
A BILL FOR AN ACT

RELATING TO WATER QUALITY CERTIFICATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 401(a)(1) of the federal Clean Water
2 Act requires a water quality certification for any applicant
3 intending to conduct an activity in which the construction or
4 operation of facilities may result in discharge into navigable
5 waters. The water quality certification is required from the
6 state in which the discharge originates. In Hawaii, this
7 certification requirement is managed by the department of
8 health. The legislature finds that the department of health is
9 required under state law to adopt rules specifying a maximum
10 time period in which to grant or deny a business or development-
11 related permit, license, or approval. The legislature further
12 finds that under the Hawaii Administrative Rules, the director
13 of health shall act on a water quality certification application
14 within one year of its receipt or the certification requirements
15 adopted under administrative rules shall be waived.



1 The legislature finds that the department of health's
2 responses to state agencies' applications are often issued more
3 than two years following submission of a complete application.
4 The legislature further finds that this period of delayed
5 response is unreasonable and outside the legislative intent as
6 set forth in section 91-13.5, Hawaii Revised Statutes. Further,
7 this delay often results in costly and extraneous efforts to
8 complete capital improvement projects by state agency
9 applicants.

10 The legislature further finds that the expectation of a
11 timely approval or disapproval for state agency application
12 submissions is reasonable and is necessary for the continued
13 effective maintenance and improvement of the State. Ensuring a
14 reasonable response time from the department of health is also
15 necessary for state agency applicants to accurately budget for
16 and implement capital improvements and natural resource
17 management projects.

18 The purpose of this Act is to statutorily specify the
19 period of time in which the department of health shall respond
20 to complete water quality certification application submissions



1 for state agency projects before the applications are
2 automatically approved.

3 SECTION 2. Chapter 342D, Hawaii Revised Statutes, is
4 amended by adding a new section to be appropriately designated
5 and to read as follows:

6 "§342D- Water quality certification; state agencies;
7 completion of applications; automatic approval. (a) The
8 director shall render a decision on a state agency's application
9 for water quality certification within ninety days from the date
10 when the application was considered complete; provided that all
11 application fees are submitted with the completed application.
12 If the director fails or refuses to render a decision within
13 ninety days after the acceptance and notification of a completed
14 application pursuant to subsection (c), the application shall be
15 automatically approved, subject to the requirements of standard
16 best management practices.

17 (b) In the event of a national disaster, state emergency,
18 or union strike, which would prevent the state agency applicant
19 or the department from fulfilling application or review
20 requirements, the maximum period of time to act on a complete
21 state agency's application shall be extended for a reasonable



1 period or until the requirements may be safely and effectively
2 fulfilled, whichever period is shorter.

3 (c) The director shall render a decision on the
4 completeness of any state agency's application for water quality
5 certification within thirty days of receipt and shall notify the
6 applicant in writing of this decision. If an application is
7 incomplete or otherwise deficient, the written notice shall
8 include a description of the additional information necessary to
9 complete the application or to correct the deficiency. If the
10 applicant is not notified within thirty days, the application
11 shall be accepted and deemed complete. If an application is
12 accepted and deemed complete, but is later found to be missing
13 information necessary to process the application, the applicant
14 shall be allowed a reasonable amount of time to supply the
15 additional information or to correct the deficiency. If the
16 applicant is allowed extra time to supply additional information
17 or correct a deficiency, then the maximum period of time
18 established in subsection (a) shall also be extended by this
19 amount of time.

20 (d) For purposes of this section, "water quality
21 certification" means a statement required by section 401(a)(1)



1 of the Clean Water Act that asserts that a proposed discharge
2 resulting from an activity will not violate applicable water
3 quality standards."

4 SECTION 3. New statutory material is underscored.

5 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY:

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Mark J. Harsh

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H.B. NO. 2476

Report Title:

Water Quality Certification; Approval; State Agencies

Description:

Establishes time limits for the approval or disapproval of water quality certification applications for state projects.

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