to provide the enforcement agency with the means to physically verify that the park is indeed vacant and unusable as a park. This is necessary because a physical inspection is the only way to actually verify the condition of the park.

**Subsection (b)** is added to require local enforcement agencies where parks have closed to notify HCD within 30 days of their verification that the park is closed. This is necessary because HCD maintains records on all parks and provides information to all parks whether they are under the HCD’s authority or not. Unless HCD is informed in a timely manner that a park is closed, the statewide records will not be accurate.

**Subsection (c)** is added to clarify that once a park is closed, it ceases to be a park. If the owner proposes to reopen a closed park the same procedures and local approvals for creating a park are applicable. New permits and new local approvals are necessary because once a park is closed it is no longer subject to the Mobilehome Parks Act (HSC 18200 et seq.) and is not under the authority of HCD. Since it is under local land use conditions the only way a local jurisdiction would be aware of the change in use back to a park is through their approval process.

#### **Authority and Reference**

The authority to adopt this regulation from sections 18300, as a general authority and 18503, as the specific authority to set fees for permits of the Health and Safety Code are added. The reference to section 18502.5 is added because it refers to the special fund where all permit fees are deposited. Section 18503 is added because it refers to the specific authority for establishing fees. Section 18605 is added because it refers to the establishment of regulations dealing with the maintenance and use of parks and specifically refers to the electrical, mechanical and plumbing infrastructure within parks. Additionally, section 18610 is added because it refers to the general maintenance use and occupancy of parks.

#### **Amend Section 1104**

**Subsection (c) Paragraph (1)** of this section is amended to reflect the change to the applicable building code. This change is necessary to correct the reference for one and two family dwellings, including manufactured home installations and their accessory structures to the California Residential Code contained in the CCR, Title 24, Part 2.5, which becomes effective January 1, 2011.

#### **Amend Section 1118**

**Subsection (a)** is amended by removing the letter reference because of the deletion of subsection (b).

**Subsection (b)** is deleted to remove the reference to truck campers being occupied off the vehicle. It is being deleted because of the addition of the following section 1119 that thoroughly covers the issue.

#### **Adopt Section 1119**

This section is added to provide regulations for the occupancy of truck campers off the vehicle. In the 2009 legislative session, Senate Bill 166 was introduced and was passed by the Legislature. However, it was vetoed by the Governor with the following message:

*The Department of Housing and Community Development has the authority to adopt regulations for special occupancy parks. Any change in this area in regards to dismantled campers should be handled via this process.*

Since the intent of the Legislature and Governor is to have HCD adopt regulations regulating truck camper occupancy when removed from the vehicle, HCD is introducing this language. The requirements are substantially the same as that approved by the Legislature. It is being added to the mobilehome park regulations as well as the special

occupancy park regulations because the same provisions are in both chapters and truck campers are permitted in both mobilehome and special occupancy (RV) parks.

**Section 1119 heading** is added to identify the contents of this section.

**Section 1119 opening paragraph** is added to clarify that no one may occupy a truck camper off its vehicle unless specific conditions are met. This is necessary to clearly identify when a truck camper off its vehicle may be occupied and that all the conditions must be met for that to happen.

**Subsection (a)** is added to provide that park management has the ultimate discretion in allowing a truck camper to be occupied off its vehicle. This is necessary because only the management of the park is aware of the conditions present within the park area and to allow management the authority to govern their own park. In addition, park management has the obligation under the Mobilehome Parks (MPA) and Special Occupancy Parks Acts (SOPA) to ensure that all requirements of those Acts are complied within a park.

**Subsection (b)** is added to require four permanently mounted jacks on the corners of the truck camper that are capable of adequately supporting the camper and the occupants. This is necessary to provide stability for the camper. Often campers are put on a vehicle with temporary jacks, which are not stable enough for the camper to be occupied and permanently mounting the jacks provides a stable secure base for the mounting. If a jack were to fail, the falling truck camper could injure not only its occupants but other occupants or visitors in the park.

**Subsection (c)** is added to specify what minimum standard is required for a stable footing under the jack. This is necessary to prevent the jack base, which is typically only a couple of inches in diameter, from sinking into the ground and making the camper unstable. A 64 square inch (e.g., 8 inches by 8 inches) footing is sufficient in size to prevent the jack from sinking into any type of soil. The reference to section 1334 subsection (e) relates to the materials and dimensions for wood footings for manufactured homes on piers. This is necessary to ensure the quality and condition of the footings so they will adequately support the loads.

**Subsection (d)** is added to require the camper to be lowered immediately after taking it off the vehicle. This is necessary to provide additional stability and limit damage or injury in the event of a jack failure. The 12 inch maximum height will provide good stability for the jacks and the six inch minimum will maintain the minimum clearance necessary for the distance of untreated lumber (the camper construction) from the ground as required by the section 317.1 of the California Residential Code for one- and two-unit structures. The requirement that the camper be reasonably level is to ensure even weight distribution on the four jacks and prevent overloading of any one particular jack.

**Subsection (e)** is added to limit the time a truck camper is allowed to remain in the park off its vehicle. This is necessary because truck campers are not designed to be occupied for extended periods off the vehicle. A thirty-day period was selected because

this is the period allowed for a camping party to occupy a campsite in the Special Occupancy Parks Act (HSC Section 18862.7), and occupation of a truck camper is more analogous to occupying a campsite than a mobilehome park space. Depending on the nature of the park, if the park operator requires occupancy for lesser periods, this regulation allows the park operator to do so.

**Subsection (f)** is added to ensure the owner or occupant of a truck camper that is off its vehicle has a capacity to remount the camper. This is necessary so that if the camper becomes unstable, or must be moved from the park there is a readily available, operable vehicle on which to promptly remount the truck camper.

**Authority and Reference** is added to indicate the authority to adopt this regulation and the references to the applicable sections of HSC. This is necessary to clarify HCD's authority and provide references for the regulation.

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### **Amend Section 1180**

**Section 1180 Heading** is amended by adding the word "Electrical" and deleting the word "Equipment" to better clarify the contents of the section.

**Subsection (a)** is amended to clarify that the "lot electrical service" to a new lot must be rated to provide at least 100 ampere service. Currently, it appears that only the equipment had to be "rated" for 100 amperes and that it applies to existing lots. Nearly all electrical equipment is rated to at least 100 amperes. However, the intent of this section has always been that the new lot "service" be rated to provide not less than 100 ampere of power and not just the equipment to be rated for 100 amperes. Additionally, the new language in subsection (b) addresses existing lots.

The remaining deletions in subsection (a) are because the language is unnecessary. Section 1188 already addresses conditions when the unit installed on the lot exceeds rated capacity of the lot service.

**Subsection (b)** is added to clarify that if the lot service for an existing lot is increased, it need only be upgraded to the level necessary to supply the demand of the unit installed on that lot and that it need not provide the minimum 100 ampere service that is required of a new lot. This allows a safety enhancement to the lot service without unnecessary cost to a park owner or resident.

**Subsections (c) through (h)** have been re-lettered because of the addition of a new subsection (b).

### **Amend Section 1211**

**Subsection (e)** is added to require LPG vessels to be secured to prevent accidental overturning of the tank. This requirement was previously contained in section 1666 of the regulations prior to the rewrite performed in 2004. At that time the deletion of this section, the reference to tank locations contained in the California Fire Code (CFC) was thought to provide similar safety provisions. However, while the CFC does provide greater safety provisions for tank locations than the previous HCD regulation, there is no provision to prevent the accidental overturning of smaller tanks located on lots. The

requirement to secure tanks is necessary to reduce the risk of fire from a tank tipping over, damaging or disconnecting the gas connector, and unsafely discharging gas.

**Subsection (f)** is added to require that tanks in floodplains be anchored to prevent flotation in the event of a flood. This is necessary because LPG tanks in flood prone areas could cause catastrophic problems if not anchored. If a tank is not anchored and a flood occurs, not only may the tank break its own gas connections, but could cause additional hazards as it floats to other locations.

#### **Amend Section 1230**

**Subsection (c)** is added to clarify that the park operator is responsible for maintaining the gas system in a park under his/her ownership and control in good operating condition. This identical language had been in the regulations prior to the rewrite in 2004. Because many parks have and are transferring their gas systems to the serving utility, it is necessary to reinstate the language to eliminate any question whether the park operator is responsible for maintaining a “park-owned” gas system.

#### **Amend Section 1333**

**Subsection (b)** is amended to reflect the change to the applicable building code. This change is necessary to correct the reference for one and two family dwellings, including manufactured home installations and their accessory structures to the California Residential Code contained in the CCR, Title 24, Part 2.5, which becomes effective January 1, 2011.

#### **Amend Section 1334**

**Subsection (a)** is amended to remove the outdated references to the old building code. Additionally, the reference is unnecessary and may cause confusion because the rest of the section clearly defines the design and testing requirements for support piers for manufactured homes.

**Subsection (d)** is amended by updating the standard soil rating from 1,000 pounds per square foot (psf), to 1,500 psf. This is necessary to bring this section into compliance with the standard soil ratings of both the California Residential Code and the federal Model Manufactured Home Installation Standards contained in the Code of Federal Regulations, Title 24, Part 3285; this federal code establishes standards under which all new manufactured homes are installed.

#### **Amend Section 1334.2**

**Subsection (d) Paragraph (3)** is amended to remove the reference to the outdated Uniform Building Code standard. This standard has not been published since 1996. The current California Building Code contains the up-to-date requirements and standards.

**Subsection (g) Paragraph (1) and Subsection (g) Paragraph (2) Subparagraph (A)** have been amended by updating the standard soil rating from 1,000 pounds per square foot (psf), to 1,500 psf. This is necessary to bring this section into compliance with the standard soil ratings of both the California Residential Code and the federal Model Manufactured Home Installation Standards contained in the Code of Federal

Regulations, Title 24, Part 3285; this federal code establishes standards under which all new manufactured homes are installed.

**Amend Section 1336.1**

**Subsection (f) Paragraph (1) and Subsection (i) Paragraph (2)** are amended to reflect the change to the applicable building code. This change is necessary to correct the reference for one and two family dwellings, including manufactured home installations and their accessory structures to the California Residential Code contained in the CCR, Title 24, Part 2.5, which becomes effective January 1, 2011. These subsections are also amended to reflect the correct references within the California Residential Code, the applicable code for soil ratings used with residential dwelling construction, including manufactured home installation. Additionally, the standard soil rating has been updated from 1,000 pounds per square foot (psf), to 1,500 psf. This is necessary to bring this section into compliance with the standard soil ratings of both the California Residential Code and the federal Model Manufactured Home Installation Standards contained in the Code of Federal Regulations, Title 24, Part 3285; this federal code establishes standards under which all new manufactured homes are installed.

**Authority and Reference**

The Reference note is amended to include a reference to Title 24 of the Code of Federal Regulations, Part 3285. This is necessary because the general soil rating in this section is being amended to be consistent with the soil ratings contained in the federal Model Manufactured Home Installation Standards contained in 24 CFR 3285. These are the federal requirements to which all new manufactured homes must be installed.

**Amend Section 1346**

**Subsection (c)** is amended to reflect the change to the applicable building code. This change is necessary to correct the reference for one and two family dwellings, including manufactured home installations and their accessory structures to the California Residential Code contained in the CCR, Title 24, Part 2.5, which becomes effective January 1, 2011.

**Subsection (d)** is added to clarify that when the manufacture's installation instructions require a vapor barrier on the ground under a unit, skirting must be installed to protect the barrier. This is necessary to prevent wind and rain from getting under the barrier and negating its effectiveness. Additionally, skirting shades the barrier material from direct sunlight that will prevent the material's deterioration.

**Subsection (e) and Subsection (e) Paragraphs (1) and (2)** are added to address skirting on units and/or accessory structures located in a designated floodplain. This requirement is taken from the Code of Federal Regulations, Title 44, Part 60, Section 60.3(c)(5), which provides the identical provisions. Because the federal regulations are more difficult to obtain, it is necessary to duplicate the regulation here making it easier for the user to locate the exact criteria.

### **Amend Section 1377**

**Subsection (f) Paragraph (1)** is amended by deleting the reference to “an informal administrative” hearing. This is necessary to be consistent with all other references to the hearing process sections because of the streamlining and consolidation of all of the hearing procedures into one Article. Additionally, the reference to an “informal administrative” hearing is not defined and not utilized anywhere else in the regulations and may cause confusion to the public. It is also amended by adding references to sections 1756 and 1757. This is necessary because HCD is consolidating all of its hearing procedures into one Article to simplify notice to the public, to ensure that all hearings to follow the same practice and procedure and to make the procedures as transparent as possible.

**Current Subsection (f) Paragraphs (2) and (3)** are deleted and moved to section 1756 with modification in the time frames provided for a request for a hearing and the issuance of HCD’s decision following the hearing. Section 1377 establishes a separate hearing procedure when HCD rejects an applicant’s application for an earthquake resistant bracing system. The deletion of the separate hearing procedure set forth in section 1377 is necessary because HCD is consolidating all of its hearing procedures into one Article to simplify notice to the public, to ensure that all hearings to follow the same practice and procedure and to make the procedures as transparent as possible.

**Proposed Subsection (f) Paragraphs (2) and (3)** are existing text that have renumbered because of the deletions of the previous subsection (f) paragraphs (2) and (3).

### **Amend Section 1426**

This section is amended to reflect the changes to the applicable building code. The adoption of the California Residential Code required amending the referenced sections.

**Subsection (a)** is amended to exclude provisions of this referenced code that are already preempted by either the Mobilehome Parks Act (HSC 18200 et seq.) or its adopted regulations contained in this chapter.

Section R327.3.6 is preempted by HSC 18305, which already addresses alternate methods of construction within parks.

Section R327.1.5 is preempted by HCD’s authority in HSC 18610 (maintenance, use, and occupancy) and HSC 18691 (fire protection), and section 1120 of this chapter.

Section R327.2 (definition of a Fire Protection Plan) is excluded because it states that only local ordinances shall apply and this is preempted by and conflicts with HSC 18300 that specifically states the Mobilehome Parks Act supersedes all local ordinances applicable to the Act.

**Subsection (b)** is amended to reflect the change to the applicable building code. This change is necessary to correct the reference for one and two family dwellings, including manufactured home installations and their accessory structures to the California

Residential Code contained in the CCR, Title 24, Part 2.5, which becomes effective January 1, 2011.

**Amend Section 1429**

**Subsection (a)** is amended to reflect the change to the applicable building code. This change is necessary to correct the reference for one and two family dwellings, including manufactured home installations and their accessory structures to the California Residential Code contained in the CCR, Title 24, Part 2.5, which becomes effective January 1, 2011.

**Amend Section 1432**

**Subsections (a) and (b)** are amended to reflect the change to the applicable building code. This change is necessary to correct the reference for one and two family dwellings, including manufactured home installations and their accessory structures to the California Residential Code contained in the CCR, Title 24, Part 2.5, which becomes effective January 1, 2011.

**Subsection (c)** is amended by updating the standard soil rating from 1,000 pounds per square foot (psf), to 1,500 psf. This is necessary to bring this section into compliance with the standard soil ratings of both the California Residential Code and the federal Model Manufactured Home Installation Standards contained in the Code of Federal Regulations, Title 24, Part 3285; this federal code establishes standards under which all new manufactured homes are installed. This is also necessary because the manufactured home and its accessory structures must have the same soil design loads.

**Amend Section 1446**

This section is amended by making a grammatical change for clarity so it is clear the requirements of the referenced standard must be followed. It is also amended to reflect the change to the applicable building code. This change is necessary to correct the reference for one and two family dwellings, including manufactured home installations and their accessory structures to the California Residential Code contained in the CCR, Title 24, Part 2.5, which becomes effective January 1, 2011.

**Amend Section 1450**

**Subsection (c)** is added to this section to clarify that if a cabana is installed on a support system in lieu of a foundation, it must have tiedowns installed similar to a manufactured home installation. Because a cabana is a habitable room or area designed to increase the living area of a manufactured home, it is necessary to maintain the same installation stability and safety requirements of a manufactured home or a cabana could be ripped from, or damage, an MH-unit in a windstorm or earthquake.

**Amend Section 1458**

**Subsection (a)** is amended to reflect the current requirements in the California Residential Code section R303.1 for natural light, which is eight percent of the gross floor area, and the requirement for natural ventilation, which is four percent or half the glazed window area.

### **Amend Section 1464**

**Subsection (a)** is amended by adding new language to reduce the costs of insulating small room additions (i.e. cabanas) to manufactured homes by providing prescriptive minimum standards for insulation ratings. While these prescriptive minimum ratings are slightly less than those of larger cabanas, they are greater than the minimum standards for manufactured homes and as such, actually increase insulation factors of the entire manufactured home. Although the final insulation values themselves are prescriptive, the methods for achieving those values are not.

**Subsection (b)** is the previous subsection (a) that has been renumbered because of the new language in subsection (a). It is also amended to reflect the cabana size differential because of the addition of the prescriptive minimums in the aforementioned subsection (a). It is also amended to designate the specific mandatory measures checklist form to be used for cabanas sized between 250 and 500 square feet. The change from 600 to 500 is to accommodate a three-tier system for the insulation of cabanas. Small cabanas of 250 square feet or less are typically constructed by the homeowner and the insulation values don't have as great an affect on the home itself and actually increase the insulation rating as noted in subsection (a) above. Cabanas 250 to 500 square feet in area provide much larger living areas, have greater heat loss and would require greater insulation values. Specifically using the 2001 "Mandatory Measures Checklist: Residential, MF-1R" dated August 2001, as set forth in the "Residential Manual for Compliance with California's 2001 Energy Efficiency Standards" provides a definitive means of determining insulation values for a cabana that are slightly greater than the prescriptive measures for small cabanas yet allow flexibility in achieving those values and are still greater than the federal requirements for the manufactured home.

**Subsection (c)** is the previous subsection (b) that has been renumbered because of the new language in subsection (a). It is also is amended to adjust the cabana size that must utilize the full measures of the California Energy Code requirements from 600 to 500 square feet. This is necessary because a cabana over 500 square feet is in many instances as large as the unit to which it is an accessory and would constitute the insulation factors for the entire side of the home.

**Subsection (d)** is the previous subsection (c) that has been renumbered because of the new language in subsection (a).

**Subsection (e)** is added to this section to clarify that a cabana, as a space intended for human habitation, must have a means of maintaining an acceptable temperature. This requirement is consistent with the requirements contained in the California Residential Code section R302.8 for habitable indoor areas.

**Amend Section 1468**

**Subsection (a)** is amended to reflect the change to the applicable building code. This change is necessary to correct the reference for one and two family dwellings, including manufactured home installations and their accessory structures to the California Residential Code contained in the CCR, Title 24, Part 2.5, which becomes effective January 1, 2011.

**Amend Section 1474**

**Subsection (f)** is amended to reflect the change to the applicable building code. This change is necessary to correct the reference for one and two family dwellings, including manufactured home installations and their accessory structures to the California Residential Code contained in the CCR, Title 24, Part 2.5, which becomes effective January 1, 2011.

**Subsection (i)** is added to this section for clarify. Since this section defines the requirements for awning enclosures, this subsection is added to remind users of the exiting and exit lighting requirements contained in section 1429 of this chapter.

**Amend Section 1498**

**Subsection (a)** is amended to reflect the change to the applicable building code. This change is necessary to correct the reference for one and two family dwellings, including manufactured home installations and their accessory structures to the California Residential Code contained in the CCR, Title 24, Part 2.5, which becomes effective January 1, 2011.

**Amend Section 1500**

This section is amended to reflect the change to the applicable building code. This change is necessary to correct the reference for one and two family dwellings, including manufactured home installations and their accessory structures to the California Residential Code contained in the CCR, Title 24, Part 2.5, which becomes effective January 1, 2011.

**Amend Section 1502**

This section is amended to reflect the change to the applicable building code. This change is necessary to correct the reference for one and two family dwellings, including manufactured home installations and their accessory structures to the California Residential Code contained in the CCR, Title 24, Part 2.5, which becomes effective January 1, 2011.

**Amend Section 1504**

**Subsection (d)** is amended to reflect the change to the applicable building code. This change is necessary to correct the reference for one and two family dwellings, including manufactured home installations and their accessory structures to the California Residential Code contained in the CCR, Title 24, Part 2.5, which becomes effective January 1, 2011.

### **Amend Section 1506**

Subsection lettering has been added to distinguish the existing subsection from the newly added subsection (b).

**Subsection (a)** is amended to reflect the change to the applicable building code. This change is necessary to correct the reference for one and two family dwellings, including manufactured home installations and their accessory structures to the California Residential Code contained in the CCR, Title 24, Part 2.5, which becomes effective January 1, 2011. This subsection is also amended to clarify that the provisions of this chapter take precedence over the referenced California Residential Code.

**Subsection (b)** has been added to clarify that a personal residential ramp on a lot may have a slope of one unit vertical for each eight units horizontal. The California Building Code, section 1010.2 allows pedestrian ramps to have a ratio of one to eight and section 311.8.1 of the International Residential Code, currently going through the adoption process for California, also allows ramps with a slope ratio of one to eight. This is necessary because on most lots in parks it is difficult to provide greater ratios resulting in longer slopes. Greater slopes would render a ramp infeasible and force homeowners to purchase expensive wheelchair lifts to access their homes.

### **Amend Article 10 Heading**

**Article 10 heading** is amended to reflect the current contents of the Article. It is necessary to delete the reference to "Hearings" in the heading of this Article because all the hearing procedures have been relocated to Article 11.

### **Amend Section 1612**

**Subsection (a) Paragraph (1)** of this section is amended to add "notice of violation" to a "notice to abate a violation" to clarify that the appeals procedures in Article 11 will apply to both actions, and, because several sections relating to procedures to abate a nuisance in Article 10 are being repealed and moved to Article 11, that addresses solely maintenance violations. The change is needed to put the regulated public on notice as to which administrative procedures are applicable based on the type of notice that is issued by the Department. This is necessary to ensure that a notice of violation is treated as interchangeable with a notice to abate, as Article 10 refers to abatement notices and Article 11 refers to notice of violations. The consolidation of parts of Article 10 into Article 11 centralizes the hearing procedures for all matters that require a hearing. In addition, a grammatical change is made by amending "least" with "a minimum".

**Subparagraph (a) Paragraph (1) Subparagraph (F)** amends section "1613" to section "1756" because of the consolidation of all hearing procedures into Article 11. It cross-references the definition of "hearing" in section 1002 to provide clear guidance to the regulated public as to the nature of the hearing and the type of hearing procedures to be applied. It adds the condition precedent for a hearing, "only after the denial or conclusion of the informal conference" as a clarification, to be consistent with the current identical requirements in subsections (a) and (b) of section 1756. Placing it in this subparagraph makes it clearer to the regulated public that requesting an informal conference is a condition precedent to an informal hearing.

**Subsection (a) Paragraph (2)** is amended to delete the reference of providing notice “to the legal owner of the property as shown on the last equalized assessment role” and because providing notice to the “cited person” results in notice being provided to either the property owner or the person who is hired by the property owner to take care of the business of operating a park. There is no necessity to incur the cost or time to provide an additional notice to the legal property owner, which could result in confusion as well.

**Subsection (a) Paragraph (3)** is deleted because there is no need for enforcement agencies to create and file affidavits certifying to the time and manner of notice or keeping files of receipt cards acknowledging receipt of the notice. The US Postal Service is a reliable means to achieve service, and this information commonly is preserved in a park’s file as a business practice because of the enforcement agency personnel’s understanding of the time constraints, requirements, and necessity of a complete file.

**Authority and Reference note** is amended to add to the Reference HSC sections 18420 (Notice of Violations) and 18421 (Informal Conference with enforcement agency to dispute violation). This is necessary because section 1612 sets forth the regulated public’s rights associated with various departmental actions, which includes the hearing for an unfavorable informal conference decision based on a notice of violation or a notice of abatement or the denial of an informal conference. This is necessary because HCD is consolidating all of the enforcement agency hearing procedures into one Article so that all procedural rights and responsibilities affecting the hearing rights of the affected regulated public are in one section..

### **Repeal Section 1613**

This section is repealed and is moved to Article 11, section 1756 with some amendments. This is necessary because HCD is proposing to consolidate the entire enforcement agency hearing procedures into one Article to simplify notice to the public, to ensure that all hearings follow the same practice and procedures, and to make the procedures as transparent as possible.

Subsection (a) is moved to subsection (d) and subsection (d) paragraph (1) of section 1756; the purpose of changes are explained in the explanation of section 1756.

Subsection (b) is moved to subsection (d) paragraphs (1) and (2) of section 1756; the purpose of changes are explained in the explanation of section 1756.

Subsection (c) is deleted because the hearing procedures and requirements now will be Article 11, commencing with section 1750.

Subsection (d) is moved to new subsection (e) of section 1756.

Subsection (e) is moved to new subsection (g) of section 1756.

### **Repeal Section 1615**

This section is repealed and moved to Article 11 into proposed new section 1757, with changes that are explained in the explanation for new section 1757. This is necessary because HCD wants to place all hearing procedures in one regulatory scheme and centralizing those procedures into one Article of the regulations is the most efficient way to achieve its goal. The effect of centralizing the hearing procedures into one Article will simplify the hearing procedure process, reduce confusion to the regulated public as to the necessary steps to access the administrative process which will make the use of the hearing process more accessible to the public, provide clarity on the type of hearing procedures to be applied and make all hearing procedures transparent.

### **Repeal Section 1616**

This section is repealed and the language is proposed to be moved to a newly added section 1759 in Article 11 with only one minor language change as explained in that section. This move is necessary because Section 1616 addresses the timeline to appeal to any court of competent jurisdiction after receipt of the hearing officer's decision. It is necessary to move the appeal rights of a party, following a hearing, into the same Article as the hearing procedures to be consistent in the goal of consolidation and simplifying notice to the public of the entire hearing process.

### **Amend Section 1618.**

**Subsection (a)** is amended to add "or abate a nuisance" since this term generally is used interchangeably with "correct a violation". It is added here to ensure that there is no confusion that the provisions of this section applies to activity related to either a "notice to abate a nuisance" or a "notice to correct" a violation.

### **Amend Article 11 Heading**

**Article 11 heading** is amended to reflect the current contents of the Article. It is necessary to delete the reference to "Formal Appeals" and add "Hearings Procedures" in the heading of this Article because all the hearing procedures have been relocated to this article. The term "formal" is removed because "hearing" is a defined term which means the hearing practices which are consistent with the informal hearing procedures of the Administrative Procedures Act, Government Code sections 11445.10, et seq. This change is necessary to clarify the application and scope of this Article because HCD is proposing a consolidation of all of its hearing procedures into one Article.

### **Amend Section 1750**

**Subsection (a)** is amended by deleting the words "informal and formal". This is necessary because this article relates to all the hearing procedures, one of which is an informal conference and thereafter, a "hearing". The term "formal" is removed because "hearing" is a defined term which means the hearing practices which are consistent with the informal hearing procedures of the Administrative Procedures Act, Government Code sections 11445.10, et seq. This change is necessary to clarify the application and scope of this Article because HCD is proposing a consolidation of all of its hearing procedures into one Article. The procedure for addressing abatement orders was found in Article 10 and is now proposed to be moved to Article 11. This will avoid much confusion and streamline the enforcement agency hearing process as applied to the regulated public.

This subsection also is amended by adding language to clarify that a “notice of violation” is either an “order for abatement of a violation” or an “order to correct the violation” because those terms generally are used interchangeably in the statutes and these regulations. In addition, those notices may apply not only to violations of this chapter or HSC, but also to any other applicable provision of law. For example, if a fire department issues a notice of violation pursuant to section 18691 of HSC related to a violation of the local fire code, this also may be a violation of this chapter. Similarly any work undertaken pursuant to subdivisions (a) and (b) of section 18500 of HSC must meet applicable local health and floodplain requirements, and a violation of that obligation also may be enforced as a violation of the Mobilehome Parks Act.

The language “pursuant to section 18420 of the Health and Safety Code” is deleted in this subsection. This is necessary because violation notices are not limited to being cited under HSC section 18420; as noted in the preceding paragraph, violations may arise based on violations of other codes and/or may be violations of other portions of the Parks Act.

**Subsection (b)** is amended by deleting the words “informal and formal”. This is necessary because this article relates to all the hearing procedures, one of which is an informal conference and thereafter, a “hearing”. The term “formal” is removed because “hearing” is a defined term which means the hearing practices which are consistent with the informal hearing procedures of the Administrative Procedures Act, Government Code sections 11445.10, et seq. This change is necessary to clarify the application and scope of this Article because HCD is proposing a consolidation of all of its hearing procedures into one Article. The procedure for addressing abatement orders was found in Article 10 and is now proposed to be moved to Article 11. This will avoid much confusion and streamline the enforcement agency hearing process as applied to the regulated public.

This subsection is also amended by adding “and subsequent hearing”. This is necessary to clarify that a hearing can only occur as an appeal from the results of an informal conference, except as specified in subsection (b) of section 1756, where all conditions precedent to a hearing are set forth in one place to assist the regulated public. The term “notice of abatement” is added since this term generally is used interchangeably with “notice of violation”. This is added here to ensure that there is no confusion that this section applies to activity related to either a “notice of abatement” or a “notice of violation”. Additionally, this section has grammatical amendments for clarity.

**Subsection (b) Paragraphs (1) and (2)** propose to add language that provides for an additional express exemption from the general rule that the appeal process does not extend the time specified in the notice of violation allowed to make corrections. The additional language specifies that the time to correct may be extended up to either the date of the informal conference or the date of the written determination, whichever is the later date, if either of those dates is after the date specified in the notice of violation. It also provides that the time to correct after an informal conference determination may be extended up to the date of the later of the hearing or its termination if either of those dates is after the date specified in the informal conference order. This change is

necessary because under existing regulations, all conferences and appeals are timed to occur within the normal 30-day period required for corrections. However, in other proposed amendments to this Article, additional time has been given to the enforcement agency and to appellants to comply with specified hearing procedures, so commensurately additional time is given to the regulated public to comply with the notices of violation, abatement or correction, pending the outcome of the conference or the hearing. This provision is not applicable where violations impose imminent and immediate health and safety threats, as stated in section 1756 subsection (e) since those more serious conditions must be corrected within the shorter timeframe for the public health and safety.

**Subsection (b) Paragraph (3) and (4)** are renumbered from the previous subsection (b) paragraphs (1) and (2) to compensate for the addition of a new subsection (b) paragraphs (1) and (2) as discussed above.

**Subsection (b) Paragraph (4)** also is amended to change section 1756 subsection (f) to section 1757 subsection (d) because of renumbering adopted in that section.

**Authority and Reference note** is amended to add to the Authority HSC section 18605 (authority to adopt regulations governing use and occupancy) and to the Reference HSC section 18402 (abatement of a nuisance), and 18403 (sufficiency of proof for order of abatement). This is necessary because HCD is consolidating all of the enforcement agency hearing procedures into one Article to simplify notice to the public and to ensure that all hearings follow the same practice and procedure and to make the procedures as transparent as possible.

### **Amend Section 1752**

**Subsection (a)** is amended to clarify that the informal conference process is available to any “cited” person, a defined term, who is required to respond to a notice of violation for a violation of Chapter 2, the applicable HSC or any other applicable provisions of law. This is necessary because prior to this amendment, the informal conference was only available for maintenance violations. Following the consolidation of the abatement procedures from Article 10 to Article 11, the authority to request an informal conference must be expanded to include notices of abatement and other correction notices based on Chapter 2, other HSC violations, and any other provision of the law that is applicable. It is because appeals for all violations now are included in Article 11, this authority to request an informal conference must be expanded.

Additionally, the language “pursuant to section 18420 of the Health and Safety Code” is deleted from subsection (a). This is necessary because violation notices are not limited to being cited under section 18420. Other entities, such as a court or hearing officer may issue notices to correct a violation or abate a nuisance, and other sections of the Mobilehome Parks Act may be violated as well.

**Subsection (e)** is amended to change the number of days the enforcement agency has to respond to a written request for an informal conference. The change is from three (3) working days to seven (7) working days. This is necessary because HCD has reduced staff and has assumed jurisdiction over many mobilehome parks previously subject to

local enforcement agencies; these factors reduce the personnel hours available at any given time to schedule and then inform appellants of informal conferences. Local government enforcement agencies, which are subject to these hearing procedure requirements, have similar staffing difficulties. This does not harm the regulated public since the date for compliance is extended in the amendments to section 1750 to the later of date of the informal conference or the determination from that conference.

An additional amendment in subsection (e) is the change in the number of days that the enforcement agency has prior to conducting an informal conference following receipt of the written request. The change is to lengthen this period from fifteen (15) working days to twenty-one (21) working days. This is necessary because HCD has reduced staff and has assumed jurisdiction over many mobilehome parks previously subject to local enforcement agencies; these factors reduce the personnel hours available at any time to conduct informal hearings. Local government enforcement agencies, which are subject to these hearing procedure requirements, have similar staffing difficulties. Again, this does not harm the regulated public since the date for compliance is extended in the amendments to section 1750 to the later of date of the informal conference or the determination from that conference.

**Subsection (f) Paragraph (2)** is amended to reflect the number of days changed in subsection (e) from fifteen (15) days to twenty-one (21). This is necessary because the subsection simply reiterates the new timelines stated in the amendments to subsection (e).

**Authority and Reference note** is amended to add to the Reference HSC section 18402 (abatement of a nuisance) and 18403 (sufficiency of proof for order of abatement). This is necessary because HCD is consolidating all of the enforcement agency hearing procedures into one Article to simplify notice to the public and to ensure that all hearings follow the same practice and procedure and to make the procedures as transparent as possible.

#### **Amend Section 1754**

**Subsection (b)** is amended to lengthen the number of days from five (5) to ten (10) working days that the enforcement agency has to provide a written determination following the informal conference. This is necessary because HCD has reduced staff and has assumed jurisdiction over many mobilehome parks previously subject to local enforcement agencies; these factors reduce the personnel hours available at any given time to prepare and provide written determinations after informal conferences. Local government enforcement agencies, which are subject to these hearing procedure requirements, have similar staffing difficulties. This does not harm the regulated public since the date for compliance is extended in the amendments to section 1750 to the later of date of the informal conference or the determination from that conference

**Authority and Reference note** is amended to add to the Authority HSC section 18605 (authority to adopt regulations governing use and occupancy) and to add to the Reference HSC section 18402 (abatement of a nuisance), 18403 (sufficiency of proof for order of abatement), and 18605 (adoption of regulations governing use and occupancy.) This is necessary because HCD is consolidating all of the hearing

procedures into one Article to simplify notice to the public and to ensure that all hearings follow the same practice and procedure and to make the procedures as transparent as possible.

**Amends Section 1756**

**Section 1756 heading** is amended to add “Hearing: Appeal” in order to support consistent use of the term “Hearing” and to clarify that the section is intended to explain about an appeal of an informal conference decision.

**Subsection (a)** is amended to incorporate some of the provisions of section 1613 subsection (a) which is being repealed. It adds the term “cited person” because that is the term utilized in other related regulations and is a defined term in this chapter. It also adds language clarifying that the article applies to both “abatement” and “correction” notices, since these terms generally are used interchangeably. It further adds that the procedures apply to violations of this chapter, HSC, or any other applicable provision of law. This ensures that the regulated public has access to an administrative appeal for any violation rather than merely maintenance violations, including violations originating in any part of the Parks Act or other laws and ordinances enforced under the Parks Act. This reduces the cost to both the public and department that would be incurred if courts were the only source of appeal for a cited person or entity.

The language “pursuant to section 18420 of the Health and Safety Code” is deleted. This is necessary because violation notices are not limited to being cited under section 18420. Other entities, to include a court or hearing officer may issue notices to correct a violation or abate a nuisance.

The amendments to subsection (a) also substitute “authorized representative” for “person in charge” of the enforcement agency. This change is necessary because of the wide variety of enforcement agencies, some of which may have designated hearing officers and others may have senior managers. In addition, “person in charge of the enforcement agency” is unclear since that could mean either a senior manager or HCD director, and in a city, could mean a building department director or a city manager. Additionally, informal conferences typically occur at the location of the violation making it difficult for the “person in charge” to appear. Utilizing an authorized representative for informal conferences allows a quick resolution of a violation notice that often resulted from misunderstandings or the lack of knowledge of the applicable law or regulation. This again reduces costs to both the regulated public and the enforcement agency. This also is the terminology used in section 1613 subsection (a), which is being repealed and moved to this section.

The amendments in subsection (a) also delete “petition for a formal [hearing]” and insert “request a [hearing]”. The term “formal” is removed because “hearing” is a defined term which means the hearing practices which are consistent with the informal hearing procedures of the Administrative Procedures Act, Government Code sections 11445.10, et seq. The term “request” replaces “petition” to reinforce that this is an informal hearing.

**Subsection (b)** deletes the term “formal” and substitutes “hearing request” for “petition”. The term “formal” is removed because “hearing” is a defined term which means the hearing practices which are consistent with the informal hearing procedures of the Administrative Procedures Act, Government Code sections 11445.10, et seq. The term “hearing request” replaces “petition” to reinforce that this is an informal hearing.

**Subsection (b) Paragraph (2)** is amended to extend the time from five (5) days to ten (10) working days for a person to request a hearing. This is necessary for fairness to provide the same time allotted to request a hearing after an informal conference determination, as is allotted after the denial of an informal conference in subsection (b) paragraph (1).

Subsection (b) paragraph (2) is also amended by adding the language “and the request for hearing”. This is necessary to condition the request for a hearing to the violations disputed during the informal conference. This is to prevent the introduction of additional violations or items that have not been addressed through the informal conference procedure in order to ensure effective use of staff and regulated public time. Additionally, the conjunction “or” has been added to this subsection to allow the addition of subsection (b) paragraphs (3) and (4) as part of subsection (b)’s procedures and requirements.

**Subsection (b) Paragraphs (3) and (4)** are added to consolidate the hearing request process for all potential hearings and to expressly include the hearings provided for when HCD: 1) issues a notice of intent to suspend a permit to operate, issued pursuant to section 18511 of HSC and 2) denies an application for an earthquake resistant bracing system as set forth in section 1377. This is necessary because HCD is consolidating the entire enforcement agency hearing procedures into one Article to simplify notice to the regulated public, to ensure that all hearings to follow the same practices and procedures and to make the procedures as transparent as possible. In addition, HCD currently provides these hearings using the informal hearing process. However, because Government Code section 11445.20(c) expressly requires that the agency expressly authorizes the use of an informal hearing by regulation, and because local enforcement agencies may need clearer authority to utilize informal hearings for these purposes, the permit suspension and earthquake resistant bracing system appeals are expressly included in the regulation amendments.

**Subsection (c) and Subsection (c) Paragraphs (1) through (4)** amends the word “petition” to “hearing request” and the word “petitioner” to “appellant” because of the consolidation of all hearing procedures into Article 11, and because this section no longer deals with “petitions.” These proposed changes eliminate the use of “petitions” and converts all references to a “request for a hearing.” This is consistent with clarifying that the hearings subject to this article are informal hearings as set forth in Government Code section 11445.20(c), and “petition” or “petitioner” could connote a more formal process.

**Subsection (d)** amends the term “the petition” to “a request for a hearing from the cited person or entity” and the word “petitioner” to “appellant” because of the consolidation of all hearing procedures into Article 11, and because this section no longer deals with

“petitions.” These proposed changes eliminate the use of “petitions” and convert all references to a “hearing request.” In addition, the addition of “request for a hearing from the cited person or entity” and “scheduled time and place” are moved from subsections (a) and (b) of section 1613 in order to add clarity to this subsection.

Subsection (d) is also amended by deleting the word “formal”. This is necessary because the enforcement agency is only providing an informal hearing, not a formal hearing. The term “formal” is removed because “hearing” is a defined term which means the hearing practices which are consistent with the informal hearing procedures of the Administrative Procedures Act, Government Code sections 11445.10, et seq.

Language is also added directing the enforcement agency to provide a copy of the agency’s informal hearing procedures to the appellant and notify the appellant that the informal hearing procedures set forth in Government Code section 11445.40 will be applied at the hearing. This is necessary because of the streamlining and consolidation of all of the hearing procedures into one Article. The providing of the notice of the selection of an informal hearing is required by Government Code section 11430(a), and providing the procedures is required by Government Code section 11425.10 subdivision (a)(2). Adding the express requirement ensures that the regulated public (appellant) understands the source of this additional information.

**Subsection (d) Paragraph (1)** is added to include language directing the enforcement agency to provide a written notice of the scheduled date and time of the informal hearing within fifteen (15) working days of the receipt of the request (this requirement and timeframe previously was not specified). This is necessary to provide a definitive timeline to schedule the hearing so both the enforcement agency and the regulated public may prepare for the hearing. The time of 15 working days was selected because, unlike the informal conference, the hearing requires a higher level management hearing officer and the scheduling of such a person, enforcement agency legal counsel, and any additional parties sought by the appellant may take more time than the seven-day period allowed for an informal conference.

**Subsection (d) Paragraph (2)** is the previous subsection (d) paragraph (1) that has been renumbered because of the addition of the new subsection (d) paragraph (1). It is further amended by deleting the word “formal” because the enforcement agency is only providing an informal hearing, not a formal hearing. The term “formal” is removed because “hearing” is a defined term which means the hearing practices which are consistent with the informal hearing procedures of the Administrative Procedures Act, Government Code sections 11445.10, et seq.

Additionally, subsection (d) paragraph (2) is amended by changing the commencement date of the hearing from ten (10) to fifteen (15) working days. This change is necessary because HCD has reduced staff and has assumed jurisdiction over many mobilehome parks previously subject to local enforcement agencies. These factors reduce the personnel hours available at any given time to schedule, prepare and provide written notice of the date and time of informal hearings. Local government enforcement agencies, which are subject to these hearing procedure requirements, have similar staffing difficulties. This does not harm the regulated public since the date for

compliance is extended in the amendments to section 1750 to the later of date of the informal conference or the determination from that conference.

**Subsection (d) Paragraphs (3) and (4)** are the previous subsection (d) paragraphs (2) and (3) that have been renumbered because of the addition of new subsection (d) paragraph (1). These paragraphs also amend the word "petitioner" to "appellant" because of the consolidation of all hearing procedures into Article 11, and because this section no longer deals with "petitions", as discussed above. These proposed changes eliminate the use of "petitions" and converts all references to a "hearing request". A reference to the enforcement agency is added so the appellant knows where to file the request for a postponement. They are amended by deleting the word "formal" because the enforcement agency is only providing an informal hearing, not a formal hearing. The term "formal" is removed because "hearing" is a defined term which means the hearing practices which are consistent with the informal hearing procedures of the Administrative Procedures Act, Government Code sections 11445.10, et seq. The subsections have also been renumbered because of the addition of the new subsection (d) paragraph (1).

**Subsection (e)** current language is repealed and is moved to the proposed added section 1757 in Article 11 with some amendments. This is necessary because HCD wants to consolidate the entire enforcement agency hearing procedures into one section to simplify notice to the public, to ensure that all enforcement agency hearings follow the same practices and procedures and to make the procedures as transparent as possible.

New language is added to clarify that a hearing will not be permitted or a request for a hearing shall not extend the time for correction of a violation if the cited violation constitutes an imminent hazard representing an immediate risk to life, health and safety of persons or property. This is necessary because each enforcement agency, in achieving its mission, must protect against imminent hazards and immediate risk to life, health and safety of persons and property, and to permit an uncorrected violation to stand pending a hearing that could be delayed up to fifty (50) days would pose an unreasonable health and safety risk to the public. This is the same standard that was used in deleted section 1613, subsection (d), which is moved into this subsection.

**Subsection (f)** is added to include language that limits the authority of any enforcement agency to initiate any judicial or administrative action related to the defect or defects appealed until after the hearing. This is similar to the language which was in deleted section 1613, subsection (b), but the proposed language only precludes the enforcement agency from "initiating" such an action. This is necessary because it is not prudent to provide an administrative remedy i.e., the informal hearing, but at the same time allow the administrative enforcement agency to initiate judicial or administrative action on the same defect or defects. Allowing such additional actions would interfere with judicial and administrative office economy and public policy of remedying matters in lieu of litigation, as well as unnecessarily requiring the regulated public to defend itself concurrently in two arenas. On the other hand, the prior language in subsection (b) of section 1613 to allow the "receipt of a request for hearing" to "postpone" judicial or administrative action by an enforcement agency might be interpreted to preclude a

public prosecutor representing an enforcement agency (e.g., Attorney General or distinct attorney) from commencing any action related to the park, even if the authority to commence such an action emanated from laws other than the Parks Act (e.g., criminal violations, health code violations, etc.); the Parks Act does not provide authority for the Parks Act enforcement agency to preclude other administrative or judicial actions.

This new subsection also provides that an action may be commenced related to a defect if the defect cited is an imminent hazard representing an immediate risk to life, health, and safety of persons or property. This is necessary because the enforcement agency, in achieving its mission, must protect against imminent hazards and immediate risk to life, health and safety of persons and property, and to permit an uncorrected violation to stand pending a hearing that could be delayed up to fifty (50) days posing an unreasonable health and safety risk to the public.

**Subsection (g)** is added to include language that provides the enforcement agency with discretion to continue abatement proceedings against a cited person when the cited person was personally served with the notice of violation but failed to request a hearing within ten (10) days following the personal service. This is carried over from deleted subsection (e) of section 1613 and is necessary because the enforcement agency does not want to have uncorrected defects linger and due to staff limitations and time, if the cited person does not exercise its right to have an informal hearing, the enforcement agency wants to use staff time effectively to require compliance.

**Authority and Reference note** is amended to add to the Authority HSC section 18605 (authority to adopt regulations governing use and occupancy) and to add to the Reference HSC section 18402 (abatement of a nuisance), 18403 (sufficiency of proof for order of abatement), and 18605 (adoption of regulations governing use and occupancy.) This is necessary because HCD is consolidating all of the hearing procedures into one Article to simplify notice to the public and to ensure that all hearings follow the same practice and procedure and to make the procedures as transparent as possible. Additionally, section 1613 relied on these sections for authority and since the section 1613 language is moved to section 1756 the references need to be transferred.

### **Add Section 1757**

**Section 1757 heading** is added to clearly define what information is covered in the section.

This section is added to provide a comprehensive hearing procedure consistent with the Government Code section 11445.10 et seq., for all enforcement agency hearings related to notice of abatement or notice of violation issued to the regulated public as well as hearing requested following the issuance of a Notice of Violation. The language from section 1615 was transferred to the new section 1757. This is necessary because HCD is consolidating all enforcement agency hearing procedures into one Article to simplify notice to the public, to ensure that all hearings follow the same practice and procedure, and to make the procedures as transparent as possible.

**Subsection (a)** is carried over from deleted section 1615 and is added to detail the hearing procedures to be used by the enforcement agency that are consistent with Government Code section 11445.40. These procedures include the hearing officer's authority to regulate the taking of testimony or the presentation of evidence by the cited person, the property owner or operator or their representative, and any other person with relevant information or testimony; this ensures that the appellant has the opportunity to provide all relevant evidence. The testimony is limited to the identified violations issued by the enforcement agency for efficiency and because only defects addressed by the informal conference are subject to discussion (except where the hearing is in response to a notice to suspend the permit to operate, where no informal conference is required prior to the hearing).

Subsection (a) also requires the enforcement agency to provide all documentation to the hearing officer prior to the hearing in order to reduce reading time during the hearing; the appellant already has received this information. It allows the hearing officer to request similar written information from the appellant to allow the hearing officer to review any complex plans such as blueprints or engineering reports, and requires equal disclosure of evidence to the enforcement agency prior to the commencement of the hearing. These changes are necessary to ensure that all enforcement agency hearings are implemented fairly and equitably across the board and efficiently for all of the regulated public and so that all hearings are consistent with section 11445.40 of the Government Code.

**Subsection (b)** is carried over from deleted section 1615 and is added to detail the appellant's responsibility at the hearing which includes the production of evidence to show cause why the notice of violation should be modified or withdrawn. This may be accomplished by the procedures identified in subsection (b) paragraphs (1) through (4) which are expressly or implicitly required by the Administrative Procedures Act: by calling witnesses, presenting oral or written comments or arguments on the issues, and being represented by counsel. The added language also sets forth the hearing officer's responsibilities when presiding over the hearing consistent with section 11445.40 of the Government Code. These changes are necessary to ensure that all enforcement agency hearings are implemented fairly and equitably across the board to all of the regulated public and that all hearings are consistent with section 11445.40 of the Government Code.

**Subsection (c)** is carried over from deleted section 1615 and is added to provide the enforcement agency with the authority to proceed with administrative or judicial action to secure compliance or abatement if the appellant does not appear at the hearing. This is necessary because the enforcement agency cannot permit violations to remain uncorrected if an appellant fails to appear for the hearing. The enforcement agency needs to have avenues to abate the nuisance or correct the violations.

**Subsection (d)** is carried over from the deleted subsection (f) of section 1758 and is added to require that the hearing officer has ten (10) working days after the conclusion of the hearing to provide a final order to the appellant in the form of a written decision which is required to either sustain, modify or withdraw the notice of violation and state the enforcement agency's findings upon which the final order is based. The hearing

officer is given the authority to establish new dates and schedules for compliance following the hearing in order to ensure that subsequent administrative enforcement is consistent with the hearing officer's decision. This final order is to be mailed via first class mail. These changes are necessary to ensure a timely conclusion to the hearing procedures, proper communication of the decision to the appellant and enforcement agency staff, and clear direction on how to proceed subsequently.

**Subsection (e)** is added to provide the enforcement agency or park residents with additional indirect enforcement ability related to compliance with the final hearing order by requiring the posting a copy of the written decision in a conspicuous place on the property or unit. Depending on the nature of the violation(s) and the direction(s) in the hearing officer decision, it may be appropriate for park residents to have knowledge of what can be anticipated in terms of corrections. This is necessary to ensure the hearings and the conclusions or orders are as transparent as possible to the general public, and to assist in enforcement of the hearing officer order.

**Authority and Reference note** is amended to add to the Reference HSC sections 18402, 18403, 18513 and 18605 to support the lawful authority for the request for hearing following a decision of an informal conference, denial of an informal conference or a notice of intent to suspend a permit to operate a park. These changes are necessary because HCD is consolidating all of the enforcement agency hearing procedures into one Article to simplify notice to the public and to ensure that all hearings follow the same practice and procedure and to make the procedures as transparent as possible.

### **Amend Section 1758**

**The Heading** of this section is amended to remove the reference to a "formal hearing". The term "formal" is removed because "hearing" is a defined term which means the hearing practices which are consistent with the informal hearing procedures of the Administrative Procedures Act, Government Code sections 11445.10, et seq.

**Subsection (a)** is amended by deleting the word "mobilehome" because many "parks" have different descriptors such as a "manufactured home community", "trailer court", as well as a "mobilehome" park. This is necessary because this section is applicable all parks, and this change will make it consistent with the nomenclature throughout this chapter, which refers to "parks".

Subsection (a) also is amended by relocating the language from subsection (a) paragraph (2) to permit a park owner or a registered owner of a unit to request HCD to review and investigate the enforcement activities of the local enforcement agency under specified circumstances including the appropriateness or correctness of a final order from a hearing. This is necessary to clarify who may file a petition due to the consolidation of the hearing procedures.

**Subsection (a) Paragraph (1)** is amended by deleting the language "pursuant to section 18420 of the Health and Safety Code." This is necessary because, as previously discussed, violation notices are not limited to being cited under HSC section

18420. Other entities, such as a court or hearing officer may issue notices to correct a violation or abate a nuisance, and other provisions of the Parks Act may be involved.

**Subsection (a) Paragraph (2)** is rewritten to make clearer that a “formal” order is not necessary, since there are no “formal” orders called for during the informal hearing process, but a “final order” is necessary to ensure that the complainant has fully exhausted the local administrative appeal process prior to filing a petition with HCD. The reference to a “formal hearing” is deleted and replaced by “hearing”. The term “formal” is removed because “hearing” is a defined term which means the hearing practices which are consistent with the informal hearing procedures of the Administrative Procedures Act, Government Code sections 11445.10, et seq. This paragraph is also amended by moving the remainder of the section into subsection (a) above.

**Subsection (b) Paragraph (3)** is amended to make clearer that a “formal” order is not necessary, since there are no “formal” orders called for during the informal hearing process, but a “final order”. Additionally, it is amended to clarify that the “final order” is only required “if a hearing were held”. This is necessary to clarify that only if a hearing were held by the local enforcement agency is it necessary to supply a copy of that final order.

**Subsection (c)** is amended by replacing the term “consider the petition in conjunction with” with the “deem the petition to be a request to exercise” to clarify that HCD shall deem the petition as a request to HCD to exercise its responsibility to monitor local enforcement agencies. This ensures that the regulated public and potential petitioner is clear as to HCD’s role in this section, and that the petition results in an investigation rather than a hearing. This is necessary because HCD is responsible for ensuring that the various laws under its authority are properly enforced and the amendment provides clearer authority for HCD to investigate the local enforcement agency as part of its monitoring responsibility. Additionally, the reference to “subdivision (d)” of HSC section 18306 is deleted. This section was amended by the legislature many years ago and no longer applies. By removing the specific reference, the entire contents of HSC section 18306 apply. This is appropriate because this section deals with HCD’s authority to monitor and investigate local government implementation of the Act as a local enforcement agency.

**Subsection (d)** is amended to delete “formal” order (see above for explanation) and to add “or over-enforcement” so that there is no question that these complaints or petitions may investigate any deviation in local enforcement of the park laws and regulations, rather than merely “under-enforcement”. This is necessary because currently, HCD already investigates unofficial complaints regarding local enforcement of both over-enforcement and under-enforcement, and either one is a deviation from proper enforcement.

### **Adopt Section 1759**

**Section 1759 heading** is added to identify the contents of this section.

This section is added and the language was transferred from repealed section 1616 with only one language change. The additional language includes the “correction” of a violation as a permissible basis to appeal the hearing officer’s decisions or actions to a court of competent jurisdiction. This is necessary due to the repeal of the abatement regulations and the consolidation of the abatement procedures into the hearing procedures in section 1757.

**Authority and Reference note** is amended to add to the Authority HSC section 18605 (authority to adopt regulations governing use and occupancy) and to add to the Reference HSC sections 18300 (general authority to adopt regulations, and 18605 (authority to adopt regulations governing use and occupancy) are added to reference the authority to adopt this regulation. Sections 18402 (abatement of a nuisance), 18403 (sufficiency of proof for order of abatement), 18420 (procedures for issuing violation notices), 18421 (requesting an informal conference), 18513 (petition for a hearing) and 18605 (adoption of regulations governing use and occupancy) are added to the Reference note so the user may reference the Health and Safety Code sections relating to the requirements of this section.

## **Chapter 2.2. Special Occupancy Parks**

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### **Amend Section 2002**

**Subsection (c) Paragraph (7)** is amended by adding a definition to the new reference for one and two family dwellings, the California Residential Code contained in the CCR, Title 24, Part 2.5. Effective January 1, 2011, California will adopt the California Residential Code for one and two family dwellings. Because manufactured homes are one or two family dwellings, this code will apply to manufactured home installations, their foundations, and their accessory structures.

By the addition of this definition, a code user will know that HCD is adopting the California Residential Code for certain express purposes identified in other parts of this chapter.

While the Office of Administrative Law generally questions the validity of prospective incorporations by reference (e.g., these proposed HCD regulations adopt a portion of CCR Title 24, the California Residential Code, as it will be in effect and as amended in the future), the situation with this incorporation by reference differs from those which are the basis of OAL's past rejections. OAL's objections are based on issues related to the limited opportunity for public participation in the decision by the promulgating agency (e.g., HCD) because another agency creates or adopts the standards being adopted by reference. The process for adopting the proposed HCD regulations, the regulated public affected by them, and the process for adoption of the California Residential Code clearly distinguish these regulations from those which are the basis for OAL's precedential decisions on prospective incorporation by reference.

OAL relies on decisions in *California Ass'n of Nursing Homes, Etc. v. Williams* (1970) 4 Cal.App.3d 800, 814, 84 Cal.Rptr. 590, and its internal citation, *Olive Proration etc. Com. v. Agric. etc. Com.*, 17 Cal.2d at p. 209, 109 P.2d 918. In the *Nursing Home* decision, as well as the *Olive Proration* decision, the problem was that the welfare agency was adopting regulations based on a "Schedule of Maximum Allowances" established by the Department of Finance without any hearings, any evidence, etc. and in fact were the result of "ex parte studies by staff personnel" of the Department of Finance (referred to by the court as the state agency's adoption of "DOF's fiat". A similar circumstance existed in the *Olive Proration* decision, where the agency completed its hearings and then, without notice to parties, received and considered a field survey and report by the Department of Finance; the parties were not apprised that this survey was undertaken or the result of it until the commission's orders were promulgated, depriving them of opportunity to comment and rebut.

Headnote 10 in *Nursing Homes* summarizes that there is no procedural barrier prohibiting adoption by reference if supporting evidence is made available at a public hearing, an opportunity to refute is given, pro-and-con evidence is considered, etc. In these MPA/SOPA regulations, proponents and opponents will have those opportunities. Prior to being adopted by the California Building Standards Commission based on HCD's recommendations, HCD reviews the model code the California Residential Code is derived from (International Residential Code or IRC) and proposes changes

consistent with California interests. Other parts might be considered for amendment or deletion as well, depending upon comments during the public input phase. Then, both HCD and all stakeholders can participate in the CBSC hearings: these were not adopted under the cover of darkness, as were the DOF “Schedule” and the DOF “Study” in the *Nursing Home* and *Olive Proration* decisions. If anything, builders participating in 90 percent of the residential construction in the state fully vetted those standards in public hearings. Finally, park owners/operators and those performing construction in those parks already are cognizant of their need to follow CBSC proceedings and code adoptions, as evidenced by the adoption of other standard California building standards codes included in section (c) paragraphs (2) through (6).

Another example of the problem with prospective incorporation by reference cited by OAL involves the Regional Water Board and its attempted adoption of federal standards. Not only is there a question of illegal delegation to a federal agency—an issue not applicable in its MP/SOP situation—but the ability to participate in and influence the development and adoption of federal regulations is far different than that accorded by OAL with respect to the development and promulgation of state regulations.

As to adoption by reference for future modifications, again the record here is totally different than that in *Nursing Homes*. In “Nursing Homes”, the reference to “the incorporated material” refers to the DOF schedules created by faceless DOF staff personnel in ex parte proceedings, resulting in the nursing home industry not having opportunity to comment, refute, etc. In the current situation, there are three striking differences:

1. Any changes by the CA Building Standards Commission in the California Residential Code will occur with full public study, comment, and opportunity to rebut from residential builders throughout the state, as well as public agencies such as HCD. The adoption of building standards by the California Building Standards Commission is subject, in part, to the APA and is much like the process used with OAL-processed regulations, rather than the process used for federal regulation review and adoption.
2. Knowing that the California Residential Code will provide the template standards immediately upon adoption by HCD, the mobilehome/special occupancy parks industry can register as “interested parties” and be provided direct notice and opportunity to participate in any further CA Building Standards Commission consideration of the California Residential Code, if amended.
3. The mobilehome/special occupancy parks industry, if dissatisfied by an OSFM standard can immediately petition HCD to modify or delete that standard from the Title 25 regulations.

In conclusion, HCD greatly respects the OAL internal regulations regarding prospective incorporation by reference and validity of future modifications in most circumstances. In the current situation, however, the rationale does not apply. Not only have the standards been vetted by the construction industry, and not only may the commenter’s comment again regarding what HCD has chosen to incorporate or not incorporate in the

MP/SOP regulations, but, in the future, the mobilehome/special occupancy parks industry has the right to, and may merely request to, participate in the development and adoption of future MP/SOP regulations before they become effective for those parks.

In addition, HCD does not believe that its adoption of the California Residential Code of the California Building Code, Title 24, Part 2.5, of CCR violates Section 20(c)(5) of Title 1, CCR. HCD does not believe that it is adopting a “document” (such as a form, study, etc.) but instead is adopting the standards in another California regulation. If this interpretation were carried to its full extent, every time an agency regulation cross-referenced even one of its own regulations such as an internal definition, (even in the same package being adopted), it would have to add a date of adoption to that internally cross-referenced regulation. (e.g., “This section is applicable to “mobilehome” as defined by section 1111 of this title, *as adopted July 1, 2006.*”) We believe that the term, “document”, as used in Sec. 20 can be and should be distinguished from “regulation”.

**Subsection (c) Paragraphs (8) through (18)** have been renumbered because of the addition of the new language in subsection (c) paragraph (7). There are no other amendments in this subsection.

**Subsection (g) Paragraph (6)** is amended to add to the types of proceedings where the enforcement agency may find good cause for a cited person or entity’s failure to appear or failure to comply with an enforcement order. Currently, the enforcement agency has authority to make a finding of good cause only for a failure to appear in an informal conference or a hearing or for complying with specified timelines. The addition will provide authority to find good cause to apply to a request to defer or postpone a hearing date, rather than making the appellant miss the hearing and then plead “good cause” as a mitigating factor.

The regulations also will be amended to change the “formal hearing” reference to only that of a “hearing”. This is because the definition of “hearing” in subsection (h) of this section is being added to make clear that all hearings conducted under this chapter are “informal hearings”, as allowed by the Government Code 11445.10, et seq.

**Subsection (h) Paragraph (3)** is amended so that it specifically clarifies the type of hearing procedure that is contemplated in appeals of notices of violation and notices of impending permit to operate suspensions issued by the enforcement agency. Currently, as a result of various procedural references throughout this chapter, HCD’s hearing practices have been consistent with the informal hearing procedures of the Administrative Procedures Act, Government Code sections 11445.10, et seq. However, the regulations did not specify whether the enforcement agency was following the informal hearing proceedings or hearing proceedings of the Administrative Procedure Act. Pursuant to the authority in subdivision (c) of Government Code section 11445.20, this amendment defines the term “hearing” as “informal hearing” and uses a definition so that the full term does not have to be repeated throughout the regulations. It also provides the appropriate cross-references to the applicable Government Code section so that the regulated public has easy access to the implications of this type of hearing.

The new definition provides that the hearing is to be “conducted by the director or his or her designee” because this is the most common terminology for the highest-level manager in either HCD or a local enforcement agency building or similar department. It identifies the seven most common types of notices which trigger informal hearings by their HSC sections to permit easy reference by the regulated public.

**Subsection (h) Paragraph (4)** was renumbered because of the addition of the new language in subsection (h) paragraph (3). There are no other changes in this subsection.

**Subsection (s) Paragraph (6)** is amended by adding the definition “signed”. This is necessary to clarify that an original or so called “wet” signature or stamp is required on a permit application, plan, or other document to prevent fraudulent use of the permit application, plan or other document by persons other than the one signing the document. Additionally, language is added to clarify that if the regulations in this chapter do not require that signature, no enforcement agency can then require it.

**Subsection (s) Paragraphs (7) through (13)** have been renumbered because of the addition of the new subsection (s) paragraph (6). There are no other amendments in this subsection.

**Authority and Reference note** is amended to add to the Reference HSC sections 18866,4, 18867, 18868, and 18870.14 because these sections relate to the notices of violation impacted by the amendments to “good cause” and the addition of “hearing” clarifying the nature of the appeals hearing process. In addition, a reference to section 11445.2, Government Code, is added because it is referenced in the definition of “hearing”.

### **Amend Section 2008**

**Subsection (d)** is added to formalize the annual billing dates for local enforcement agencies. Local enforcement agency billing has always occurred on a calendar basis although there was nothing requiring it. All local enforcement agencies and the hundreds of parks they have enforcement over have traditionally billed and been billed on a calendar basis, this amendment is simply to formalize the billing dates to eliminate any possible misunderstanding and grant clear authority to local government to bill on this basis.

### **Adopt Section 2013**

This section is added to provide clarifying regulations for the adoption of emergency preparedness plans in parks. Senate Bill 23 (Stats, 2009 Ch. 551) amended HSC section 18871.8 and required parks to adopt and notify the residents of an emergency preparedness plan by September 10, 2010. This legislation also requires the enforcement agency to determine if a park is in compliance with the requirements. The statutory requirements include providing notice to all existing and new residents on how to access the plan and information on individual emergency preparedness information from the appropriate state or local agencies. This may be accomplished in a manner that includes, but is not limited to, distribution of materials and posting notice of the plan or information on how to access the plan via the Internet. The statutorily referenced

standard entitled “Emergency Plans for Mobilehome Parks”, and compiled by the former Office of Emergency Services in compliance with the Governor’s Executive Order W-156-97, requires a plan to contain certain minimum requirements. A thorough review of the booklet revealed that a plan would need to include at least the items listed under subsection (d) for a plan to be comparable to the plans and procedures contained in the booklet. Additionally, subsection (e) is added to clarify the legislative intent contained in SECTION 1 of the new law that it is not the park management’s responsibility to physically evacuate residents, but to only inform the residents how to prepare themselves and that residents will take personal responsibility for themselves.

**Amend Section 2018**

**Subsection (d) Paragraph (6)** is amended by deleting the definition of a “surcharge”. This is necessary because this definition not only conflicts with the long-standing and universally accepted definition of a surcharge contained in the building code, but does not adequately provide the soil retention requirements necessary for construction within the retained soil area. It is also deleted to maintain consistency with the accepted requirements to which all inspecting agencies are familiar.

**Adopt Section 2052**

This section is added to provide specific procedures necessary to make a park inoperative upon an owner’s decision to close the park and cease operation. These requirements are in addition to those which may be imposed by a local government pursuant to its land use and zoning authority or pursuant to Government Code section 65863.7, or by a local utility or other local district. This is necessary in general because (a) there may be a multitude of different requirements from different local governments and districts which may be in conflict or inadequate; (b) failure to properly make the park inoperative may result in persons squatting or otherwise inappropriately using the park; and (c) clear standards are necessary for an inspection to ensure that the park is inoperative.

**Subsection (a)** is added to define that the steps to ensure the park management is incapable of renting lots.

**Subsection (a) Paragraph (1)** is added to require the disconnection of utilities by the service provider. This is necessary because the service provider will not reenergize the utility for any part of the park unless it obtains approval from the enforcement agency.

**Subsection (a) Paragraph (2)** is added to ensure the lot utilities cannot be reused within the park.

**Subsection (a) Paragraph (3)** is added to require that all sewer connections are sealed to prevent the escape of sewer gases from the vacant lots.

**Subsection (a) Paragraph (4)** is added to ensure septic systems are safely abandoned in accordance with local health department requirements because local health departments are responsible for septic system standards.

**Subsection (a) Paragraph (5)** is added to provide the enforcement agency with the means to physically verify that the park is indeed vacant and unusable as a park. This is necessary because a physical inspection is the only way to actually verify the condition of the park.

**Subsection (b)** is added to require local enforcement agencies where parks have closed to notify HCD within 30 days of their verification that the park is closed. This is necessary because HCD maintains records on all parks and provides information to all parks whether they are under its authority or not. Unless HCD is informed in a timely manner that a park is closed, the statewide records will not be accurate.

**Subsection (c)** is added to clarify that once a park is closed, it ceases to be a park. If the owner proposes to reopen a closed park the same procedures and local approvals for creating a park are applicable. New permits and new local approvals are necessary because once a park is closed it is no longer subject to the Special Occupancy Parks Act (HSC Sections 18860 et seq.) and is not under the authority of HCD. Since it is under local land use conditions the only way a local jurisdiction would be aware of the change in use back to a park is through their approval process.

#### **Amend Section 2104**

**Subsection (c) Paragraph (1)** of this section is amended to reflect the change to the applicable building code. This change is necessary to correct the reference for one and two family dwellings, including manufactured home installations and their accessory structures to the California Residential Code contained in the CCR, Title 24, Part 2.5, which becomes effective January 1, 2011.

#### **Amend Section 2118**

This section is amended by removing the current subsection (c); the reference to truck campers being occupied off a vehicle. It is being deleted because of the addition of the following section 2119 that thoroughly covers the issue.

**Subsections (d) through (i)** have been re-lettered because of the above deletion.

#### **Adopt Section 2119**

This section is added to provide regulations for the occupancy of truck campers off the vehicle. In the 2009 legislative session, Senate Bill 166 was introduced and was passed by the Legislature. However, it was vetoed by the Governor with the following message:

*The Department of Housing and Community Development has the authority to adopt regulations for special occupancy parks. Any change in this area in regards to dismantled campers should be handled via this process.*

Since the intent of the Legislature and Governor is to have HCD adopt regulations regulating truck camper occupancy when removed from the vehicle, it is introducing this language. The requirements are substantially the same as that approved by the Legislature. It is being added to the mobilehome park regulations as well as the special occupancy park regulations because the same provisions are in both chapters and truck campers are permitted in both mobilehome and special occupancy (RV) parks.

**Section 2119 heading** is added to identify the contents of this section.

**Section 2119 opening paragraph** is added to clarify that no one may occupy a truck camper off its vehicle unless specific conditions are met. This is necessary to clearly identify when a truck camper off its vehicle may be occupied and that all the conditions must be met for that to happen.

**Subsection (a)** is added to provide that park management has the ultimate discretion in allowing a truck camper to be occupied off its vehicle. This is necessary because only the management of the park is aware of the conditions present within the park area and to allow management the authority to govern their own park. In addition, park management has the obligation under the MPA and SOPA to ensure that all requirements of those Acts are complied within a park.

**Subsection (b)** is added to require four permanently mounted jacks on the corners of the truck camper that are capable of adequately supporting the camper and the occupants. This is necessary to provide stability for the camper. Often campers are put on a vehicle with temporary jacks, which are not stable enough for the camper to be occupied and permanently mounting the jacks provides a stable secure base for the mounting. If a jack were to fail, the falling truck camper could injure not only its occupants but other occupants or visitors in the park.

**Subsection (c)** is added to specify what minimum standard is required for a stable footing under the jack. This is necessary to prevent the jack base, which is typically only a couple of inches in diameter, from sinking into the ground and making the camper unstable. A 64 square inch (e.g., 8 inches by 8 inches) footing is sufficient in size to prevent the jack from sinking into any type of soil. The reference to section 2334 subsection (e) relates to the materials and dimensions for wood footings for manufactured homes on piers. This is necessary to ensure the quality and condition of the footings so they will adequately support the loads.

**Subsection (d)** is added to require the camper to be lowered immediately after taking it off the vehicle. This is necessary to provide additional stability and limit damage or injury in the event of a jack failure. The 12 inch maximum height will provide good stability for the jacks and the six inch minimum will maintain the minimum clearance necessary for the distance of untreated lumber (the camper construction) from the ground as required by the section 317.1 of the California Residential Code for one- and two-unit structures. The requirement that the camper be reasonably level is to ensure even weight distribution on the four jacks and prevent overloading of any one particular jack.

**Subsection (e)** is added to limit the time a truck camper is allowed to remain in the park off its vehicle. This is necessary because truck campers are not designed to be occupied for extended periods off the vehicle. A thirty-day period was selected because this is the period allowed for a camping party to occupy a campsite in the SOPA (HSC Section 18862.7), and occupation of a truck camper is more analogous to occupying a campsite than a mobilehome park space. Depending on the nature of the park, if the

park operator requires occupancy for lesser periods, this regulation allows the park operator to do so.

**Subsection (f)** is added to ensure the owner or occupant of a truck camper that is off its vehicle has a capacity to remount the camper. This is necessary so that if the camper becomes unstable, or must be moved from the park there is a readily available, operable vehicle on which to promptly remount the truck camper.

**Authority and Reference** is added to indicate the authority to adopt this regulation and the references to the applicable sections of HSC. This is necessary to clarify HCD's authority and provide references for the regulation.

### **Amend Section 2211**

**Subsection (e)** is added to require LPG vessels be secured to prevent accidental overturning of the tank. This requirement was previously contained in section 1666 of the regulations prior to the rewrite performed in 2004. At that time the deletion of this section, the reference to tank locations contained in the California Fire Code (CFC) was thought to provide similar safety provisions. However, while the CFC does provide greater safety provisions for tank locations than the previous HCD regulation, there is no provision to prevent the accidental overturning of smaller tanks located on lots. The requirement to secure tanks is necessary to reduce the risk of fire from a tank tipping over, damaging or disconnecting the gas connector, and unsafely discharging gas.

**Subsection (f)** is added to require that tanks in floodplains be anchored to prevent flotation in the event of a flood. This is necessary because LPG tanks in flood prone areas could cause catastrophic problems if not anchored. If a tank is not anchored and a flood occurs, not only may the tank break its own gas connections, but could cause additional hazards as it floats to other locations.

### **Amend Section 2230**

**Subsection (c)** is added to clarify that the park operator is responsible for maintaining the gas system in a park under his/her ownership and control in good operating condition. This identical language had been in the regulations prior to the rewrite in 2004. Because many parks have and are transferring their gas systems to the serving utility, it is necessary to reinstate the language to eliminate any question whether the park operator is responsible for maintaining a "park-owned" gas system.

### **Amend Section 2334**

**Subsection (a)** is amended to remove the outdated references to the old building code. Additionally, the reference is unnecessary and may cause confusion because the rest of the section clearly defines the design and testing requirements for support piers for manufactured homes.

**Subsection (d)** is amended by updating the standard soil rating from 1,000 pounds per square foot (psf), to 1,500 psf. This is necessary to bring this section into compliance with the standard soil ratings of the California Residential Code; the standard which all inspecting agencies reference.

**Amend Section 2346**

**Subsection (c)** is amended to reflect the change to the applicable building code. This change is necessary to correct the reference for one and two family dwellings, including manufactured home installations and their accessory structures to the California Residential Code contained in the CCR, Title 24, Part 2.5, which becomes effective January 1, 2011.

**Subsection (d) and Subsection (d) Paragraphs (1) and (2)** are added to address skirting on units and/or accessory structures located in a designated floodplain. This requirement is taken from the Code of Federal Regulations, Title 44, Part 60, Section 60.3(c)(5), which provides the identical provisions. Because the federal regulations are more difficult to obtain, it is necessary to duplicate the regulation here making it easier for the user to locate the exact criteria.

**Amend Section 2426**

This section is amended to reflect the changes to the applicable building code. The adoption of the California Residential Code required amending the referenced sections.

**Subsection (a)** is amended to exclude provisions of this referenced code that are already preempted by either the Special Occupancy Parks Act (HSC Sections 18860 et seq.) or its adopted regulations contained in this chapter.

Section R327.3.6 is preempted by HSC Section 18865.6, which already addresses alternate methods of construction within parks.

Section R327.1.5 is preempted by HCD's authority in HSC Section 18871.10 (maintenance, use, and occupancy) and HSC 18873.5 (fire protection), and section 2120 of this chapter.

Section R327.2 (definition of a Fire Protection Plan) is excluded because it states that only local ordinances shall apply and this is preempted by and conflicts with HSC Section 18865 that specifically states the Special Occupancy Parks Act supersedes all local ordinances applicable to the Act.

**Subsection (b)** is amended to reflect the change to the applicable building code. This change is necessary to correct the reference for one and two family dwellings, including manufactured home installations and their accessory structures to the California Residential Code contained in the CCR, Title 24, Part 2.5, which becomes effective January 1, 2011.

**Amend Section 2429**

**Subsection (a)** is amended to reflect the change to the applicable building code. This change is necessary to correct the reference for one and two family dwellings, including manufactured home installations and their accessory structures to the California Residential Code contained in the CCR, Title 24, Part 2.5, which becomes effective January 1, 2011.

**Amend Section 2432**

**Subsections (a) and (b)** are amended to reflect the change to the applicable building code. This change is necessary to correct the reference for one and two family dwellings, including manufactured home installations and their accessory structures to the California Residential Code contained in the CCR, Title 24, Part 2.5, which becomes effective January 1, 2011.

**Subsection (c)** is amended by updating the standard soil rating from 1,000 pounds per square foot (psf), to 1,500 psf. This is necessary to bring this section into compliance with the standard soil ratings of the California Residential Code; the standard all inspecting agencies reference.

**Amend Section 2468**

**Subsection (a)** is amended to reflect the change to the applicable building code. This change is necessary to correct the reference for one and two family dwellings, including manufactured home installations and their accessory structures to the California Residential Code contained in the CCR, Title 24, Part 2.5, which becomes effective January 1, 2011.

**Amend Section 2474**

**Subsection (f)** is amended to reflect the change to the applicable building code. This change is necessary to correct the reference for one and two family dwellings, including manufactured home installations and their accessory structures to the California Residential Code contained in the CCR, Title 24, Part 2.5, which becomes effective January 1, 2011.

**Subsection (i)** is added for clarify. Since this section defines the requirements for awning enclosures this subsection is added to remind users of the exiting and exit lighting requirements contained in section 2429 of this chapter.

**Amend Section 2498**

**Subsection (a)** is amended to reflect the change to the applicable building code. This change is necessary to correct the reference for one and two family dwellings, including manufactured home installations and their accessory structures to the California Residential Code contained in the CCR, Title 24, Part 2.5, which becomes effective January 1, 2011.

**Amend Section 2500**

This section is amended to reflect the change to the applicable building code. This change is necessary to correct the reference for one and two family dwellings, including manufactured home installations and their accessory structures to the California Residential Code contained in the CCR, Title 24, Part 2.5, which becomes effective January 1, 2011.

**Amend Section 2502**

This section is amended to reflect the change to the applicable building code. This change is necessary to correct the reference for one and two family dwellings, including

manufactured home installations and their accessory structures to the California Residential Code contained in the CCR, Title 24, Part 2.5, which becomes effective January 1, 2011.

**Amend Section 2504**

**Subsection (d)** is amended to reflect the change to the applicable building code. This change is necessary to correct the reference for one and two family dwellings, including manufactured home installations and their accessory structures to the California Residential Code contained in the CCR, Title 24, Part 2.5, which becomes effective January 1, 2011.

**Amend Section 2506**

Subsection lettering has been added to distinguish the existing subsection (a) from the newly added subsection (b).

**Subsection (a)** is amended to reflect the change to the applicable building code. This change is necessary to correct the reference for one and two family dwellings, including manufactured home installations and their accessory structures to the California Residential Code contained in the CCR, Title 24, Part 2.5, which becomes effective January 1, 2011. This subsection is also amended to clarify that the provisions of this chapter take precedence over the referenced California Residential Code.

**Subsection (b)** has been added to clarify that a personal residential ramp on a lot may have a slope of one unit vertical for each eight units horizontal. The California Building Code, section 1010.2 allows pedestrian ramps to have a ratio of one to eight and section 311.8.1 of the International Residential Code, currently going through the adoption process for California, also allows ramps with a slope ratio of one to eight. This is necessary because on most lots in parks it is difficult to provide greater ratios resulting in longer slopes. Greater slopes would render a ramp infeasible and force homeowners to purchase expensive wheelchair lifts to access their homes.

**Amend Article 10 Heading**

**Article 10 heading** is amended to reflect the current contents of the Article. It is necessary to delete the reference to "Hearings" in the title of this Article because all the hearing procedures have been relocated to Article 11.

**Amend Section 2612**

**Subsection (a) Paragraph (1)** is amended to add "notice of violation" to a "notice of violation or notice to abate the violation" to clarify that the appeals procedures in Article 11 will apply to both actions. Because several sections relating to procedures to abate a nuisance in Article 10 are being repealed and moved to Article 11, that addresses solely maintenance violations, the change is needed to put the regulated public on notice on what administrative procedures are applicable based on what type of notice that is issued. This is necessary to ensure that a notice of violation is treated as interchangeable with a notice to abate, as Article 10 refers to abatement notices and Article 11 refers to notice of violations. The consolidation of parts of Article 10 into Article 11 centralizes the hearing procedures for all matters that require a hearing.

**Subsection (a) Paragraph (1) Subparagraph (F)** amends section “2613” to section “2756” because of the consolidation of all hearing procedures into Article 11. It cross-references the definition of “hearing” in section 2002 to provide clear guidance to the regulated public as to the nature of the hearing and the type of hearing procedures to be applied. It adds the condition precedent for a hearing, “only if after an informal conference has been completed or denied” as a clarification, to be consistent with the current identical requirements in subsections (a) and (b) of section 2756; placing it in this subparagraph makes it clearer to the regulated public that requesting an informal conference is a condition precedent to an informal hearing.

**Subsection (a) Paragraph (2)** is amended to delete the reference of providing notice “to the legal owner of the property as shown on the last equalized assessment roll” because providing notice to the “cited person” results in notice being provided to either the property owner or the person who is hired by the property owner to take care of the business of operating a park. There is no necessity to incur the cost or time to provide an additional, notice to the legal property owner, which could result in confusion as well.

**Subsection (a) Paragraph (3)** is deleted because there is no need for enforcement agencies to create and file affidavits certifying to the time and manner of notice or keeping files of receipt cards acknowledging receipt of the notice. The US Postal Service is a reliable means to achieve service, and this information commonly is preserved in a park’s file as a business practice because of the enforcement agency personnel’s understanding of the time constraints, requirements, and necessity of a complete file.

**Authority and Reference note** is amended to add to the Reference HSC section 188867 (Notice of Violations) and 18868 (Informal Conference with enforcement agency to dispute violation). This is necessary because section 2612 sets forth the regulated public’s rights associated with various departmental actions, which includes the hearing for an unfavorable informal conference decision based on a notice of violation or a notice of abatement or the denial of an informal conference. This is necessary because HCD is consolidating all of the enforcement agency hearing procedures into one Article so that all procedural rights and responsibilities affecting the hearing rights of the affected regulated public are in one section..

### **Repeal Section 2613**

This section is repealed and is moved to Article 11, section 2756 with some amendments. This is necessary because HCD is proposing to consolidate all of the enforcement agency hearing procedures into one Article to simplify notice to the public, to ensure that all hearings follow the same practice and procedures, and to make the procedures as transparent as possible.

**Subsection (a)** is moved to subsection (d) and subsection (d) paragraph (1) of section 2756; the purpose of changes are explained in the explanation of section 2756.

**Subsection (b)** is moved to subsection (d) paragraphs (1) and (2) of section 2756; the purpose of changes are explained in the explanation of section 2756.

**Subsection (c)** is deleted because the hearing procedures and requirements now will be Article 11, commencing with section 2750.

**Subsection (d)** is moved to new subsection (e) of section 2756.

**Subsection (e)** is moved to new subsection (g) of section 2756.

### **Repeal Section 2615**

This section is repealed and moved to Article 11 into proposed new section 2757, with changes that are explained in the explanation for new section 2757. This is necessary because HCD wants to place all hearing procedures in one regulatory scheme and centralizing those procedures into one Article of the regulations is the most efficient way to achieve its goal. The effect of centralizing the hearing procedures into one Article will simplify the hearing procedure process, reduce confusion to the regulated public as to the necessary steps to access the administrative process which will make the use of the hearing process more accessible to the public, provide clarity on the type of hearing procedures to be applied and make all hearing procedures transparent.

### **Repeal Section 2616**

This section is repealed and the language is proposed to be moved to a newly added section 2759 in Article 11 with only one minor language change as explained in that section. This move is necessary because section 2616 addresses the timeline to appeal to any court of competent jurisdiction after receipt of the hearing officer's decision. It is necessary to move the appeal rights of a party, following a hearing, into the same Article as the hearing procedures to be consistent in the goal of consolidation and simplifying notice to the public of the entire hearing process.

### **Amend Section 2618.**

**Subsection (a)** of this section is amended to add "or abate a nuisance" since this term generally is used interchangeably with "correct a violation". It is added here to ensure that there is no confusion that the provisions of this section applies to activity related to either a "notice to abate a nuisance" or a "notice to correct" a violation.

### **Amend Article 11 Heading**

**Article 11 heading** is amended to reflect the current contents of the Article. It is necessary to delete the reference to "Formal Appeals" and add "Hearings Procedures" in the heading of this Article because all the hearing procedures have been relocated to this article. The term "formal" is removed because "hearing" is a defined term which means the hearing practices which are consistent with the informal hearing procedures of the Administrative Procedures Act, Government Code sections 11445.10, et seq. This change is necessary to clarify the application and scope of this Article because HCD is proposing a consolidation of all of its hearing procedures into one Article.

### **Amend Section 2750**

**Subsection (a)** is amended by deleting the words "informal and formal". This is necessary because this article relates to all the hearing procedures, one of which is an informal conference and thereafter, a "hearing". The term "formal" is removed because "hearing" is a defined term which means the hearing practices which are consistent with

the informal hearing procedures of the Administrative Procedures Act, Government Code sections 11445.10, et seq. This change is necessary to clarify the application and scope of this Article because HCD is proposing a consolidation of all of its hearing procedures into one Article. The procedure for addressing abatement orders was found in Article 10 and is now proposed to be moved to Article 11. This will avoid much confusion and streamline the enforcement agency hearing process as applied to the regulated public.

This subsection also is amended by adding language to clarify that a “notice of violation” is either an “order for abatement of a violation” or an “order to correct the violation” because those terms generally are used interchangeably in the statutes and these regulations. In addition, those notices may apply not only to violations of this chapter or HSC, but also to any other applicable provision of law. For example, if a fire department issues a notice of violation pursuant to section 18691 of HSC related to a violation of the local fire code, this also may be a violation of this chapter. Similarly any work undertaken pursuant to subdivisions (a) and (b) of section 18870 of HSC must meet applicable local health and floodplain requirements, and a violation of that obligation also may be enforced as a violation of the Special Occupancy Parks Act.

The language “pursuant to section 18867 of the Health and Safety Code” is deleted in this subsection. This is necessary because violation notices are not limited to being cited under section 18867; as noted in the preceding paragraph, violations may arise based on violations of other codes and/or may be violations of other portions of the Parks Act.

**Subsection (b)** is amended by deleting the words “informal and formal”. This is necessary because this article relates to all the hearing procedures, one of which is an informal conference and thereafter, a “hearing”. The term “formal” is removed because “hearing” is a defined term which means the hearing practices which are consistent with the informal hearing procedures of the Administrative Procedures Act, Government Code sections 11445.10, et seq. This change is necessary to clarify the application and scope of this Article because HCD is proposing a consolidation of all of its hearing procedures into one Article. The procedure for addressing abatement orders was found in Article 10 and is now proposed to be moved to Article 11. This will avoid much confusion and streamline the enforcement agency hearing process as applied to the regulated public.

This subsection is also amended by adding “and subsequent hearing”. This is necessary to clarify that a hearing can only occur as an appeal from the results of an informal conference, except as specified in subsection (b) of section 2756, where all conditions precedent to a hearing are set forth in one place to assist the regulated public. Additionally, this subsection is amended by adding the term “notice of abatement” since this term generally is used interchangeably with “notice of violation”. It is added here to ensure that there is no confusion that this section applies to activity related to either a “notice of abatement” or a “notice of violation”. Lastly, this section has grammatical amendments added for clarity.

**Subsections (b) Paragraphs (1) and (2)** propose to add language that provides for an additional express exemption from the general rule that the appeal process does not extend the time specified in the notice of violation allowed to make corrections. The additional language specifies that the time to correct may be extended up to either the date of the informal conference or the date of the written determination, whichever is the later date, if either of those dates is after the date specified in the notice of violation. It also provides that the time to correct after an informal conference determination may be extended up to the date of the later of the hearing or its termination if either of those dates is after the date specified in the informal conference order. This change is necessary because under existing regulations, all conferences and appeals are timed to occur within the normal 30-day period required for corrections. However, in other proposed amendments to this Article, additional time has been given to the enforcement agency and to appellants to comply with specified hearing procedures, so commensurately additional time is given to the regulated public to comply with the notices of violation, abatement or correction, pending the outcome of the conference or the hearing. This provision is not applicable where violations impose imminent and immediate health and safety threats, as stated in section 2756 subsection (e) since those more serious conditions must be corrected within the shorter timeframe for the public health and safety.

**Subsection (b) Paragraphs (3) and (4)** are renumbered from the previous subsection (b) paragraphs (1) (2) to compensate for the addition of a new subsection (b) paragraphs (1) and (2) as discussed above.

**Subsection (b) Paragraph (4)** also is amended to change section “2756(f)” to section “2757(d)” because of renumbering adopted in that section.

**Authority and Reference note** is amended to add 18871.10 (authority for the adoption of regulations governing use and occupancy.) to the authority and to add HSC section 18866.3 (abatement of a nuisance) and 18866.4 (sufficiency of proof for order of abatement), to the reference note. This is necessary because HCD is consolidating all of the enforcement agency hearing procedures into one Article to simplify notice to the public and to ensure that all hearings follow the same practice and procedure and to make the procedures as transparent as possible.

### **Amend Section 2752**

**Subsection (a)** is amended to clarify that the informal conference process is available to any “cited” person, a defined term, who is required to respond to a notice of violation for a violation of Chapter 2.2, the applicable HSC or any other applicable provisions of law. This is necessary because prior to this amendment, the informal conference was only available for maintenance violations. Following the consolidation of the abatement procedures from Article 10 to Article 11, the authority to request an informal conference must be expanded to include notices of abatement and other correction notices based on Chapter 2.2, other HSC violations, and any other provision of the law that is applicable. It is because appeals for all violations now are included in Article 11, this authority to request an informal conference must be expanded.

Additionally, the language “issued pursuant to section 18867 of the Health and Safety Code” is deleted from subsection (a). This is necessary because violation notices are not limited to being cited under HSC section 18867. Other entities, such as a court or hearing officer may issue notices to correct a violation or abate a nuisance, and other sections of the Special Occupancy Parks Act may be violated as well.

**Subsection (e)** is amended to change the number of days the enforcement agency has to respond to a written request for an informal conference. The change is from three (3) working days to seven (7) working days. This is necessary because HCD has reduced staff and has assumed jurisdiction over many mobilehome parks previously subject to local enforcement agencies; these factors reduce the personnel hours available at any given time to schedule and then inform appellants of informal conferences. Local government enforcement agencies, which are subject to these hearing procedure requirements, have similar staffing difficulties. This does not harm the regulated public since the date for compliance is extended in the amendments to section 2750 to the later of date of the informal conference or the determination from that conference.

An additional amendment in subsection (e) is the change in the number of days that the enforcement agency has prior to conducting an informal conference following receipt of the written request. The change is to lengthen this period from fifteen (15) working days to twenty-one (21) working days. This is necessary because HCD has reduced staff and has assumed jurisdiction over many mobilehome parks previously subject to local enforcement agencies; these factors reduce the personnel hours available at any time to conduct informal hearings. Local government enforcement agencies, which are subject to these hearing procedure requirements, have similar staffing difficulties. Again, this does not harm the regulated public since the date for compliance is extended in the amendments to section 2750 to the later of date of the informal conference or the determination from that conference.

**Subsection (f) Paragraph (2)** is amended to reflect the number of days changed in subsection (e) from fifteen (15) days to twenty-one (21). This is necessary because the subsection simply reiterates the new timelines stated in the amendments to subsection (e).

**Authority and Reference note** is amended to add to the Reference HSC section 18866.3 (abatement of a nuisance) and 18866.4 (sufficiency of proof for order of abatement). This is necessary because HCD is consolidating all of the enforcement agency hearing procedures into one Article to simplify notice to the public and to ensure that all hearings follow the same practice and procedure and to make the procedures as transparent as possible.

#### **Amend Section 2754**

**Subsection (b)** is amended to lengthen the number of days from five (5) to ten (10) working days that the enforcement agency has to provide a written determination following the informal conference. This is necessary because HCD has reduced staff and has assumed jurisdiction over many mobilehome parks previously subject to local enforcement agencies; these factors reduce the personnel hours available at any given time to prepare and provide written determinations after informal conferences. Local

government enforcement agencies, which are subject to these hearing procedure requirements, have similar staffing difficulties. This does not harm the regulated public since the date for compliance is extended in the amendments to section 2750 to the later of date of the informal conference or the determination from that conference

**Authority and Reference note** is amended to add to the Authority HSC section 18871.10 (authority to adopt regulations governing use and occupancy) and to add to the Reference HSC section 18866.3 (abatement of a nuisance), 18866.4 (sufficiency of proof for order of abatement), and 18871.10 (adoption of regulations governing use and occupancy.) This is necessary because HCD is consolidating all of the hearing procedures into one Article to simplify notice to the public and to ensure that all hearings follow the same practice and procedure and to make the procedures as transparent as possible.

### **Amend Section 2756**

**Section 2756 heading** is amended to add “Hearing: Appeal” in order to support consistent use of the term “Hearing” and to clarify that the section is intended to explain about an appeal of an informal conference decision.

**Subsection (a)** is amended to incorporate some of the provisions of section 2613 subsection (a), which is being repealed. It adds the term “cited person” because that is the term utilized in other related regulations and is a defined term in this chapter. It also adds language clarifying that the article applies to both “abatement” and “correction” notices, since these terms generally are used interchangeably. It further adds that the procedures apply to violations of this chapter, HSC, or any other applicable provision of law. This ensures that the regulated public has access to an administrative appeal for any violation rather than merely maintenance violations, including violations originating in any part of the Parks Act or other laws and ordinances enforced under the Parks Act. This reduces the cost to both the public and department that would be incurred if courts were the only source of appeal for a cited person or entity. The language “issued pursuant to section 18867 of the Health and Safety Code” is deleted. This is necessary because violation notices are not limited to being cited under HSC section 18867. Other entities, to include a court or hearing officer may issue notices to correct a violation or abate a nuisance.

The amendments to subsection (a) also substitute “authorized representative” for “person in charge” of the enforcement agency. This change is necessary because of the wide variety of enforcement agencies, some of which may have designated hearing officers and others may have senior managers. In addition, “person in charge of the enforcement agency” is unclear since that could mean either a senior manager or HCD director, and in a city, could mean a building department director or a city manager. Additionally, informal conferences typically occur at the location of the violation making it difficult for the “person in charge” to appear. Utilizing an authorized representative for informal conferences allows a quick resolution of a violation notice that often resulted from misunderstandings or the lack of knowledge of the applicable law or regulation. This again reduces costs to both the regulated public and the enforcement agency. This also is the terminology used in section 2613 subsection (a), which is being repealed and moved to this section.

The amendments in subsection (a) also delete “petition for a formal [hearing]” and insert “request a [hearing]”. The term “formal” is removed because “hearing” is a defined term which means the hearing practices which are consistent with the informal hearing procedures of the Administrative Procedures Act, Government Code sections 11445.10, et seq. The term “request” replaces “petition” to reinforce that this is an informal hearing.

**Subsection (b)** deletes the term “formal” and substitutes “hearing request” for “petition”. The term “formal” is removed because “hearing” is a defined term which means the hearing practices which are consistent with the informal hearing procedures of the Administrative Procedures Act, Government Code sections 11445.10, et seq. The term “hearing request” replaces “petition” to reinforce that this is an informal hearing.

**Subsection (b) Paragraph (2)** is amended to extend the time from five (5) days to ten (10) days for a person to request a hearing. This is necessary for fairness to provide the same time allotted to request a hearing after an informal conference determination, as is allotted after the denial of an informal conference in subsection (b) paragraph (1).

Subsection (b) paragraph (2) is also amended by adding the language “and request for a hearing”. This is necessary to condition the request for a hearing to the violations disputed during the informal conference. This is to prevent the introduction of additional violations or items that have not been addressed through the informal conference procedure in order to ensure effective use of staff and regulated public time. Additionally, the conjunction “or” has been added to this subsection to allow the addition of subsection (b) paragraph (3) as part of subsection (b)’s procedures and requirements.

**Subsection (b) Paragraph (3)** is added to consolidate the hearing request process for all potential hearings and to expressly include the hearings provided for when HCD issues a notice of intent to suspend a permit to operate, issued pursuant to section 18870.12 of HSC. This is necessary because HCD is consolidating the entire enforcement agency hearing procedures into one Article to simplify notice to the regulated public, to ensure that all hearings to follow the same practices and procedures and to make the procedures as transparent as possible. In addition, HCD currently provides these hearings using the informal hearing process. However, because Government Code section 11445.20(c) expressly requires that the agency expressly authorizes the use of an informal hearing by regulation, and because local enforcement agencies may need clearer authority to utilize informal hearings for these purposes, the permit suspension and earthquake resistant bracing system appeals are expressly included in the regulation amendments.

**Subsection (c) and Subsection (c) Paragraphs (1) through (4)** amends the word “petition” to “hearing request” and the word “petitioner” to “appellant” because of the consolidation of all hearing procedures into Article 11, and because this section no longer deals with “petitions.” These proposed changes eliminate the use of “petitions” and converts all references to a “request for a hearing.” This is consistent with clarifying that the hearings subject to this article are informal hearings as set forth in Government

Code section 11445.20(c), and “petition” or “petitioner” could connote a more formal process.

**Subsection (d)** amends the word “petition” to “a hearing request from a cited person or entity” and the word “petitioner” to “appellant” because of the consolidation of all hearing procedures into Article 11, and because this section no longer deals with “petitions.” These proposed changes eliminate the use of “petitions” and convert all references to a “hearing request.” In addition, the addition of “request for a hearing from the cited person or entity” and “scheduled time and place” are moved from subsections (a) and (b) of section 2613 in order to add clarity to this subsection.

Subsection (d) is also amended by deleting the word “formal”. This is necessary because the enforcement agency is only providing an informal hearing, not a formal hearing. The term “formal” is removed because “hearing” is a defined term which means the hearing practices which are consistent with the informal hearing procedures of the Administrative Procedures Act, Government Code sections 11445.10, et seq.

Language is also added directing the enforcement agency to provide a copy of the agency’s informal hearing procedures to the appellant and notify the appellant that the informal hearing procedures set forth in Government Code section 11445.40 will be applied at the hearing. This is necessary because of the streamlining and consolidation of all of the hearing procedures into one Article. The providing of the notice of the selection of an informal hearing is required by Government Code section 11430 division (a), and providing the procedures is required by Government Code section 11425.10 division (a) subdivision (2). Adding the express requirement ensures that the regulated public (appellant) understands the source of this additional information.

**Subsection (d) Paragraph (1)** is added to include language directing the enforcement agency to provide a written notice of the scheduled date and time of the informal hearing within fifteen (15) working days of the receipt of the request (this requirement and timeframe previously was not specified). This is necessary to provide a definitive timeline to schedule the hearing so both the enforcement agency and the regulated public may prepare for the hearing. The time of 15 days was selected because, unlike the informal conference, the hearing requires a higher level management hearing officer and the scheduling of such a person, enforcement agency legal counsel, and any additional parties sought by the appellant may take more time than the seven-day period allowed for an informal conference.

**Subsection (d) Paragraph (2)** is the previous subsection (d) paragraph (1) that has been renumbered because of the addition of the new subsection (d) paragraph (1). It is amended by deleting the word “formal” because the enforcement agency is only providing an informal hearing, not a formal hearing. The term “formal” is removed because “hearing” is a defined term which means the hearing practices which are consistent with the informal hearing procedures of the Administrative Procedures Act, Government Code sections 11445.10, et seq.

Additionally, subsection (d) paragraph (2) is amended by changing the commencement date of the hearing from ten (10) to fifteen (15) working days. This change is necessary

because HCD has reduced staff and has assumed jurisdiction over many mobilehome parks previously subject to local enforcement agencies; these factors reduce the personnel hours available at any given time to schedule, prepare and provide written notice of the date and time of informal hearings. Local government enforcement agencies, which are subject to these hearing procedure requirements, have similar staffing difficulties. This does not harm the regulated public since the date for compliance is extended in the amendments to section 2750 to the later of date of the informal conference or the determination from that conference.

**Subsection (d) Paragraphs (3) and (4)** are renumbered because of the addition of subsection (d) paragraph (1). These paragraphs amend the word "petitioner" to "appellant" because of the consolidation of all hearing procedures into Article 11, and because this section no longer deals with "petitions", as discussed above. These proposed changes eliminate the use of "petitions" and converts all references to a "hearing request". A reference to the enforcement agency is added so the appellant knows where to file the request for a postponement. They are amended by deleting the word "formal" because the enforcement agency is only providing an informal hearing, not a formal hearing. The term "formal" is removed because "hearing" is a defined term which means the hearing practices which are consistent with the informal hearing procedures of the Administrative Procedures Act, Government Code sections 11445.10, et seq.

**Subsection (e)** current language is repealed and is moved to the proposed added section 2757 in Article 11 with some amendments. This is necessary because HCD wants to consolidate the entire enforcement agency hearing procedures into one section to simplify notice to the public, to ensure that all enforcement agency hearings follow the same practices, and procedures and to make the procedures as transparent as possible.

New language is added to clarify that a hearing will not be permitted or a request for a hearing shall not extend the time for correction of a violation if the cited violation constitutes an imminent hazard representing an immediate risk to life, health and safety of persons or property. This is necessary because each enforcement agency, in achieving its mission, must protect against imminent hazards and immediate risk to life, health and safety of persons and property, and to permit an uncorrected violation to stand pending a hearing that could be delayed up to fifty (50) days would pose an unreasonable health and safety risk to the public. This is the same standard that was used in deleted section 2613, subsection (d), which is moved into this subsection.

**Subsection (f)** is repealed and replaced by new language. The new language is added to include language that limits the authority of any enforcement agency to initiate any judicial or administrative action related to the defect or defects appealed until after the hearing. This is similar to the language which was in deleted section 2613, subsection (b), but the proposed language only precludes the enforcement agency from "initiating" such an action. This is necessary because it is not prudent to provide an administrative remedy i.e., the informal hearing, but at the same time allow the administrative enforcement agency to initiate judicial or administrative action on the same defect or defects. Allowing such additional actions would interfere with judicial and

administrative office economy and public policy of remedying matters in lieu of litigation, as well as unnecessarily requiring the regulated public to defend itself concurrently in two arenas. On the other hand, the prior language in subsection (b) of section 2613 to allow the “receipt of a request for hearing” to “postpone” judicial or administrative action by an enforcement agency might be interpreted to preclude a public prosecutor representing an enforcement agency (e.g., Attorney General or distinct attorney) from commencing any action related to the park, even if the authority to commence such an action emanated from laws other than the Parks Act (e.g., criminal violations, health code violations, etc.); the Parks Act does not provide authority for the Parks Act enforcement agency to preclude other administrative or judicial actions.

This new subsection also provides that an action may be commenced related to a defect if the defect cited is an imminent hazard representing an immediate risk to life, health, and safety of persons or property. This is necessary because the enforcement agency, in achieving its mission, must protect against imminent hazards and immediate risk to life, health and safety of persons and property, and to permit an uncorrected violation to stand pending a hearing that could be delayed up to fifty (50) days posing an unreasonable health and safety risk to the public.

**Subsection (g)** is added to include language that provides the enforcement agency with discretion to continue abatement proceedings against a cited person when the cited person was personally served with the notice of violation but failed to request a hearing within ten (10) days following the personal service. This is carried over from deleted subsection (e) of section 2613 and is necessary because the enforcement agency does not want to have uncorrected defects linger and due to staff limitations and time, if the cited person does not exercise its right to have an informal hearing, the enforcement agency wants to use staff time effectively to require compliance.

**Authority and Reference note** is amended to add to the Authority HSC section 18871.10 (authority to adopt regulations governing use and occupancy) and to add to the Reference HSC section 18866.3 (abatement of a nuisance), 18866.4 (sufficiency of proof for order of abatement), and 18871.10 (adoption of regulations governing use and occupancy.) This is necessary because HCD is consolidating all of the hearing procedures into one Article to simplify notice to the public and to ensure that all hearings follow the same practice and procedure and to make the procedures as transparent as possible. Additionally, section 2613 relied on these sections for authority and since the section 2613 language is moved to section 2756 the references need to be transferred.

**Adopt Section 2757**

**Section 2757 heading** is added to clearly define what information is covered in the section.

This section is added to provide a comprehensive hearing procedure consistent with the Government Code section 11445.10 et seq., for all enforcement agency hearings related to notice of abatement or notice of violation issued to the regulated public as well as hearing requested following the issuance of a Notice of Violation. The language from section 2615 was transferred to the new section 2757. This is necessary because HCD is consolidating all enforcement agency hearing procedures into one Article to simplify notice to the public, to ensure that all hearings follow the same practice and procedure, and to make the procedures as transparent as possible.

**Subsection (a)** is carried over from deleted section 2615 and is added to detail the hearing procedures to be used by the enforcement agency that are consistent with Government Code section 11445.40. These procedures include the hearing officer's authority to regulate the taking of testimony or the presentation of evidence by the cited person, the property owner or operator or their representative, and any other person with relevant information or testimony; this ensures that the appellant has the opportunity to provide all relevant evidence. The testimony is limited to the identified violations issued by the enforcement agency for efficiency and because only defects addressed by the informal conference are subject to discussion (except where the hearing is in response to a notice to suspend the permit to operate, where no informal conference is required prior to the hearing).

The new subsection (a) requires the enforcement agency to provide all documentation to the hearing officer prior to the hearing in order to reduce reading time during the hearing; the appellant already has received this information. It allows the hearing officer to request similar written information from the appellant to allow the hearing officer to review any complex plans such as blueprints or engineering reports, and requires equal disclosure of evidence to the enforcement agency prior to the commencement of the hearing. These changes are necessary to ensure that all enforcement agency hearings are implemented fairly and equitably across the board and efficiently for all of the regulated public and so that all hearings are consistent with section 11445.40 of the Government Code.

**Subsection (b)** is carried over from deleted section 2615 and is added to detail the appellant's responsibility at the hearing which includes the production of evidence to show cause why the notice of violation should be modified or withdrawn. This may be accomplished by the procedures identified in subsection (b) paragraphs (1) through (4), which are expressly or implicitly required by the Administrative Procedures Act: by calling witnesses, presenting oral or written comments or arguments on the issues and being represented by counsel. The added language also sets forth the hearing officer's responsibilities when presiding over the hearing consistent with section 11445.40 of the Government Code. These changes are necessary to ensure that all enforcement agency hearings are implemented fairly and equitably across the board to all of the regulated public and that all hearings are consistent with section 11445.40 of the Government Code.

**Subsection (c)** is carried over from deleted section 2615 and is added to provide the enforcement agency with the authority to proceed with administrative or judicial action to secure compliance or abatement if the appellant does not appear at the hearing. This is necessary because the enforcement agency cannot permit violations to remain uncorrected and if an appellant fails to appear for the hearing the enforcement agency needs to have avenues to abate the nuisance or correct the violations.

**Subsection (d)** is carried over from the deleted subsection (f) of section 2758 and is added to require that the hearing officer has ten (10) working days after the conclusion of the hearing to provide a final order to the appellant in the form of a written decision which is required to either sustain, modify or withdraw the notice of violation and state the enforcement agency's findings upon which the final order is based. The hearing officer is given the authority to establish new dates and schedules for compliance following the hearing in order to ensure that subsequent administrative enforcement is consistent with the hearing officer's decision. This final order is to be mailed in the first class mail. These changes are necessary to ensure a timely conclusion to the hearing procedures, proper communication of the decision to the appellant and enforcement agency staff, and clear direction on how to proceed subsequently.

**Subsection (e)** is added to provide the enforcement agency or park residents with additional indirect enforcement ability related to compliance with the final hearing order by requiring the posting a copy of the written decision in a conspicuous place on the property or unit. Depending on the nature of the violation(s) and the direction(s) in the hearing officer decision, it may be appropriate for park residents to have knowledge of what can be anticipated in terms of corrections. This is necessary to ensure the hearings and the conclusions or orders are as transparent as possible to the general public, and to assist in enforcement of the hearing officer order.

**Authority and Reference note** is amended to add to the Reference HSC sections 18866.3, 18866.4, 18870.14 and 18871.10 to support the lawful authority for the request for hearing following a decision of an informal conference, denial of an informal conference or a notice of intent to suspend a permit to operate a park. These changes are necessary because HCD is consolidating all of the enforcement agency hearing procedures into one Article to simplify notice to the public and to ensure that all hearings follow the same practice and procedure and to make the procedures as transparent as possible.

### **Amend Section 2758**

**The Heading** of this section is amended to remove the reference to a "formal hearing". The term "formal" is removed because "hearing" is a defined term which means the hearing practices which are consistent with the informal hearing procedures of the Administrative Procedures Act, Government Code sections 11445.10, et seq.

**Subsection (a)** is amended by relocating the language from subsection (a) paragraph (2) to permit a park owner or a registered owner of a unit to request HCD to review and investigate the enforcement activities of the local enforcement agency under specified circumstances including the appropriateness or correctness of a final order from a

hearing. This is necessary to clarify who may file a petition due to the consolidation of the hearing procedures.

**Subsection (a) Paragraph (1)** is amended by deleting the language “pursuant to section 18867 of the Health and Safety Code.” This is necessary because, as previously discussed, violation notices are not limited to being cited under HSC section 18867. Other entities, such as a court or hearing officer may issue notices to correct a violation or abate a nuisance, and other provisions of the Parks Act may be involved.

**Subsection (a) Paragraph (2)** is rewritten to make clearer that a “formal” order is not necessary, since there are no “formal” orders called for during the informal hearing process, but a “final order” is necessary to ensure that the complainant has fully exhausted the local administrative appeal process prior to filing a petition with HCD. The reference to a “formal hearing” is deleted and replaced by “hearing”. The term “formal” is removed because “hearing” is a defined term which means the hearing practices which are consistent with the informal hearing procedures of the Administrative Procedures Act, Government Code sections 11445.10, et seq. This subparagraph is also amended by moving the remainder of the section into subsection (a) above.

**Subsection (b) Paragraph (3)** is amended to make clearer that a “formal” order is not necessary, since there are no “formal” orders called for during the informal hearing process, but a “final order”. Additionally, it is amended to clarify that the “final order” is only required “if a hearing were held”. This is necessary to clarify that only if a hearing were held by the local enforcement agency is it necessary to supply a copy of that final order.

**Subsection (c)** is amended to state that HCD shall deem the petition as a request to exercise its responsibility to monitor local enforcement agencies. This ensures that the regulated public and potential petitioner is clear as to HCD’s role in this section, and that to the petition results in an investigation rather than a hearing. This is necessary because HCD is responsible for ensuring that the various laws under its authority are properly enforced and the amendment provides clearer authority for HCD to investigate the local enforcement agency as part of its monitoring responsibility. Additionally, the reference to “subdivision (d)” of HSC section 18865.7 is deleted. This section was amended by the legislature many years ago and no longer applies. By removing the specific reference, the entire contents of HSC section 18865.7 apply. This is appropriate because this section deals with HCD’s authority to monitor and investigate local government implementation of the Act as a local enforcement agency.

**Subsection (d)** is amended to delete “formal” order (see above for explanation) and to add “or over-enforcement” so that there is no question that these complaints or petitions may investigate any deviation in local enforcement of the park laws and regulations, rather than merely “under-enforcement”. This is necessary because currently, unofficial complaints regarding local enforcement already investigate complaints of both over-enforcement and under-enforcement, and either one is a deviation from proper enforcement.

**Adopt Subsection 2759**

This section is added and the language was transferred from repealed section 2616 with only one language change. The additional language includes the “correction” of a violation as a permissible basis to appeal the hearing officer’s decisions or actions to a court of competent jurisdiction. This is necessary due to the repeal of the abatement regulations and the consolidation of the abatement procedures into the hearing procedures in section 2757.

**Authority and Reference note** is amended to add to the Authority HSC section 18871.10 (authority to adopt regulations governing use and occupancy) and to add to the Reference HSC sections 18865 (general authority to adopt regulations, and 18871.10 (authority to adopt regulations governing use and occupancy) are added to reference the authority to adopt this regulation. Sections 18866.3 (abatement of a nuisance), 18866.4 (sufficiency of proof for order of abatement), 18867 (procedures for issuing violation notices), 18868 (requesting an informal conference), 18870.14 (petition for a hearing) and 18605 (adoption of regulations governing use and occupancy) are added to the Reference note so the user may reference the Health and Safety Code sections relating to the requirements of this section.