

4. The Commission shall make a decision on the appeal at an open meeting thereof, provided that the matter may be continued or taken under advisement for decision at a later meeting of the Commission, or re-referred to the Appeals Committee for further consideration and report to the Commission. No Commissioner may cast a vote on the determination of an appeal unless the Commissioner was present at the hearing held for appeal.
5. Notwithstanding the foregoing, the appeal may be withdrawn at any time by the appellant upon written notice to the Executive Director. Upon withdrawal, no further proceedings as specified above shall take place. The withdrawal of the appeal shall be accepted with or without prejudice, as determined by the Commission.
6. The Executive Director shall, in writing, advise the appellant, and any state agency a part of the appeal, of the decision of the Commission within 15 days from the date of the official Commission decision in the appeal.

(c) The Commission may elect to refer the appealing parties to a hearing officer appointed by the Office of Administrative Hearings as described in Health and Safety Code Section 18946.

(d) Action by the Commission on the appeal of a building standards issue within the authority of the Commission shall exhaust the administrative relief of the appellant.

Authority: Health and Safety Code Section 18945.

Reference: Health and Safety Code Sections 18931 and 18946.

HISTORY:

1. (BSC 2/93) Regular order by the California Building Standards Commission to amend Section 1-604, Part 1, Title 24, California Code of Regulations. Approved by Office of Administrative Law on January 27, 1995; filed at the Secretary of State on January 27, 1995; effective 30 days thereafter, which will be February 26, 1995. Publication date April 24, 1995.

1-313. Petitions.

(a) Any local governmental agency, firm or member of the public may petition either the Commission or the authoritative agency for the proposal, adoption, amendment or repeal of any building standard or administrative regulation in Title 24 of the California Code of Regulations.

(b) The Commission may refer received petitions to the state agency, or multiple agencies, having specific jurisdiction for the subject of the adopted building standard or for the subject of the proposed building standard as proposed by the petitioner. A state agency receiving a petition referred by the Commission shall process the petition as required by this Article, including the reporting of actions and decisions by the agency to the Commission.

(c) Petitions are not to be used to address matters relating to currently proposed buildings standards. Any concerns relating to currently proposed building standards should be brought forward during the public comment period designated for the proposed building standard.

Authority: Health and Safety Code Sections 18931 and 18949.6.

Reference: Health and Safety Code Sections 18931 and 18949.6.

HISTORY:

1. (BSC 2/93) Regular order by the California Building Standards Commission to adopt Section 1-801, Part 1, Title 24, California Code of Regulations. Approved by Office of Administrative Law on January 27, 1995; filed at the Secretary of State on January 27, 1995; effective 30 days thereafter, which will be February 26, 1995. Publication date April 24, 1995.

1-315. Criteria for petition. A petition for the adoption, amendment or repeal of a state building standard must meet the following criteria:

(a) The subject issue must have statewide significance and must have implications for a whole category of projects or a broad range of project types, and:

(b) The rationale for the petition must take the form of at least one of the following criteria:

1. A current building standard conflicts with pertinent statute(s). To substantiate this criterion, the petitioner must cite the subject building standard and the conflicting statute(s), and provide a clear written description of why the two are inconsistent.
2. Compliance with a current building standard is routinely impossible or onerous. To substantiate this criterion, the petitioner must cite the current building standard, present written or photographic evidence of the difficulty in complying with it, and clearly show that the problem is common or potentially common to many different projects or project types in many different circumstances. This criterion shall not be used to justify a petition for the repeal or amendment of a current building standard that poses difficulty to a single project.
3. A current building standard is inefficient or ineffective. To substantiate this criterion, the petitioner must cite the subject building standard, provide clear and concise written or photographic evidence of its ineffectiveness or inefficiency, describe a proposed alternative, and provide clear and convincing written or photographic evidence that it is more efficient or effective.
4. A current building standard is obsolete. To substantiate this criterion, the petitioner must show at least one of the following facts:
 - A. A material or product specified in the building standard is not available, or
 - B. There is no statute authorizing the subject building standard, or
 - C. Significant developments in procedures, materials or other issues subject to the building standard have created a need for amendment or deletion of the building standard; that current state statutes permit amendment or deletion of the building standards; and that the building standard has the effect of prohibiting the use of a material or procedure that has demonstrated satisfactory performance and meets the intended purpose of building standards.
5. There is a need for a new building standard. To substantiate this criterion, the petitioner must provide a clear written description of the proposed building standard, explain why it is necessary, and cite the statute(s) that require or authorize the new building standard.

Note: The California Building Standards Commission provides a petition form available at the website <http://www.bsc.ca.gov/pubs/forms.aspx>.

Authority: Health and Safety Code Sections 18931 and 18949.6.

Reference: Health and Safety Code Sections 18931 and 18949.6.

HISTORY:

1. (BSC 2/93) Regular order by the California Building Standards Commission to adopt Section 1-802, Part 1, Title 24, California Code of

Regulations. Approved by Office of Administrative Law on January 27, 1995; filed at the Secretary of State on January 27, 1995; effective 30 days thereafter, which will be February 26, 1995. Publication date April 24, 1995.

1-317. Emergency petition.

(a) A petitioner may assert that the petition requires immediate action because there is imminent danger to the public health, safety or welfare. To substantiate the existence of a potential danger, the petitioner must include in the petition a written description of the specific facts showing the need for immediate action.

(b) If the emergency petition is approved by the Commission and if the petition is accepted pursuant to this Article, the proposing agency or adopting agency shall develop and/or adopt new or amended building standards necessary to satisfy the cause for the petition. The new or amended building standards shall be proposed and adopted as emergency regulations as permitted by Health and Safety Code Sections 18934.8 and 18937.

Authority: Health and Safety Code Sections 18931 and 18949.6.

Reference: Health and Safety Code Sections 18931 and 18949.6.

HISTORY:

1. (BSC 2/93) Regular order by the California Building Standards Commission to adopt Section 1-803, Part 1, Title 24, California Code of Regulations. Approved by Office of Administrative Law on January 27, 1995; filed at the Secretary of State on January 27, 1995; effective 30 days thereafter, which will be February 26, 1995. Publication date April 24, 1995.

1-319. Petition processing by the Commission and agencies.

(a) Within 45 days after receiving a petition, the Commission shall determine whether the petition meets the requirements of this article for petitions and provide the petitioner written notification.

(b) If the Commission determines that the petition does not meet the requirements of this article for petitions, the petition shall be returned to the petitioner without action but with written notification including itemization of the missing or incomplete items.

(c) If the Commission determines that the petition meets the requirements of this article for petitions, the Commission shall provide the petitioner notification of the acceptance of the petition and planned action.

(d) The Commission shall act on the accepted petition by commencing a rulemaking process, or shall forward a complete petitions to the appropriate proposing agency or adopting agency having specific jurisdiction for the subject of the petition.

(e) The proposing agency or adopting agency shall have 45 days following receipt of the petition from the Commission to dispute the determination of completeness and/or the Commission's determination of jurisdiction. If the agency determines that the petition is incomplete, it shall, by the close of business on the 45th day following receipt of the petition, return the petition to the Commission, with an itemization of the missing or incomplete items, and the Commission shall return the petition to the petitioner within 30 days of receiving the returned petition without action in accordance with the procedures provided in subparagraph (b) above.

(f) The Commission shall maintain records relating to the submittal and disposition of petitions received by the Commission.

Authority: Health and Safety Code Sections 18931 and 18949.6.

Reference: Health and Safety Code Sections 18931 and 18949.6.

HISTORY:

1. (BSC 2/93) Regular order by the California Building Standards Commission to adopt Section 1-804, Part 1, Title 24, California Code of Regulations. Approved by Office of Administrative Law on January 27, 1995; filed at the Secretary of State on January 27, 1995; effective 30 days thereafter, which will be February 26, 1995. Publication date April 24, 1995.

1-321. Petition processing by agencies. Upon receiving a petition referred by the Commission, or a petition received directly from a petitioner, the proposing agency or adopting agency shall be responsible for the following duties:

(a) If the proposing agency or adopting agency disagrees with the Commission's determination that a petition is complete, or if the proposing agency or adopting agency believes the petition is in the jurisdiction of a different agency, the proposing agency or adopting agency shall notify the Commission no more than 45 days after receiving a petition.

(b) If the proposing agency or adopting agency determines that a petition received directly from the public does not meet the requirements of this article for petitions, the agency shall provide the petitioner written notification of the determination with itemization of the missing or incomplete items. The agency shall provide the Commission a copy of the notification.

(c) If the proposing agency or adopting agency determines that it has jurisdiction and that a received petition is complete, it shall take one of the following actions, communicating with the petitioner and Commission, within the noted time lines:

1. The agency may reject, accept or approve a petition in part and may grant such other relief or take such other action as it may determine to be warranted by the petition and shall notify the petitioner and Commission in writing of such action.
2. If the agency denies the petition for cause pursuant to Section 1-323 of this article [Criteria for Denying a Public Petition for Cause], it shall do so in writing within 45 days after the date of receiving the petition from the petitioner, or the referral by the Commission.
3. If the agency accepts the petition, it shall notify the petitioner and Commission in writing within 45 days after the date of receiving the petition. For the purposes of this section, accepting the petition indicates that the agency believes the issue(s) merit proceeding to code development as prescribed in this chapter.
4. If the approved petition contains an emergency clause, the agency shall also rule on the existence of an emergency, and if it concurs that an emergency exists, shall schedule code development and adoption procedures on an emergency basis.

Authority: Health and Safety Code Sections 18931, 18949.1, 18949.2, 18949.3, 18949.5 and 18949.6, Statutes of 1990.

Reference: Health and Safety Code Section 18931 and 18949.6.

HISTORY:

1. (BSC 2/93) Regular order by the California Building Standards Commission to adopt Section 1-805, Part 1, Title 24, California Code of Regulations. Approved by Office of Administrative Law on January 27, 1995; filed at the Secretary of State on January 27, 1995; effective 30 days thereafter, which will be February 26, 1995. Publication date April 24, 1995.