

## California Water Code

### § 13320. Review by state board of regional board action

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(a) Within 30 days of any action or failure to act by a regional board under subdivision (c) of Section 13225, Article 4 (commencing with Section 13260) of Chapter 4, Chapter 5 (commencing with Section 13300), Chapter 5.5 (commencing with Section 13370), Chapter 5.9 (commencing with Section 13399.25), or Chapter 7 (commencing with Section 13500), any aggrieved person may petition the state board to review that action or failure to act. In case of a failure to act, the 30-day period shall commence upon the refusal of the regional board to act, or 60 days after request has been made to the regional board to act. The state board may, on its own motion, at any time, review the regional board's action or failure to act and also any failure to act under Article 3 (commencing with Section 13240) of Chapter 4.

(b) The evidence before the state board shall consist of the record before the regional board, and any other relevant evidence which, in the judgment of the state board, should be considered to effectuate and implement the policies of this division.

(c) The state board may find that the action of the regional board, or the failure of the regional board to act, was appropriate and proper. Upon finding that the action of the regional board, or the failure of the regional board to act, was inappropriate or improper, the state board may direct that the appropriate action be taken by the regional board, refer the matter to any other state agency having jurisdiction, take the appropriate action itself, or take any combination of those actions. In taking any such action, the state board is vested with all the powers of the regional boards under this division.

(d) If a waste discharge in one region affects the waters in another region and there is any disagreement between the regional boards involved as to the requirements which should be established, either regional board may submit the disagreement to the state board which shall determine the applicable requirements.

(e) If a petition for state board review of a regional board action on waste discharge requirements includes a request for a stay of the waste discharge requirements, the state board shall act on the requested stay portion of the petition within 60 days of accepting the petition. The board may order any stay to be in effect from the effective date of the waste discharge requirements.

## California Code of Regulations, Title 23

### § 2050. Petition for Review by State Board

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(a) Any petition by an aggrieved person to the state board for review under Water Code Section 13320(a) of an action or failure to act by a regional board shall be submitted in writing and received by the state board within 30 days of any action or failure to act by a regional board. The petition shall contain the following:

(1) Name, address, telephone number and email address (if available) of the petitioner.

(2) The specific action or inaction of the regional board which the state board is requested to review and a copy of any order or resolution of the regional board which is referred to in the petition, if available. If the order or resolution of the regional board is not available, a statement shall be included giving the reason(s) for not including the order or resolution.

(3) The date on which the regional board acted or refused to act or on which the regional board was requested to act.

(4) A full and complete statement of the reasons the action or failure to act was inappropriate or improper.

(5) The manner in which the petitioner is aggrieved.

(6) The specific action by the state or regional board which petitioner requests.

(7) A statement of points and authorities in support of legal issues raised in the petition, including citations to documents or the transcript of the regional board hearing if it is available.

(8) A statement that the petition has been sent to the appropriate regional board and to the discharger, if not the petitioner.

(9) A statement that the substantive issues or objections raised in the petition were raised before the regional board, or an explanation of why the petitioner was not required or was unable to raise these substantive issues or objections before the regional board.

(b) Service of a petition may be made by U.S. mail, by hand delivery, by facsimile with hard copy to follow, or via e-mail to [waterqualitypetitions@waterboards.ca.gov](mailto:waterqualitypetitions@waterboards.ca.gov). [In the case of service by facsimile, only the petition itself shall be sent. All exhibits shall be included with the hard copy.] The petition must be received by the state board no later than 5:00 p.m. 30 days following the date of the action or inaction by the regional board, except that if the thirtieth day following the date of the action or inaction falls on a Saturday, Sunday, or state holiday, the petition must be received by the state board no later than 5:00 p.m. on the first business day following.

(c) If the action or inaction that is the subject of the petition was taken by the regional board after notice and opportunity to comment, the petition to the state board shall be limited to those substantive issues or objections that were raised before the regional board.

(d) The state board shall notify the petitioner of the assigned petition number and the date the state board received the petition.

## California Code of Regulations, Title 23

### § 2050.5. Complete Petitions; Responses; Time Limits.

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(a) Upon receipt of a petition that complies with section 2050 the state board may either dismiss the petition pursuant to section 2052, or may provide written notification to the petitioner, informing the discharger (if not the petitioner), the regional board, and other interested persons that they shall have 30 days from the date of mailing such notification to file a response to the petition with the state board. The regional board shall file the administrative record within this 30-day period, including a copy of the tape recording of the regional board action, or a transcript, if available. Responses to petitions and any other submissions shall be served concurrently upon the petitioner, the discharger (if not the petitioner) and the regional board, by any method listed in section 2050, subdivision (b). Any points and authorities filed in response to the petition shall include citations to documents or the transcript of the regional board hearing where appropriate. The time for filing a response or the administrative record may be extended by the state board.

Additional submissions will be allowed only upon written request and at the discretion of the state board.

(b) The state board shall review and act on the petition within 270 days from the date of mailing the notification described in subdivision (a), unless a hearing is held by the state board. If a hearing is held, the state board shall act on the petition within 330 days from the date of mailing the notification described in subdivision (a), or within 120 days of the close of the hearing, whichever is later. If formal disposition is not made by the state board within these time limits the petition is deemed denied. These time limits may be extended for a period not to exceed 60 days with written agreement from the petitioner. The time limits for formal disposition do not apply while action on a petition is held in abeyance, as provided in subdivision (d).

(c) The state board may, on its motion, review a regional board's action or failure to act for any reason, including lack of formal disposition by the state board within the time limits provided in subdivision (b).

(d) A petition may be held in abeyance at the request or with the agreement of the petitioner.

(1) A request or agreement to hold a petition in abeyance must be in writing and shall be provided to the state board, the regional board, and the discharger, if not the petitioner.

(2) Petitions may be held in abeyance unless the regional board provides reasonable grounds for objection. For petitions challenging the assessment of administrative civil liability or penalties, written agreement from the regional board is required.

(3) The time limits for formal disposition and for filing a response to the petition and the administrative record shall be tolled during the time a petition is held in abeyance, and shall recommence running when the petition is removed from abeyance.

(e) Unless a petition is being held in abeyance pursuant to subdivision (d), the state board shall issue the notification described in subdivision (a) within 90 days of receipt of a petition for review, as indicated in the notice provided pursuant to subdivision (d) of section 2050. If the state board has not provided the notification described in subdivision (a) within the 90-day period provided by this subdivision, the state board deems the petition dismissed by operation of law effective the 91st day following receipt of the petition. The time limit for providing the notification described in subdivision (a) shall be tolled during the time a petition is held in abeyance, and shall recommence running when the petition is removed from abeyance. A party aggrieved by a regional board final decision or order for which the state board dismisses a petition pursuant to this subdivision must file any judicial challenge within the 30-day period for judicial review allowed by Water Code section 13330, subdivision (b).

(f) For petitions received by the state board before the effective date of subdivision (e) that are not being held in abeyance and for which the state board has not issued the notification described in subdivision (a), the time limit for providing the notification described in subdivision (a) shall be as follows:

(1) For petitions received before January 1, 2011, within 120 days of the effective date of subdivision (e). [Note: the effective date of subdivision (e) was January 1, 2015. Therefore, the time limit is May 1, 2015.]

(2) For petitions received from January 1, 2011 to December 31, 2012, within 240 days of the effective date of subdivision (e). [Note: the effective date of subdivision (e) was January 1, 2015. Therefore, the time limit is August 29, 2015.]

(3) For petitions received from January 1, 2013 to the day before the effective date of subdivision (e), within one year of the effective date of subdivision (e). [Note: the effective date of subdivision (e) was January 1, 2015. Therefore, the time limit is January 1, 2016.]

(g) If the state board has not provided the notification described in subdivision (a) within the periods specified in subdivision (f)(1) through (f)(3), the state board deems the petition dismissed by operation of law effective the day following the respective period described in subdivision (f)(1) through (f)(3). The time limit for providing the notification described in subdivision (a) shall be tolled during the time a petition is held in abeyance, and shall recommence running when the petition is removed from abeyance. A party aggrieved by a regional board final decision or order for which the state board dismisses a petition pursuant to this subdivision must file any judicial challenge within the 30-day period for judicial review allowed by Water Code section 13330, subdivision (b).

## **California Code of Regulations, Title 23**

### **§ 2050.6. Supplemental Evidence.**

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(a) If any person requests that the state board consider evidence not previously provided to the regional board, that person shall provide a statement that additional evidence is available that was not presented to the regional board or that evidence was improperly excluded by the regional board. Any request by a regional board to present additional evidence shall comply with (a)(1) through (3).

(1) The request to present additional evidence and all supporting arguments shall be provided at the time the petition is filed, or as soon as the evidence becomes available thereafter.

(2) The request to present additional evidence shall include a detailed statement of the nature of the evidence and of the facts to be proved. If the evidence was not presented to the regional board, the person requesting consideration of the evidence shall provide a detailed explanation of the reasons why the evidence could not previously have been submitted. If the person presenting the evidence contends that the evidence was improperly excluded, the request shall include a specific statement of the manner in which the evidence was improperly excluded.

(3) If the state board, in its discretion, approves a request to present additional evidence, the proponent must submit the evidence in writing and must also provide it to the petitioner, the discharger (if not the petitioner) and the regional board. The state board may prescribe a time limit for submission of the additional evidence.

(b) The petitioner may request that the state board conduct a hearing to consider testimony, other evidence, and argument. Such request shall be supported by a summary of contentions to be addressed or evidence to be introduced and a showing of why the contentions or evidence have not been previously or adequately presented. A request to conduct a hearing shall be submitted at the time the petition is filed or as soon as possible thereafter.

## **California Code of Regulations, Title 23**

### **§ 2051. Defective Petitions.**

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(a) Upon receipt of a petition that does not comply with Section 2050, the state board shall notify the petitioner of the manner in which the petition is defective and the time within which an amended petition may be filed, unless the petition is dismissed pursuant to section 2052.

(b) If a properly amended petition is not received by the state board within the time allowed, the petition shall be deemed withdrawn unless cause is shown for an extension of time.

## California Code of Regulations, Title 23

### § 2052. Action on a Petition.

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(a) The state board may:

(1) At any time, refuse to review the action or failure to act of the regional board if the petition fails to raise substantial issues that are appropriate for review, or

(2) After review of all or part of the regional board's records pertaining to the matter, including the transcript of any hearing held by the regional board:

(A) Deny the petition upon a finding that the action or failure to act of the regional board was appropriate and proper or that the petition fails to raise substantial issues that are appropriate for review; or

(B) Set aside or modify the regional board order; or

(C) Direct the regional board to take appropriate action.

(b) The executive director may, on behalf of the state board, refuse to review the action or failure to act of the regional board if the petition fails to raise substantial issues that are appropriate for review. The executive director's refusal to review a petition shall be in writing.

(c) Before taking final action, the state board may, in its discretion, hold a hearing for the purpose of oral argument or receipt of additional evidence or both.

(1) If a hearing is held, the state board shall give reasonable notice of the time and place and of the issues to be considered to the petitioner, the discharger (if not the petitioner), the regional board, any interested persons who have filed a response to the petition pursuant to section 2050.5 and such other persons as the board deems appropriate.

(2) If a hearing is held, the state board in its discretion may require that all interested parties intending to participate shall submit to the state board in writing the name of each witness who will appear, together with a statement of the qualifications of each expert witness, the subject of the proposed testimony, and the estimated time required by the witness to present his direct testimony. The state board may also require that copies of proposed exhibits be supplied to all parties and to the state board.

## California Code of Regulations, Title 23

### § 2053. Stay Orders.

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(a) A stay of the effect of an action of a regional board shall be granted only if petitioner alleges facts and produces proof of all of the following:

(1) substantial harm to petitioner or to the public interest if a stay is not granted,

(2) a lack of substantial harm to other interested persons and to the public interest if a stay is granted, and

(3) substantial questions of fact or law regarding the disputed action.

A petition for a stay shall be supported by a declaration under penalty of perjury of a person or persons having knowledge of the facts alleged.

(b) Upon a documented showing by petitioner that the request complies with the prerequisites for a stay, the state board shall issue a notice to all interested persons that a stay is being considered.

(1) The state board must hold a hearing prior to issuing a stay if requested by any of the following: the petitioner, the discharger (if not the petitioner), the regional board, any person designated as a party by the regional board, or any person designated pursuant to subparagraph (2). A hearing may be held by the state board or a member of the state board.

(2) Any interested person may request that the board designate him or her as a party consistent with section 648.1, subdivision (a). The request shall include a statement explaining the basis for requesting designated party status, including why the petitioner, discharger (if not the petitioner), regional board, or any other designated party does not adequately represent the person's interests.

(3) If a hearing is held, notice shall be given in such manner and to such persons, in addition to the petitioner, as the board deems appropriate.

(4) A request for a stay may be denied without a hearing.

(5) If no hearing is held, the state board may issue a stay only after providing all interested persons with notice and an opportunity to comment on the request for stay.

(c) Nothing in subsection (a) shall preclude the state board from issuing a stay of the effect of an action of a regional board, upon its own motion. The requirement of a declaration under penalty of perjury may be waived by the board in case of an emergency.

(d) The state board shall review and act on the request for a stay within 60 days from the date of mailing the notification described in section 2050.5(a). This limit may be extended by written agreement from the petitioner.

## **California Code of Regulations, Title 23**

### **§ 2054. Consolidation of Proceedings.**

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The board may order two or more proceedings which are legally or factually related to be considered or heard together unless any party thereto makes a sufficient showing of prejudice.

## **California Code of Regulations, Title 23**

### **§ 2055. Notice of Review.**

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When a review is undertaken on the board's own motion, all affected persons known to the board shall be notified and given an opportunity to submit information and comments, subject to such conditions as the board may prescribe.

## **California Code of Regulations, Title 23**

### **§ 2059.1. Review of Septic Tank Prohibitions.**

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Whenever the board reviews waste discharge requirements which include a determination that the discharge of waste from existing or new individual disposal systems or from community collection and disposal systems which utilize subsurface disposal shall not be permitted, evidence of alternatives shall be considered by the board as provided in Subchapter 9.1, Article 2 of this chapter.

## **California Code of Regulations, Title 23**

### **§ 2064. Record.**

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When a state board hearing is held the decision of the state board will be based on that evidence and testimony in the record of the hearing. When no hearing is held, the decision of the state board will be based on the record before the regional board. Except that in either case the record may be supplemented by any other evidence and testimony accepted by the state board pursuant to Section 2050.6. Upon the close of a hearing, the presiding officer may keep the hearing record open for a definite time, not to exceed thirty days, to allow any party to file additional exhibits, reports or affidavits.

## **California Code of Regulations, Title 23**

### **§ 2055. Informal Disposition.**

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Informal disposition may be made of any petition by stipulation, agreed settlement, consent or default. However, any such disposition will not become effective until acted upon by the state board in a public meeting.

## **California Code of Regulations, Title 23**

### **§ 2066. Workshop Meeting.**

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(a) The state board may discuss a proposed order in response to a petition for review of an action of a regional water quality control board in a public workshop meeting prior to formal action at a board meeting. Comments may be submitted in writing prior to the workshop meeting. At the workshop meeting, the state board may invite comments on the proposed order from interested persons. All comments shall be based solely upon evidence contained in the record or upon legal argument.

## **California Code of Regulations, Title 23**

### **§ 2067. Formal Disposition.**

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Unless denied by the executive director pursuant to section 2052(b), formal disposition by the state board of any pending petition will be taken at a regularly or specially scheduled board meeting. At the meeting the board may invite comments on the matter from interested persons. These comments shall be based solely upon evidence contained

in the record or legal argument.

No new evidence shall be submitted at the state board meeting. Written arguments submitted after the workshop meeting shall be limited to revisions to the proposed order that was considered by the state board at the workshop meeting. Such written arguments shall be filed at least two working days prior to the state board meeting, unless otherwise specified by the state board.

## **California Code of Regulations, Title 23**

### **§ 2068. Notice of Right to Petition.**

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Each regional board shall inform persons attending each of its business meetings of the right to petition the state board to review an action or inaction of the regional board and of the availability of copies of the state board's regulations regarding such petitions. This announcement may be made orally or by printing in the regional board's agenda or both.