

Title 23, California Code of Regulations

2053. Stay Orders.

(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.