

DIVISION OF WATER RIGHTS WATER QUALITY CERTIFICATION PROGRAM OVERVIEW

Any applicant seeking a Federal license or permit where the proposed activity may result in a discharge to surface water is required to obtain a State certification. The purpose of the Water Quality Certification (certification) Program is to protect the waters of the United States in California by upholding Section 401 of the Clean Water Act and thereby ensuring that waste discharged to these waters from a proposed activity meets water quality standards and other appropriate requirements. State certification conditions become mandatory conditions of any federal license or permit for the project.

There are two types of projects that typically require certification by the Division of Water Rights, State Water Resources Control Board (State Water Board).

Federal Energy Regulatory Commission (FERC) Projects

Certification is required for hydroelectric facilities that require a license or license amendment issued by FERC. The application fee for a certification is calculated based on the generating capacity of the hydroelectric facility plus \$1000. Annual fees are assessed for FERC projects and are triggered when the application for certification is filed, when a Notice of Intent is filed with FERC, or when consultation is initiated.

Water Diversion Projects

Certification is required for a water diversion project where water is appropriated or is put to beneficial use, and which requires a permit issued by the U.S. Army Corps of Engineers. The initial application fee deposit is \$1000. Additional or final deposits are required to cover the reasonable costs associated with processing the certification application.

After an application is submitted for either type of project, the Division of Water Rights must notify the applicant whether or not the application is considered complete. Contents of a complete application are defined by regulation. A complete application for water quality certification must include the correct fee deposit and must disclose all of the water quality impacts and provide a list of measures to avoid or mitigate project induced impacts. The Division of Water Rights may also request additional information to clarify or supplement the information provided in the application, which may include evidence of compliance with the water quality control plan.

Before issuance of certification, the Division of Water Rights must comply with the California Environmental Quality Act (CEQA). Under CEQA, the project may be analyzed for its incremental effects over existing baseline conditions. When the Division of Water Rights is lead agency for the purpose of CEQA compliance, a Memorandum of Understanding between the State Water Board and the applicant will be developed that governs the environmental analysis and preparation of documents using an independent consultant. Although a final CEQA document is not needed for a complete application, the Division of Water Rights must be provided ample time to review the final CEQA document before taking action on the water quality certification.

If additional information is needed to evaluate potential project impacts and an extension of the federal certification period is not granted, or if the applicant does not withdraw its request for certification, the State Water Board may deny the application without prejudice. An application for certification may also be denied if the proposed activity will result in a discharge, which will not comply with applicable water quality standards.