

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

9342 Tech Center Drive, Suite 500, Sacramento, CA 95826
P.O. Box 277820, Sacramento, CA 95827-7820
1-800-952-8356 / FAX (916) 263-3383
From TDD Phones 1-800-735-2929
www.hcd.ca.gov



NOTICE OF PROPOSED ACTION
TITLE 25. CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY
DEVELOPMENT
(Mobilehome and Special Occupancy Parks Programs)

NOTICE IS HEREBY GIVEN that the California Department of Housing and Community Development (HCD or Department) proposes to adopt regulations governing Mobilehome and Special Occupancy Parks Programs, established by Health and Safety Code Division 13, Parts 2.1 and 2.3, and further clarified in Title 25 of the California Code of Regulations, Chapters 2 and 2.2. If approved, the proposed regulations would grant HCD the authority, under certain circumstances and during declared states of emergency, to waive penalty fees associated with permits to operate (PTO) for mobilehome or special occupancy parks (Parks).

PUBLIC HEARING

No public hearing is currently scheduled. However, pursuant to Government Code section 11346.8, if a written request to hold a public hearing is received no later than 15 calendar days before the close of the written comment period at the address below from any interested person or their authorized representative, the department shall, to the extent practicable, provide notice of the time, date, and place of the hearing by mailing the notice to every person who has filed a request for notice with the department.

SUBMISSION OF WRITTEN COMMENTS

Any interested person, or their authorized representative, may submit written comments relevant to this proposed regulatory action. All written comments must be received by HCD no later than 5:00 p.m. on March 22, 2022, in order to be considered. Written comments may be submitted by mail, email, or facsimile as follows:

By mail, to: California Department of Housing and Community Development
Division of Codes and Standards
P.O. Box 277820
Sacramento, CA 95827-7820
ATTN: PTO PENALTY FEE WAIVER – Ruth Ibarra

By email, to: Ruth.Ibarra@hcd.ca.gov

By fax, to: (916) 263-3383
ATTN: PTO PENALTY FEE WAIVER – Ruth Ibarra

PERMANENT ADOPTION OF REGULATIONS

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

AUTHORITY AND REFERENCE

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 Mobilehome Parks Act (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 Special Occupancy Parks Act (SOPA) under Health and Safety Code sections 18865, 18870.2, 18871.3, and 18872. Specifically, Health and Safety Code sections 18610 and 18872 authorize the adoption of regulations governing the construction, use, occupancy and maintenance of parks and lots within parks and such regulations are to protect the health, safety and general welfare of the residents of the park.”

Moreover, 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 Parks, and the authority to adopt emergency 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.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

SUMMARY OF EXISTING LAWS AND REGULATIONS

HCD is authorized pursuant to Health and Safety Code section 50406 to “do any and all things necessary to carry out its purposes and exercise the powers expressly granted by this Division.” Because the MPA is a Law and program administered by the Division of Codes and Standards within HCD, and because it is necessary to promulgate regulations to implement, interpret, and make specific the program laws, section 50406 is the authority for these regulations as well as Government Code section 11009.5, to reduce or waive fees when a HCD licensee is experiencing economic hardship due to a declared state of emergency.

1. **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. HCD is responsible for collection of fees and issuance of the Permit to Operate for MP.
2. **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. HCD is responsible for collection of fees and issuance of the Permit to Operate for SOP.

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. Under current law, after 30-days, 10-percent penalty fees are added to the PTO and after 60-days, they increase to 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 occurring inside of the Park from failure to maintain the park 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 EFFECT OF PROPOSED REGULATORY ACTION

The purpose of these proposed regulations is to establish the authority to waive PTO penalty fees when there is a declared state of emergency.

Those sections within Title 25, California Code of Regulations affected by this rulemaking (see “Sections Affected,” below), and the specific purpose for each adoption in these proposed regulations, are set forth in the Initial Statement of Reasons for this regulatory action.

SECTIONS AFFECTED

Following are the specific sections of Title 25 of the California Code of Regulations Chapters 2 and 2.2 affected by this proposed action:

Amend: 1002, 1009, 2002, and 2009

POLICY STATEMENT OVERVIEW

ANTICIPATED BENEFITS OF THE PROPOSED ACTION

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.

EVALUATION OF INCONSISTENCY/INCOMPATIBILITY WITH EXISTING STATE REGULATIONS

The proposed regulations are compatible with existing state regulations related to the operation of Parks. HCD, as the enforcement agency, seeks the authority to waive PTO penalty fees, using discretion, during a declared state of emergency (including the current COVID-19 pandemic). HCD is already responsible for collecting annual PTO fees. Clarifying HCD’s authority to waive penalty fees due to a declared state of emergency is compatible with HCD’s current authority.

SMALL BUSINESS IMPACT STATEMENT

Small businesses will not be affected by these regulations. (See “Cost Impact on Representative Private Person or Business” paragraph, below.)

DISCLOSURES REGARDING THE PROPOSED ACTION

- Mandate on local agencies and school districts: NONE
- Costs or savings to any state 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
- Costs to housing: NONE

BUSINESS IMPACT

HCD has made an initial determination that the proposed regulations will not have a significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states and will not affect creation or elimination of jobs in the State of California because the proposed regulatory action seeks to eliminate PTO penalty fees due to 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.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS

HCD has determined that this regulatory proposal will not have a significant impact on the creation or elimination of jobs in the State of California and will not result in the elimination of existing businesses nor create or expand businesses in the State of California. HCD has further determined that this regulatory proposal will benefit the health and welfare of California MP residents, but will not benefit worker safety or the State’s environment.

CONSIDERATION OF ALTERNATIVES

The Department must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. Any interested person may present statements or arguments with respect to alternatives to the proposed regulatory action during the written comment period.

AVAILABILITY OF DOCUMENTS AND CONTACT PERSON

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

California Department of Housing and Community Development
Division of Codes and Standards
2020 West El Camino, Room 250
Sacramento, CA 95833
Facsimile: (916) 263-3383

In addition, the notice, the exact language of the proposed regulations, and the Initial Statement of Reasons may be found on the HCD's website at the following address: <https://www.hcd.ca.gov/manufactured-mobile-home/mobile-home-parks/laws-and-regulations.shtml>

Questions regarding HCD's regulatory process or clarification on the substance of this regulatory proposal may be directed to:

Ruth Ibarra, Associate Governmental Program Analyst
Telephone: (916) 263-3262/ Fax: (916) 263-3383 / Email: Ruth.Ibarra@hcd.ca.gov

Laura Turner, Staff Services Manager I
Telephone: (916) 820-1222/ Fax: (916) 263-3383 / Email: Laura.Turner@hcd.ca.gov