

The California State Auditor released the following report today:

State Water Resources Control Board

It Should Ensure a More Consistent Administration of the Water Quality Certification Program

BACKGROUND

Charged with administering the statewide system of water quality control as established by federal and state law, the State Water Resources Control Board (state water board) coordinates with nine regional water quality control boards (regional water boards), along with other state agencies, to protect water quality. Both the state water board and the regional water boards issue water quality certifications to persons or entities that require a federal license or permit to engage in certain activities that may impact water quality, enforce the requirements of those certifications, and assess penalties for noncompliance. Entities such as the California Department of Transportation, must obtain water quality certifications for projects depending on the proximity of a waterway to the project.

KEY FINDINGS

During our review of the water quality certification process at the state water board and three regional water boards (water boards), we noted the following:

- Although the water boards' water quality certifications generally complied with federal and state laws and regulations, the certification program was administered inconsistently.
 - ✓ The water boards use different application forms for water quality certification—the length of the forms at the water boards ranged from five to 17 pages with each requiring a different level of detail.
 - ✓ Of the 41 projects we reviewed, the water boards did not notify 15 applicants that their applications were complete within the required 30 days, including three that were not notified at all.
 - ✓ Water boards have not issued certain certifications within the required 60 days of receiving a complete application and in one instance, a regional water board did not issue a certification until 129 days after it received a complete application.
- The state water board has not provided sufficient guidance to regional water boards for monitoring of certified projects—which has contributed to inconsistencies—and it needs to improve its administration practices.
 - ✓ The regional water boards do not track whether certification-holders submit required periodic reports and vary considerably as to when they conduct project site inspections to ensure compliance with the water quality certifications—one regional water board only conducts site inspections if they receive a complaint.
 - ✓ The regional water boards' staffing costs included in penalty actions are inaccurate and regional water boards have insufficient support for those costs. Two of the three regional water boards could only substantiate such costs for five of the 11 penalties they issued that included these costs over the past five fiscal years.
 - ✓ The state water board inadequately tracks the penalty amounts it receives from water quality certification enforcement activities—over the past five fiscal years it has deposited penalty amounts totaling \$374,000 into an incorrect account.
- The primary database the state water board uses to track water quality certifications is incomplete—it has a backlog of over 1,600 documents for certifications that it has not entered into the system and none of the regional water boards consistently use it to record their monitoring and enforcement actions.

KEY RECOMMENDATIONS

We made many recommendations to the state water board including that it improve consistency in the certification process such as adopting a single application form, ensure regional water boards consistently monitor compliance with water quality certifications, require the systematic tracking of staff enforcement hours and documentation of cost calculations, maintain a regular accounting of penalties collected, and ensure all relevant information is entered into the database. We also recommended that regional water boards verify the accuracy of fees that applicants submit.