

**INITIAL STATEMENT OF REASONS
CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF CODES AND STANDARDS**

**CALIFORNIA CODE OF REGULATIONS
TITLE 25. HOUSING AND COMMUNITY DEVELOPMENT
DIVISION 1.
CHAPTERS 2 and 2.2
SECTIONS 1000 THROUGH 1759, NOT CONSECUTIVE and
2000 THROUGH 2759, NOT CONSECUTIVE
MOBILEHOME AND SPECIAL OCCUPANCY PARKS PROGRAM**

The California Department of Housing and Community Development (HCD) is responsible for promoting safe, affordable homes and vibrant, inclusive, sustainable communities for all Californians. HCD's Division of Codes and Standards (Division) is responsible for developing, administering, adopting, and enforcing uniform statewide housing standards to ensure the health and safety of Californians, to protect buyers from fraud and abuse, and to safeguard the affordability of housing. The Division carries out its responsibilities through various programs.

The Mobilehome and Special Occupancy Parks Programs develop, adopt, and enforce state regulations for the construction, design, use, maintenance, and occupancy of privately owned Mobilehome and Special Occupancy Parks (Parks) throughout California, which assure owners, residents, and users their health, safety, and general welfare. In order to operate Parks, a permit to operate (PTO) must be applied for and issued by HCD.

HCD proposes to amend regulations to obtain the authority to waive the PTO penalty fees when a State of Emergency has been declared.

INFORMATIVE DIGEST

SUMMARY OF EXISTING LAWS AND REGULATIONS

The following are summaries of the existing laws and regulations that relate directly to the proposed regulations:

Mobilehome Parks Act (MPA). HCD is responsible for the enforcement and regulation of minimum health and safety standards inside mobilehome parks (MP). These minimum health and safety standards regulate construction, maintenance, occupancy, use, and design of MPs and are required to guarantee park residents maximum protection of their manufactured home/mobilehome (MH) investment and a decent living environment. These mandates safeguard the habitability and affordability of this housing source.

Special Occupancy Parks Act (SOPA). HCD is responsible for the enforcement and regulation of minimum health and safety standards inside special occupancy parks (SOP). These minimum health and safety standards regulate construction, maintenance, occupancy, use, and design of SOPs and are required to guarantee the safety of park occupants and ensure a decent environment for recreation or temporary occupancy.

Currently, HCD does not have the authority to waive PTO fees. When there is a state of emergency, if there are rent moratoriums in place, Park managers or owners have no resources to assist them with operational fees in the event they are unable to collect rent from park residents. After 30-days, 10-percent penalty fees are added to the PTO and after 60-days, they increase by 100 percent. If the Park owner's PTO falls out of compliance for non-payment of fees, HCD can suspend the parks' PTO. This triggers the parks' inability to collect rent which will further the parks' financial hardships and can potentially lead to health and safety risks or loss of affordable housing.

As a temporary solution to COVID-19 pandemic hardships, the Department proposed emergency regulations which granted HCD the authority to waive PTO penalty fees when a state of emergency is declared. These regulations were approved by the Office of Administrative Law (OAL) in June of 2021. The emergency regulations allow park owners to submit proof of hardship to the HCD to request waiver of penalty fees.

The proposed regulations seek to make the emergency regulations, previously approved by OAL, permanent. These permanent regulations will grant HCD the authority to continue to waive PTO penalty fees, under specific circumstances.

SUMMARY OF SECTIONS AFFECTED

Amend: 1002, 1009, 2002, and 2009

AUTHORITY AND REFERENCE

The authority and reference for this action occurs through both implied and express authority as described below:

Authority

HCD has express and implied rulemaking authority as provided in the MPA under Health and Safety Code sections 18300, 18502.5, 18605, and 18610. HCD similarly has express and implied rulemaking authority as provided in the SOPA under Health and Safety Code sections 18865, 18870.2, 18871.3, and 18872.

Additionally, HCD has express authority, as provided by Health and Safety Code section 50406, subdivision (n), to "do any and all things necessary to carry out its purposes and exercise the powers expressly granted by this division [Division 31, commencing with section 50000]." The Legislature, through the MPA and SOPA, has directed HCD to administer the MPA and SOPA and adopt regulations to interpret and make specific the MPA and SOPA. This includes the adoption of a schedule of fees, construction, and operation of a Park, and the authority to adopt proposed regulations. Finally, HCD is authorized, pursuant to Government Code section 11009.5, to promulgate regulations to waive business license fees in a State of Emergency.

Reference

In proposing these regulations, HCD is implementing, interpreting, and making specific Government Code section 11009.5, and Health and Safety Code sections 18504, 18505, 18506, 18870.5, 18870.6, and 18870.7.

SUMMARY OF EFFECT OF PROPOSED REGULATORY ACTION

Amend Section 1002 Definitions

Subsection (e) is amended to add the definition of “Economic Hardship” and to clarify the applicability of the key terms in the proposed regulation and to ensure applicants are aware of application requirements for a PTO penalty fee waiver. Also, due to the addition of the definition, paragraphs (2) through (14) are renumbered to (3) through (15).

Subsection (s) is amended to add the definition of “State of Emergency” to clarify the applicability of the key terms in the proposed regulation and to ensure applicants are aware of application requirements for a PTO penalty fee waiver. Also, due to the addition of the definition, paragraphs (10) through (15) are renumbered to (11) through (16).

Reference section is amended to add Government Code section 11009.5 because it defines and sets the parameters of the term “state of emergency” and grants authority to create a process to waive fees during such an emergency.

Amend Section 2002 Definitions

Subsection (e) is amended to add the definition of “Economic Hardship” and to clarify the applicability of the key terms in the proposed regulation and to ensure applicants are aware of application requirements for a PTO penalty fee waiver. Also, due to the addition of the definition, paragraphs (1) through (9) are renumbered to (2) through (10).

Subsection (s) is amended to add the definition of “State of Emergency” to clarify the applicability of the key terms in the proposed regulation and to ensure applicants are aware of application requirements for a PTO penalty fee waiver. Also, due to the addition of the definition, paragraphs (10) through (15) are renumbered to (11) through (16).

Reference section is amended to add Government Code section 11009.5 because it defines and sets the parameters of the term “state of emergency” and grants authority to create a process to waive fees during such an emergency.

Amend Sections 1009 and 2009 Permit to Operate Penalty Fees

Subsection (c) is added to authorize state and local enforcement agencies to waive PTO penalty fees when a state of emergency, as defined in this chapter, is declared and park owners experience an economic hardship, as defined in this chapter, due to the declared state of emergency. This is necessary because current regulations do not empower enforcement agencies to waive these fees and waiving these fees during a State of Emergency is necessary to preserve the health and welfare of residents living in such Parks when management is unable collect full rent.

Subsection (d) is added to establish the application process for the PTO penalty fee waiver.

Subparagraph (d)(1) is necessary because it establishes a timeframe in which to submit the application – within one year of the date on which the emergency was proclaimed or

declared. The timeline of one year from date of declared emergency is set because of the regulatory and statutory requirements that need to be met for a PTO to remain in compliance with the Mobilehome and Special Occupancy Parks Acts.

Subparagraph (d)(1)(A) is necessary so that enforcement agency staff can contact the applicant with questions regarding their application and to send written notice of the application's denial or approval. The email address is optional as many of our stakeholders do not have access to email or the internet but is a more efficient way to receive service.

Subparagraph (d)(1)(B) is necessary so that the enforcement agency can determine if the state of emergency had an impact on the park's ability to pay their PTO fees on time. Current statutes and regulations do not allow for the waiver of penalty fees and verifying this information is necessary to ensure the department is meeting their obligation to collect fees to fund the Mobilehome Parks Program.

Subparagraph (d)(2) is necessary so that the enforcement agency can verify the statements made in Subparagraph (d)(1)(B) are accurate and occurred during the time of the state of emergency.

Subsection (e) is added to establish the enforcement agency's review process when in receipt of an application for a PTO penalty fee waiver.

Subparagraph (e)(1) is necessary to ensure the enforcement agency verifies that the park's inability to pay PTO fees was within one-year of the declared state of emergency.

Subparagraph (e)(2) is necessary for the enforcement agency to verify that PTO penalty fees have been assessed and the date they were assessed to ensure the applicant meets the requirements for a penalty fee waiver.

Subparagraph (e)(3) is necessary for the enforcement agency to verify that the PTO penalty fee waiver application has been submitted within the required timeframe.

Subparagraph (e)(4) is added to establish the enforcement agency's review process when in receipt of an application for a PTO penalty fee waiver.

Subparagraph (e)(4)(A) is necessary so that the enforcement agency can verify that there were circumstances created by the state of emergency that had a direct impact on the park's ability to pay PTO fees.

Subparagraph (e)(4)(B) is necessary so that the enforcement agency can verify the statements in Subparagraph (e)(4)(A) are accurate and occurred within the timeframe of the state of emergency and the application period. Subsection (f) is added to describe the enforcement agency's duty to render a decision within thirty (30) days after receipt of a written application. This provision is necessary to ensure that applications are processed in a timely manner to effectively ensure that the mobilehome and special occupancy parks requesting penalty fee waivers are meeting their regulatory and

statutory obligations to have an active PTO. Additionally, it is necessary to explain that applications will only be approved if an applicant satisfies all requirements in subsections (d) and (e) so that applicants understand what they must submit in order to have their penalty fee waived, and also so they understand the consequence of failing to satisfy all such requirements. Finally, it is necessary to convey that the decision on the fee waiver application is final so that applicants understand that there is no opportunity to appeal or resubmit an application that is denied.

Authority section is amended to add Health and Safety Code sections 18870.3 and 50402 because it grants the authority to collect and distribute fees.

Authority section is amended to add Government Code section 11009.5 because it defines and sets the parameters of the term “state of emergency” and grants authority to create a process to waive fees during such an emergency.

Reference section is amended to add Health and Safety Code section 18870.5 and Government Code section 11009.5 because it grants the authority to collect fees and directs the distribution of those fees. Reference section is amended to add Health and Safety Code section 18502.5 because waiving PTO penalty fees will impact the Mobilehome Park and Special Occupancy Park Revolving Fund, by reducing in penalty fees. In sum, the PTO fee waiver will change the Fund mandate in that some PTO fees will be waived and will not be deposited into the fund as directed by Health and Safety Code section 18502.5.

POLICY STATEMENT OVERVIEW

With the authority to waive PTO penalty fees in specific circumstances (as proposed by regulations) HCD will be able to significantly decrease the amount of fees that park owners must pay to bring suspended PTOs into compliance. Decreasing fees will allow park owners to continue collecting rent and properly maintaining the habitability of their Park(s) for the benefit of the health, safety, and general welfare of park residents/occupants.

COMPARABLE FEDERAL STATUTES OR REGULATIONS

NONE.

DISCLOSURES REGARDING THE PROPOSED ACTION

- Mandate on local agencies and school districts: NONE
- Costs or savings to any state agencies: NONE
- Costs or savings to local agencies or school districts, which must be reimbursed in accordance with Part 7 (commencing with Section 17500) of Division 4 of the Government Code: NONE
- Other nondiscretionary costs or savings imposed on local agencies: NONE
- Costs or savings in federal funding to the state: NONE

BUSINESS IMPACT STATEMENT

HCD has made initial determination that this regulatory action would have no significant adverse economic impact on California business enterprises and individuals, including the ability of California businesses to compete with businesses in other states or create or expand business in California and will not affect creation or elimination of jobs in the State of California because the proposed regulatory action only seeks to eliminate PTO penalty fees due to state of emergency, which if anything will provide an economic benefit.

SMALL BUSINESS IMPACT STATEMENT

HCD has determined that small businesses will not be adversely affected by this regulatory action because this proposed regulatory action seeks to eliminate PTO penalty fees due to a state of emergency.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

HCD has determined that the proposed regulatory action will not have a significant adverse effect on private individuals or small businesses as the proposed amendments to regulations seek to eliminate PTO penalty fees when a state of emergency has been declared.

ECONOMIC IMPACT ANALYSIS-ASSESSMENT OF JOB/BUSINESS CREATION OR ELIMINATION

HCD has determined that this proposed regulatory action will not have a significant impact on the creation or elimination of jobs in the State of California and will not result in the elimination of existing businesses, nor create or expand businesses in the State of California, as the proposed amendments to regulations seek to merely eliminate PTO penalty fees when a state of emergency has been declared and a Park Owner can show they are experiencing economic hardship.

HEALTH AND WELFARE BENEFITS FOR CALIFORNIA RESIDENTS, SAFETY, AND THE STATE'S ENVIRONMENT

There are several benefits anticipated by the adoption of the proposed regulations. The specific objectives of the regulations proposed herein are to protect the health, safety, and general welfare of park residents/occupants from park owners' ability to lawfully operate their Park(s), and maintain the habitability thereof, due to unpaid PTO penalty fees or resulting permit suspensions. With the authority to waive PTO penalty fees in specific circumstances (as proposed by these regulations) HCD will be able to significantly decrease the amount of fees that park owners will need to pay to bring suspended PTOs into compliance. That will allow park owners to continue collecting rent and properly maintaining the habitability of the Parks for the benefit of the health, safety, and general welfare of the park residents/occupants. These regulations are not anticipated to benefit worker safety or the State's environment because they are not related to either subject.

ALTERNATIVES CONSIDERED

HCD has determined that this proposed regulatory action represents the most cost-effective, efficient, and practical process achievable. HCD considered waiving all PTO fees, but rejected this alternative because without the collection of *any* PTO fees, HCD would not be able to fund the Program and its enforcement activities.

ANTICIPATED BENEFITS OF THE PROPOSAL

There are several benefits anticipated by the adoption of the proposed regulations. The specific objectives of the proposed regulations are to protect the health, safety, and general welfare of Park Residents from Park Owners' inability to lawfully operate their Parks, and to maintain the habitability thereof, due to unpaid PTO penalty fees and resulting permit suspensions.

STUDIES, REPORTS, AND SIMILAR DOCUMENTS

Governor Newsom, Executive Order, N 23-20, issued January 8, 2020. (Homelessness)

Governor Newsom, Executive Order, N 28-20, issued March 16, 2020.
(Covid-19 – Prohibit Evictions – Local Government)

Governor Newsom, Executive Order, N 37-20, issued March 27, 2020.
(Covid-19 -Prohibit Evictions- State Government)

California Housing Partnership, February 2020, “Affordable Homes at Risk. How Many of California’s Affordable Rental Homes Have Converted to Market Rate? How Many are Still at Risk?”

SPECIFIC TECHNOLOGIES AND EQUIPMENT

No specific technologies or equipment are necessary as a result this rulemaking.