

# Regulations Governing Petitions to the Board of Directors from Decisions of the Standards Council

ADOPTED BY THE NFPA BOARD OF DIRECTORS, MARCH 7, 1997

(Amended November 14, 1999; November 13, 2010; November 16, 2013)

## 1. Scope of and Authority for these Regulations.

(a) These regulations have been issued by the Board of Directors pursuant to its authority under Article 5 of the Articles of Organization and Articles 5 and 8 of the bylaws.

(b) These regulations set forth the procedures to be used for the filing and processing of all petitions to the Board of Directors filed pursuant to 1.7 of the *Regulations Governing the Development of NFPA Standards*.

(c) The Board of Directors can amend these regulations from time to time and waive or supplement, in whole or in part, at any time or times at its discretion.

(d) For the purposes of these regulations, the assistant secretary of the Board of Directors, or such other person as the operating principles may appoint, shall act as a petitions clerk.

**2. Subcommittees of the Board.** Unless the Board of Directors otherwise orders, the authority to consider and decide a petition to the Board of Directors shall be delegated to a subcommittee of the board, which shall be appointed, in accordance with 2.1 of these regulations. Subcommittees shall be appointed by the president with the approval of the chair of the board or, in the event of his or her unavailability, the first or second vice chair.

**2.1 Composition of Subcommittees.** Subcommittees shall consist of three or more members of the Board of Directors. The criteria for selection and appointment of subcommittee members shall be as follows:

(a) A subcommittee member shall be a person who can decide the petition on the merits in an impartial manner.

(b) A subcommittee member shall not have any conflict of interest. (A conflict of interest is defined as any situation in which a decision on a petition could substantially and materially affect the member's financial or business interest.)

(c) A subcommittee member shall not be a member of any committee responsible for a Document under consideration.

(d) Each subcommittee shall to the extent practicable represent diverse interests within the association.

In making a decision of whether or not to serve on a subcommittee, the member may consult with the NFPA General Counsel.

Any challenge to the composition of the subcommittee that is not resolved shall be referred by the operating principles to the executive committee for resolution.

**3. The Scope of Review.** The petitioner shall generally confine the argument in the petition to matters that were presented below and shall not raise any new matters that could have but were not presented within

the standards development process. A petition to the Board of Directors shall not be regarded as simply another opportunity to reargue a position that was rejected by the Standards Council. In considering a petition, the subcommittee shall give due deference to the judgment of the Standards Council, and shall not intervene unless it can be demonstrated that extraordinary circumstances exist requiring petition intervention to protect the integrity of the standards development process or the interests of the NFPA.

**4. The Record.** In its consideration of the petition, the subcommittee shall have before it the entire record that was before the Standards Council, as well as all proceedings and decisions of the Standards Council on the issue. In addition, the subcommittee may consult any other records of the NFPA that it deems pertinent to the issue, and the subcommittee may seek technical assistance from staff, the technical committee, or any other source or persons that it deems appropriate.

**5. Notice of Intent to File the Petition.** Anyone wishing to petition the Board of Directors concerning a Standards Council action related to the issuance of an NFPA standard shall file a notice of intent to file a petition within 15 days following the Standards Council action. A Standards Council action related to the issuance of an NFPA standard includes any action of the Standards Council that issues or returns an NFPA standard or that affects the text of an NFPA standard. Petitions concerning other Standards Council actions shall be filed within a reasonable period of time.

## 6. Filing and Contents of the Petition.

(a) Within 15 days following the receipt of the notice of intent to file, or within such other time as the petitions clerk may allow, the petitioner shall file the petition together with 19 copies. The petition shall be no more than 10 pages in length and shall contain, in separately denominated sections, the following:

(1) Name, affiliation, and address of the petitioner

(2) Statement identifying the particular Standards Council action to which the petition relates

(3) Argument setting forth the grounds for the petition and, in particular, addressing why there exist extraordinary circumstances requiring the intervention of the board (see Section 3, above, and 1.7 of the *Regulations Governing the Development of NFPA Standards*)

(4) Statement of the precise relief requested

(b) Any part of the record related to the standards development process that is referenced or discussed in the petition should be clearly cited in the petition using available markings such as the title, author, date, and page of the record. Since the full record will be available to the subcommittee during its review, attachments and appendices shall not accompany the petition, unless express permission has been obtained from the petitions clerk.

## 7. Consideration of the Petition.

**7.1 Initial Review.** The petitions clerk may, at his or her discretion, arrange for initial review of the petition by meeting, correspondence, or telephone conference. If upon such initial review of the petition and any relevant portions of the Record, the subcommittee determines that the petition has no merit, it may dismiss the petition.

**7.2 Full Review.** If initial review is not conducted, or, if upon such review, the subcommittee determines that further review is warranted, it shall afford the opportunity for responses to be filed by interested parties. Responses, together with 19 copies, shall be filed within 15 days or within such other time as the petitions clerk may allow.

(a) Responses shall be no more than 10 pages in length and shall contain, in separately denominated sections, the following:

- (1) Name, affiliation, and address of the respondent
- (2) Statement identifying the petition to which the response relates and stating whether the respondent supports or opposes the petition
- (3) Argument setting forth the grounds for opposing or supporting the petition and, in particular, addressing why there does or does not exist extraordinary circumstances requiring the intervention of the petition (see Section 3, above, and 1.7 of the *Regulations Governing the Development of NFPA Standards*)

(b) Any part of the record related to the standards development process that is referenced or discussed in a response should be clearly

cited in the response using available markings such as the title, author, date, and page of the record. Since the full record will be available to the subcommittee during its review, attachments and appendices shall not accompany the response, unless express permission has been obtained from the petitions clerk.

(c) So as to avoid unnecessary repetition and duplication of effort, parties are encouraged to file joint responses where possible and appropriate.

(d) Unless a hearing has been requested and granted by the subcommittee (see Section 8 below), the subcommittee shall, either by meeting or telephone conference, review and render a decision on the petition based on the written submissions of the parties and the record before it.

**8. Requests for Hearings.** If the petitioner requests a hearing on the petition and that hearing is granted, the petitioner shall be assessed a filing fee of \$2,500 to be posted following the granting of the request. This fee may be reduced or waived by the operating principles upon application of the petitioner if good cause for reducing or waiving the fee is presented.

**9. Waiver of Regulations.** Any of the deadlines or requirements set forth in these regulations may be waived by the subcommittee upon application of the petitioner or any other party for good cause shown, or in the discretion of the subcommittee.

**10. Subcommittee Report to the Board.** The subcommittee shall file with the petition of Directors a written report concerning each petition that it has determined.