

## **CHAPTER 4.1. EX PARTE COMMUNICATIONS [13287. - 13287.]**

*(Chapter 4.1 added by Stats. 2012, Ch. 551, Sec. 4.)*

### **§ 13287. [Definitions; ex parte communications for certain general orders; disclosure requirements and remedies]**

(a) For the purposes of this section:

(1) “Board” means the state board or a regional board.

(2) “Ex parte communication” means an oral or written communication with one or more board members concerning matters, other than a matter of procedure or practice that is not in controversy, under the jurisdiction of a board, regarding a pending action of the board that satisfies both of the following:

(A) The action does not identify specific persons as dischargers, but instead allows persons to enroll or file an authorization to discharge under the action.

(B) The action is for adoption, modification, or rescission of one or more of the following:

(i) Waste discharge requirements pursuant to Section 13263 or 13377.

(ii) Conditions of water quality certification pursuant to Section 13160.

(iii) Conditional waiver of waste discharge requirements pursuant to Section 13269.

(3) “Interested person” means any of the following:

(A) Any person who will be required to enroll or file authorization to discharge pursuant to the action at issue before the board or that person’s agents or employees, including persons receiving consideration to represent that person.

(B) Any person with a financial interest, as described in Article 1 (commencing with Section 87100) of Chapter 7 of Title 9 of the Government

---

Code, in a matter at issue before a board, or that person's agents or employees, including persons receiving consideration to represent that person.

(C) A representative acting on behalf of any formally organized civic, environmental, neighborhood, business, labor, trade, or similar association who intends to influence the decision of a board member on a matter before the board.

(b) Notwithstanding Section 11425.10 of the Government Code, the ex parte communications provisions of the Administrative Procedure Act (Article 7 (commencing with Section 11430.10) of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code) do not apply to a board action identified in paragraph (2) of subdivision (a). This section only applies to those actions.

(c) For the purposes of this section, and except as limited by subdivision (d), ex parte communications regarding a board action identified in paragraph (2) of subdivision (a) may be permitted as follows:

(1) All ex parte communications shall be reported by the interested person, regardless of whether the communication was initiated by the interested person.

(2) A notice of ex parte communication shall be filed with the board within seven working days of the communication. The notice may address multiple ex parte communications in the same proceeding, provided that notice of each communication identified therein is timely. The notice shall include all of the following information:

(A) The date, time, and location of the communication, and whether it was oral or written, or both.

(B) The identities of each board member involved, the person initiating the communication, and any persons present during the communication.

(C) A description of the interested person's communication and the content of this communication. A copy of any written, audiovisual, or other material used for or during the communication shall be attached to this description.

(3) Board staff shall promptly post any notices provided pursuant to paragraph (2) on the board's Internet Web site and distribute the notice on any available electronic distribution list concerning the action.

(d) A board may prohibit ex parte communications for a period beginning not more than 14 days before the day of a board meeting at which the decision in the proceeding is scheduled for board action. If a board continues the decision, it may permit ex parte communications during the interval between the originally scheduled date and the date that the decision is calendared for final decision, and may prohibit ex parte communications for 14 days before the day of the board meeting to which the decision is continued.

(e) If an interested person fails to provide any required notice in the manner required by this section, the board may use any of the remedies

---

available pursuant to the administrative adjudication provisions of the Administrative Procedure Act (Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3 of Title 2 of the Government Code), including the issuance of an enforcement order, or sanctions pursuant to Article 12 (commencing with Section 11455.10) of Chapter 4 of Part 1 of Division 3 of Title 2 of the Government Code.

*(Added by Stats. 2012, Ch. 551, Sec. 4. Effective January 1, 2013.)*