

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.

**1-323. Criteria for denying a petition.** The Commission, proposing agency or adopting agency, whichever is processing a petition, may deny a petition for cause using at least one of the following criteria:

(a) The subject building standard is already scheduled for review at the next regular triennial or other scheduled adoption. To substantiate this criterion, the Commission or agency shall include in its written denial a schedule for the planned review. Alternatively, the agency may approve a petition but defer its implementation until the next scheduled adoption.

(b) The issues cited by the petitioner are factually incorrect. To substantiate this criterion, the Commission or agency shall identify in its written denial the incorrect facts.

(c) The issues cited by the petitioner are not within the State's jurisdiction. To substantiate this criterion, the Commission or agency shall show in its written denial why the issues are outside its jurisdiction.

(d) The issues cited by the petitioner have been raised and answered through another petition or during the previous rulemaking. To substantiate this criterion, the Commission or agency shall include with its written denial a copy of the previous petition and its response or the pertinent rulemaking file information.

**Note:** If new facts or substantiating data, pertinent to a petition, are provided, this criterion shall not be grounds for denying a petition.

(e) Resolving the issues raised by the petitioner would compromise the agency's ability to carry out its legal mandate. To substantiate this criterion, the Commission or agency shall include with its denial the specific ways in which its legal mandate would be compromised.

(f) The building standard proposed by the petitioner would create unnecessary hardship or expense; inappropriately exclude materials, equipment or brands; include only specific brands; conflict with federal or state laws or regulations or existing building standards; or the building standard is otherwise without merit and public benefit.

**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 1-806, 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.

**1-325. Reconsideration of denied petition.** A petitioner may request reconsideration of any part or all of a decision of any proposing or adopting agency or the Commission on any denied petition. Any such request shall be submitted in accordance with these petition procedures and shall include the reason or reasons why the decision to deny the petition should be reconsidered. Such request for reconsideration must be submitted no later than 60 days after the date of the decision involved. The agency's or Commission's reconsideration of any matter relating to a petition shall be subject to the provisions of this article.

**Authority:** Health and Safety Code Sections 18931, 18945, and 18949.6.

**Reference:** Health and Safety Code Sections 18931, 18945, and 18949.6.

**HISTORY:**

1. (BSC 2/93) Regular order by the California Building Standards Commission to adopt Section 1-807, 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.

**1-327. Reconsideration by the commission.**

(a) The Commission shall have no authority to reevaluate or reverse the decisions on petitions made by a proposing agency or adopting agency when the subject of the petition is within the specific jurisdiction of the proposing agency or adopting agency.

(b) Requests for the reconsideration of a decision by the commission shall meet the requirements of Section 1-325 of this article.

(c) Should the Commission reverse its previous decision made on a petition, the petition shall be considered accepted and a rulemaking process shall begin as provided in this chapter.

**Authority:** Health and Safety Code Sections 18931, 18945, and 18949.6.

**Reference:** Health and Safety Code Sections 18931, 18945, and 18949.6.

**HISTORY:**

1. (BSC 2/93) Regular order by the California Building Standards Commission to adopt Section 1-808, 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.

**1-329. Substitution of or supplementation by agency procedures.**

(a) The provisions of this article pertaining to petitions shall not apply when an agency notifies the Commission that a petition process is mandated by specific statutes in addition to Government Code Sections 11340.6 and 11340.7, and/or that it has adopted its own regulations or procedures complying with Government Code Sections 11340.6 and 11340.7, and that it has notified the public of the existence of these statutes, regulations or procedures. Notification to the Commission shall consist of a written copy of such statutes, regulations or procedures and a description of the methods used to make the public aware of their existence. Upon such notification, the Commission shall exclude the agency from compliance with this Article pertaining to Petitions. If the Commission receives a petition pertaining to an excluded agency's jurisdiction, the Commission shall forward the petition without undertaking any of the duties prescribed by this Article pertaining to petitions directly to the agency and shall notify the petitioner of that fact.

(b) These regulations are not intended to be the sole means by which the proposing agency or adopting agencies and the interested public can raise, discuss and resolve issues pertaining to building standards. Agency procedures such as public participation meetings, advisory committees, written and verbal correspondence between members of the public and agency personnel, and other methods are considered alternatives that may be chosen by a member of the public instead of or in addition to the petition procedures described in this Article.

**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 1-809, 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.

**ARTICLE 4  
RULEMAKING FOR THE ADOPTION OF BUILDING  
STANDARDS BY PROPOSING AGENCIES**

**1-401. Purpose.** This article establishes basic minimum procedural requirements for a code adoption cycle for proposing agencies to ensure adequate public participation in the development of building standards, to ensure adequate technical review and adequate time for technical review by code advisory committees and to ensure adequate notice to the public of compiled code change submittals prior to adoption by the Commission.

**1-403. Public participation.** Every state agency with authority to propose or adopt building standards shall develop proposed building standards in a manner to ensure public participation. Methods for ensuring public participation may include but are not limited to the following:

- (a) Identify and maintain a listing of all interested groups or persons affected by building standards of the type within the jurisdiction of the agency.
- (b) Prior to commencing the development of proposed building standards, notify all interested groups and persons that building standards are to be developed, and solicit suggestions and a means for participation.
- (c) Conduct workshops to solicit input where the proposals are complex or large in number and cannot easily be reviewed during the comment period.
- (d) Make available draft proposals to interested groups or persons expressing interest.
- (e) Establish a procedure to provide interested groups or persons the opportunity to advise the agency of the impact of the proposed standards.

**Authority:** Health and Safety Code Sections 18929.1 and 18934.

**Reference:** Government Code Section 11346.45, Health and Safety Code Sections 18929.1 and 18934.

**HISTORY:**

1. (BSC 2/93) Regular order by the California Building Standards Commission to amend Section 1-501, 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.

**1-405. Commencement of rulemaking.** The Commission shall notify a proposing agency of the deadline for acceptance of code change submittals a minimum of 180 days prior to the deadline. A proposing agency shall submit a code change submittal for the Commission's adoption on or before the deadline for acceptance specified in the notice.

**Authority:** Health and Safety Code Sections 18929.1 and 18930.

**Reference:** Health and Safety Code Sections 18930, 18931 and 18933.

**1-407. Rulemaking file approval.**

(a) Proposing agencies developing building standards, or administrative regulations to support building standards, to be published in Title 24, shall prepare a rulemaking file for submittal to the office of the Commission, which shall comply with Article 5 (commencing with Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code. The Notice of Proposed Action required by this section shall be approved by the Commission prior to any official notice to conduct a hearing or comment period regarding the proposed rulemaking.

(b) File content. The rulemaking file submitted to the Commission shall include the following:

1. A Building Standards Face Sheet (BSC-1), with original signature of a person authorized to certify documents on behalf of the submitting agency shall accompany all submittals to the Commission pursuant to this section.
2. Two printed copies and one electronic file of the Notice of Proposed Action. The electronic file shall be suitable for immediate placement on the Commission website for public viewing.
3. One electronic file of the Express Terms showing the proposed building standards or amendments to existing building standards in strikeout/underline format. The file shall be in a form suitable for immediate placement on the Commission website for public viewing. The language, including numbering and punctuation, of proposed new building standards or amendments to existing building standards shall be shown underlined. Proposed deletions of existing building standards shall be shown in strikeout type. Existing building standards to remain without amendment shall be shown without underlining or strikeout or other highlighting.
4. One electronic file of the Initial Statement of Reasons suitable for immediate placement on the Commission website for public viewing.

(c) Upon approval of the Notice of Proposed Action for building standards the Executive Director will forward the approved Notice of Proposed Action to the Office of Administrative Law for the sole purpose of publication in the California Regulatory Notice Register before the start of the public comment period, and return an approved copy to the proposing agency. If a Notice of Proposed Action is found to be incomplete or incorrect by Commission staff, the Executive Director shall return it to the proposing agency within 10 days with a written listing of the found deficiencies to enable the agency to make corrections for resubmittal to the Commission.

(d) Any Notice of Proposed Action not acted upon within 20 days shall be considered automatically approved and may be published.

**Authority:** Health and Safety Code Sections 18931 and 18935.

**Reference:** Health and Safety Code Sections 18931 and 18935.

**HISTORY:**

1. (BSC 01/13) Supplement to correct grammatical editorial errors and add a website reference in Section 1-407. Approved by the California Building Standards Commission on July 22, 2014, filed with Secretary of State on July 30, 2014, effective August 30, 2014.