

JAN 23 2015

A BILL FOR AN ACT

RELATING TO WATER QUALITY CERTIFICATION.

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

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



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

10 The legislature further finds that the expectation of a
11 timely approval or disapproval for application submissions is
12 not unreasonable and is necessary for the continued effective
13 maintenance and improvement of the State. Ensuring a reasonable
14 response time from the department of health is also necessary
15 for applicants to accurately budget for and implement capital
16 improvements and natural resource management projects.

17 The purpose of this Act is to specify the period of time in
18 which the department of health shall respond to complete water
19 quality certification application submissions before the
20 applications are automatically approved.



SECTION 2. Chapter 342D, Hawaii Revised Statutes, is amended by adding a new section to part III to be appropriated designated and to read as follows:

"§342D- Water quality certification; completion of applications; conditions for automatic approval. (a) The director or director's designee shall issue an approval, approval with modification, or disapproval of all complete applications for water quality certification within ninety days following submission; provided that all application fees are submitted with the complete application. Following expiration of the ninety days, the application shall be automatically approved by the director, subject to typical requirements of standard best management practices.

(b) In the event of natural disaster, state emergency, or union strike preventing fulfillment of application requirements or submission of the complete application, the ninety-day response period shall be extended for a reasonable period or until the requirements may be safely and effectively fulfilled, whichever period is shorter.

(c) If incomplete application is submitted, the department shall notify the applicant in writing within thirty days of



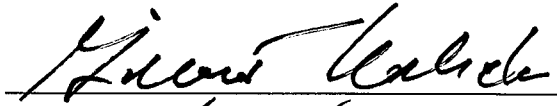
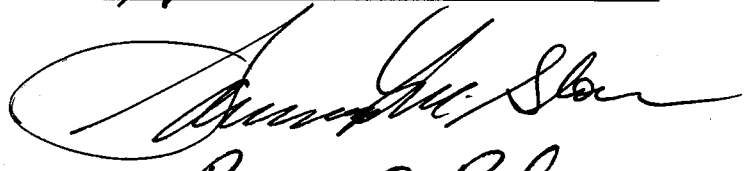


1 submission. The notification shall inform the applicant of the
2 specific requirements unfulfilled or incomplete. If the
3 applicant is not notified within thirty days, the application
4 shall be considered complete. If the applicant is notified
5 within thirty days, the automatic approval of the application
6 pursuant to subsection (a) shall apply only if the applicant
7 rectifies any unfulfilled or incomplete requirements of the
8 application and resubmits the application within five business
9 days of receiving department notification of the incomplete
10 submission.

11 (d) For purposes of this section, "water quality
12 certification" means a statement required by section 401(a)(1)
13 of the Clean Water Act that asserts that a proposed discharge
14 resulting from an activity will not violate applicable water
15 quality standards."

16 SECTION 3. New statutory material is underscored.

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

18 INTRODUCED BY:

S.B. NO. 540

Report Title:

Water Quality Certification; Automatic Approval; Department of Health

Description:

Specifies the time limits by which the department of health must approve or disapprove submissions of section 401 water quality certification applications or the applications will be automatically approved.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

