

State Water Resources Control Board

EX PARTE DISCLOSURE REQUIREMENTS FOR PENDING GENERAL ORDERS

The prohibition against ex parte communications no longer applies to general waste discharge requirements (including NPDES permits), general waivers and general Clean Water Act section 401 water quality certifications. A “general order” does not name specific dischargers, but instead allows eligible dischargers to enroll. The following information will help the public comply with the requirement to meet statutory disclosure requirements. For more information, see Water Code section 13287 and http://www.waterboards.ca.gov/laws_regulations/docs/exparte.pdf.

Must I disclose ex parte communications with board members regarding pending general orders?

You must provide written disclosure if you are in one of these categories:

- Potential enrollees (including their representatives or employees)
- Persons with a financial interest (including their representatives or employees). For a definition of “financial interest,” consult the Political Reform Act (Gov. Code, § 87100 et seq.) and implementing regulations (Cal. Code of Regs., tit. 2, § 18700 et seq.), or the Fair Political Practices Commission website (<http://www.fppc.ca.gov/index.php?id=51>)
- Representatives acting on behalf of any formally organized civic, environmental, neighborhood, business, labor, trade, or similar association

What must I disclose?

The attached form lists the information that must be disclosed to document a meeting, telephone call or other conversation. For written communications, a complete copy of the letter or email with all attachments is adequate.

When is the disclosure due?

Water Board staff must receive the disclosure within seven (7) working days after the board member receives the communication (generally, the date of a phone call or meeting with a board member).

Who must receive my disclosure documents?

Unless the board member(s) provided you with a different contact person, please send your materials to: commentletters@waterboards.ca.gov

What will the Water Board do with my disclosure?

The Water Board is required to post the disclosure on its website and to distribute it via any electronic distribution list for the proposed order. There is no requirement to distribute the disclosure to board members or to prepare responses. If you want to submit written comments or evidence on a proposed general order, you must provide the comments or evidence following the procedure and timelines provided in the notice for the board’s proceeding.

May other interested persons respond to a disclosure notice?

The Water Code does not require that interested persons be allowed to respond to disclosure notices. Any such responses should be included in formal comments submitted during the order’s written comment period, included in oral comments at the hearing, or both.

**STATE WATER RESOURCES CONTROL BOARD
EX PARTE COMMUNICATIONS REGARDING PENDING GENERAL ORDERS
DISCLOSURE FORM**

Note: This form is intended to assist the public in providing the disclosure required by law. It is designed to document meetings and phone calls. Written communications may be disclosed by providing a complete copy of the written document, with attachments. Unless the board member(s) provided you with a different contact person, please send your materials to: commentletters@waterboards.ca.gov

Use of this form is not mandatory.

1. Pending General Order that the communication concerned:

2. Name, title and contact information of person completing this form:
Note: Contact information is not mandatory, but will allow the Water Board to assist you if additional information is required. If your contact information includes your personal residence address, personal telephone number or personal email address, please use a separate sheet of paper if you do not want that information posted on our website. However, this information may be provided to members of the public under the Public Records Act.

3. Date of meeting, phone call or other communication:

Time:

Location:

4. Type of communication (written, oral or both):

5. Names of all participants in the communication, including all board members who participated:

6. Name of person(s) who initiated the communication:

7. Describe the communication and the content of the communication. *Include a brief list or summary of topics discussed at the meeting, any legal or policy positions advocated at the meeting, any factual matters discussed, and any other disclosure you believe relevant. The Office of Chief Counsel recommends that any persons requesting an ex parte meeting prepare an agenda to make it easier to document the discussion properly. Attach additional pages, if necessary.*

8. **Attach a copy of handouts, PowerPoint presentations and other materials any person used or distributed at the meeting. If you have electronic copies, please email them to facilitate web posting.**

The phone conference on August 23, 2017, followed up on issues raised in a disclosed March 15, 2017, meeting, regarding potential CCA liability for certification of Irrigation and Nitrogen Management Plans. The attached September 13, 2017, email and attachment further followed up on the same issues.

Rebecca Baskins

From: George Soares
Sent: Thursday, October 05, 2017 1:14 PM
To: Rebecca Baskins
Subject: FW: Proposed CCA Language

On Sep 12, 2017, at 9:49 AM, George Soares <GSoares@kscsacramento.com> wrote:

DeDe:

The attached document relating to Certified Crop Advisers is forwarded to you at the request of the California Association of Pest Control Advisers and Western Plant Health Association. Please advise whether I should send the document to specific Water Board staff.

Thanks,
George

Certified Crop Adviser

“Certified crop adviser” (CCA) means any person who is (1) recognized as a CCA by the American Society of Agronomy and is in compliance with its education requirements, and (2) issued a Nitrogen Management Certificate by the California Department of Food and Agriculture’s Fertilizer Research and Education Program (FREP), and is in compliance with its continuing education requirements.

The standard of care established by FREP shall be used by CCA’s when recommending the agronomic application of nitrogen in the production of agricultural commodities and when verifying the agronomic validity of nitrogen management plans (NMP’s) submitted by agricultural operations to government entities.

CCA’s and their employers shall not be subject to claims of environmental violations and shall not be liable for (1) the actions of agricultural operations in the implementation and management of NMP’s, and (2) any information provided in the NMP’s that is not directly associated with the nitrogen management education received by CCA’s from FREP.

The contents of the NMP’s shall be considered proprietary to the individual agricultural operations and therefore confidential and shall not be disclosed except when required by a court order after a hearing in a judicial proceeding.