

INITIAL STATEMENT OF REASONS

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT CALIFORNIA CODE OF REGULATIONS, TITLE 25 DIVISION 1. HOUSING AND COMMUNITY DEVELOPMENT

CHAPTER 3. Factory-Built Housing and Mobilehomes SUBCHAPTER 2. Manufactured Homes, Mobilehomes, Multi-Unit Manufactured Housing, Commercial Modulares, and Special Purpose Commercial Modulares

ARTICLE 2.1. Water Heater Seismic Bracing, Anchoring or Strapping SECTIONS 4100, 4102 and 4104

ON THE SUBJECT OF WATER HEATER SEISMIC BRACING, ANCHORING OR STRAPPING FOR MANUFACTURED HOMES, MOBILEHOMES AND MULTIFAMILY MANUFACTURED HOMES

Subject Matter of Regulations

The Department of Housing and Community Development (HCD) proposes to adopt Article 2.1 and regulation Sections 4100, 4102 and 4104 into the California Code of Regulations (CCR), Title 25, Chapter 3, Subchapter 2. The regulations establish seismic bracing of fuel-gas-burning water heaters for new and used manufactured residential structures.

Background

On August 5, 2008, the California Legislature approved and the Governor signed Assembly Bill 2050, Statutes of 2008, Chapter 737. The legislation became effective January 1, 2009, amending Section 18031.7 of the Health and Safety Code (HSC), requiring HCD to promulgate rules and regulations that include standards for water heater seismic bracing, anchoring or strapping. AB 2050 duplicates existing state law for the seismic bracing of water heaters for site-constructed buildings. HSC Section 19211 mandates that all new and replacement water heaters and all existing residential water heaters be braced, anchored or strapped to resist falling or horizontal displacement due to earthquake motion.

On June 30, 2003, a code change proposal was submitted to the Manufactured Housing Consensus Committee (MHCC) to revise the National Manufactured Housing Construction and Safety Standards. The proposal suggested the seismic strapping, anchoring or bracing of all water heater appliances that are installed in manufactured homes constructed for sale in California, Nevada, Oregon, Washington, Utah and Alaska. The proposed change was rejected by the MHCC. The committee deferred the matter to state or local authorities having jurisdiction to develop such standards, if so desired.

In August 1995, the National Conference of States on Building Codes and Standards, Housing and Building Technology (HBT) Division, on behalf of the U.S. Department of Housing and Urban Development Office of Policy and Research, published *"The Effect of Earthquakes on Manufactured Home Installations"*. The report studied damage resulting from the January 1994 Northridge earthquake to manufactured homes and mobilehomes. One of the recommendations, provided by HBT in the report, in order to limit the risk of fire

resulting from the toppling of water heater appliances during a seismic event was to seismically secure the water heater appliance to the home's structure: "*Require that water heaters be factory anchored to the structure to resist 200 pounds of lateral load for homes in seismically active areas.*"

On February 7, 2005, the National Fire Protection Association (NFPA) 501 Standard on Manufactured Housing, 2005 Edition, was published, adding new requirements for the seismic bracing of water heater appliances. Chapter 10, Section 10.8.1.4 of the NFPA 501 Standard was added as follows: "*All water heater appliances installed in manufactured homes designed or constructed for sale in seismic design categories D0, D1, D2 and E, as defined in NFPA 225, Model Manufactured Home Installation Standard, shall be braced, anchored, or strapped to resist not less than 200 lb equivalent static lateral loads to prevent falling or horizontal displacement due to earthquake motion. The water heater bracing, anchoring, or strapping shall include mechanical connections to a structural member, and/or wall studs, adjacent to the appliance, in order to prevent tipping or rotation of the appliance along the center axis of the appliance.*" The new requirements, however were not adopted by HUD into the federal Manufactured Housing Construction and Safety Standards (MHCSS), 24 CFR, Chapter XX, Part 3280.

The U.S. Department of Housing and Urban Development (HUD) historically has precluded state or local building department from applying to any state standard that is identical to the federal manufactured home construction and safety standard.¹ However, the federal standards do not provide rules or regulations for the seismic bracing of appliances installed in manufactured homes. William Matchneer III, Associate Deputy Assistant Secretary of HUD, in a January 29, 2009, e-mail message to HCD, acknowledged that federal law or regulation would not preempt HSC Section 18031.7 since seismic securement is not covered by the federal standards. HCD preempts local governments from imposing construction or maintenance standards on "mobilehomes" constructed before June 15, 1976, and currently has no regulations governing seismic bracing of appliances in these mobilehomes.

Rationale for Proposed Adoptions

Pursuant to Chapter 737, Statutes of 2008 (AB 2050), Section 3.5, the Legislature amended HSC, Division 13, Part 2, Section 18031.7, requiring all fuel-gas-burning water heater appliances be seismically secured in new manufactured homes or new multifamily manufactured homes upon installation of the home. Any fuel-gas-burning water heater appliance also must be seismically secured either when installed in existing manufactured homes or existing multifamily manufactured homes as a replacement, or when the home is transferred or offered for sale, rent or lease. In the alternative, the owner may certify that the appliance previously has been secured in accordance with the law. The seismic bracing, anchoring or strapping of fuel-gas-burning water heater appliances in new manufactured homes and new multifamily manufactured homes may be completed either before or at the time of the home's installation on either a foundation or support system by the dealer or the manufacturer, or in certain circumstances, by the homeowner.

¹ National Manufactured Housing Construction and Safety Standards Act of 1974, Title 42, U.S. Code, Section 5403(d).

The seismic bracing requirements are similar to existing state law requiring seismic bracing of water heater appliances in new and used site-built residential structures, Earthquake Protection Law, HSC, Division 13, Part 3, Chapter 2, Sections 19210 through 19217. The Legislature declared that there exists a serious threat of fire or explosion to the people of California from water heater appliances, which may overturn or experience damage to the fuel supply piping or plumbing during an earthquake. In addition, the Legislature declared that a large number of residential structures will suffer damage from water heaters due to the lack of adequate strapping or bracing.

Summary of Sections Affected

The specific sections of CCR, Title 25, Division 1, Chapter 3, Subchapter 2, to be added by this proposed adoption are a new Article 2.1 and new Sections 4100, 4102 and 4104.

Summary of Effect of Proposed Regulatory Action

The purpose of these proposed regulations is to establish requirements for the seismic bracing, anchoring or strapping of storage-type fuel-gas-burning water heater appliances in new and existing manufactured homes, multifamily manufactured homes and mobilehomes sold, resold, leased, rented or installed in California. The sections within CCR, Title 25, affected by this rulemaking (See "Summary of Sections Affected"), and the specific purpose for each requirement in these proposed regulations are described in this Initial Statement of Reasons.

Article 2.1. Water Heater Seismic Bracing, Anchoring and Strapping

HCD proposes to adopt the water heater seismic bracing, anchoring or strapping requirements in a new and separate article for the ease of the public and public agencies to find the requirements and have them in one location.

Adopt Section 4100. Protection from Seismic Damage

Subsection (a). By the addition of this section, the code user is informed that the following paragraphs contain necessary information about the bracing, anchoring or strapping of water heaters. This section leads the code user to the requirements of paragraphs one through five for the bracing, anchoring of appliances, and allows the code user easy reference and readability of these regulations.

Subsection (a) Paragraph (1). By the addition of this paragraph, the code user will be informed that storage-type fuel-gas-burning water heaters in manufactured homes, multifamily manufactured homes and mobilehomes sold, resold, leased, rented or installed in California must be protected from seismic damage by bracing, anchoring or strapping the appliance. The Legislature did not provide a specific date for compliance, but instead, required compliance at the time of specific acts: the bracing, anchoring or strapping of the appliance must be completed upon sale, resale or installation of the manufactured home, multifamily manufactured home and mobilehome, or during or at the time of the inception of a lease or rental transaction. These requirements will allow for statewide consistency and a clear date for compliance, whenever an ownership transfer, installation or rental occurs. This ensures that current and subsequent owners, lessees or renters of manufactured

homes, multifamily manufactured homes and mobilehomes receive the full extent of protection required.

Subsection (a) Paragraph (2). By the addition of this paragraph, the code user will be informed that the bracing must be placed at certain locations on the appliance in order for it to be effective against overturning. These requirements are similar to building standards in CCR, Title 24, Part 5, California Plumbing Code (CPC), developed for seismic bracing of new, replacement and existing water heater appliances in site-built structures in California and were selected because the CPC standards are proven to be effective seismic protection and cost-efficient.

Subsection (a) Paragraph (3). By the addition of this paragraph, the code user will be informed that the appliance bracing, anchoring or strapping must be mechanically secured to a structural member or wall studs. Securing to a strong load-bearing component of the home ensures even more effective seismic protection.

Subsection (a) Paragraph (4). By the addition of this paragraph, the code user will be informed that any method of bracing, anchoring or strapping used to secure the appliance must not interfere with any of the appliance controls (valves, burner, regulator, etc.) or inspection panels. This paragraph is necessary to clarify for the code user that each brand or type of water heater may have a different design or location of the controls or panels, and must be accessible to the homeowner or appliance service person.

Subsection (a) Paragraph (5). By the addition of this paragraph, the code user will be informed that fuel-gas-burning tankless water heater appliances are exempt from the seismic bracing, anchoring or strapping required by this article. This type of appliance does not store large quantities of water, therefore minimizing the risk of overturning. If installed in accordance to the appliance manufacture's installation instructions, this appliance is adequately secured to the structure in which it is installed.

Subsection (b). By the addition of this subsection, the code user will be informed that the Health and Safety Code Section 18031.7, contains additional requirements that must be followed regarding when existing manufactured homes, mobilehomes or multifamily manufactured homes are certified as in compliance with this section.

Adopt Section 4102. Water Heater Certification Requirements

By the addition of this section the code user will know that upon the transfer of ownership of used manufactured homes, multifamily manufactured homes or mobilehomes, an application must be submitted to HCD by the registered owner(s) certifying that the fuel-gas-burning water heater is seismically secured within the home.

Introductory Paragraph. The introductory paragraph refers the code user to Subsections (a) and (b) of this section for details on the completion of a statement

signed under penalty of perjury and that the document shall include the home's identifying information. This section is necessary for HCD to positively identify the unit that is being transferred as it correlates to the statement attesting to the seismic bracing.

Subsection (a). By addition of this subsection, the code user will be informed what identifying information will be required to be provided in the application to correctly identify the unit that is being transferred to the new or additional owner for HCD record-keeping purposes. This is standard identifying information and ensures that the strapping and subsequent certification for the unit occurred subject to the sale or transfer.

Subsection (b). By addition of this subsection, the code user will be informed that upon transfer of ownership, a signed statement by the seller certifying the water heater appliance is seismically secured on or before the date of transfer of ownership, indicating compliance with HSC section 18031.7. This requirement in effect enforces the provision upon sale or transfer. The seller uses this form to self-certify, under penalty of perjury. The document also provides a permanent record for possible future use in the event of a disagreement or other occurrence. The statute allows the form to be completed within 45 days, prior to the sale or transfer.

Adopt Section 4104. Permit Requirements

By addition of this section, the code user will be informed that under specific conditions, the installation of seismic bracing, anchoring or strapping does not require the issuance of a permit or inspection. This is because, if there is no alteration to critical components of the home, no permit and inspection are necessary.

POLICY STATEMENT OVERVIEW

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

HCD is proposing to adopt permanent regulations related to the Manufactured Housing Act of 1980, Sections 18000 through 18153, and specifically Section 18031.7.

SMALL BUSINESS IMPACT STATEMENT

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

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: NONE.

Costs or savings to any state agency: NONE.

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

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

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

Significant effect on housing costs: NONE.

BUSINESS IMPACTS

HCD has made an initial determination that the proposed adoptions will not have a statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states. However, there exists the need to adopt these regulations to alleviate a potential adverse economic impact on business, should businesses manufacture structures for use in California without a consistent set of requirements applicable statewide. In addition, the proposed regulations protect California businesses against unfair competition from out-of-state manufacturers by requiring the seismic protection for new homes at or before the time of actual installation rather than at the time of sale, which may occur out-of-state.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

There will be minimal cost impact to homeowners, dealers and manufacturers of new or used manufactured homes, multifamily manufactured homes and mobilehomes in the form of cost associated with generic materials necessary to comply with the seismic securement of water heaters. Pre-manufactured water heater seismic strapping kits are generally readily available for purchase at hardware stores for approximately \$15.00 each, plus labor.

ASSESSMENT OF JOB/BUSINESS CREATION OR ELIMINATION

HCD has determined that this regulatory proposal will not have a significant impact on the creation or elimination of jobs in the State of California. HCD has determined that the impact on manufacturers and dealers will not be significant and will not result in the elimination of existing businesses.

CONSIDERATION OF ALTERNATIVES

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

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

- **New Performance-Based Requirements**
New performance-based requirements for seismic water heater securement, while worthy of consideration, were found not to be acceptable. The requirements may not be equivalent to the prescriptive requirements provided in CCR, Title 24, Part 5, California Plumbing Code, causing resistance from contractors, home inspection services and local fire officials, and do not meet the objective of providing uniform standards for both site-built and manufactured homes, multifamily manufactured homes and mobilehomes. Since performance based regulations often require design by a professional engineer, it may be unnecessarily more expensive for businesses and consumers.
- **Not Establishing Preemptive Statewide Standards**
Not establishing preemptive statewide standards would not meet HCD's standard of promoting both safe and affordable housing, and would not comply with the statutory mandate.

STUDIES, REPORTS AND SIMILAR DOCUMENTS

HCD has relied upon the following sources of information when developing the proposed regulations:

- ▶ California Code of Regulations, Title 24, Part 5, Chapter 5, Water Heaters, Section 508.
- ▶ U.S. Department of Housing and Urban Development, Office of Policy Development and Research, *"The Effect of Earthquakes on Manufactured Home Installations"*, August 1995.
- ▶ NFPA 501 Standard on Manufactured Housing, 2005 Edition, Chapter 10, Heating, Cooling, and Fuel-Burning Systems, Section 10.8, Installation of Appliances.