
A BILL FOR AN ACT

RELATING TO WATER QUALITY CERTIFICATION.

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

1 SECTION 1. Pursuant to section 91-13.5, Hawaii Revised
2 Statutes, unless otherwise provided by law, state or county
3 agencies authorized by law to make rules or to adjudicate
4 contested cases are required to adopt rules that specify a
5 maximum time period to grant or deny a business or development-
6 related permit, license, or approval. The department of health
7 has adopted rules providing that if the director of health fails
8 or refuses to act on a request for certification within one year
9 after receipt of a complete water quality certification
10 application, then specified certification requirements must be
11 waived with respect to the concurrently required federal
12 application.

13 The legislature finds that, in practice, approval of both
14 government and private applications for water quality
15 certification can take two to three years from the time an
16 application is initially submitted. The legislature further
17 finds that the time required to obtain a water quality



1 certification is unreasonably long, is not within the intent of
2 the law, and results in costly delays to both government and
3 private applicants.

4 The department of health is charged with certifying that a
5 proposed discharge resulting from an activity will not violate
6 applicable water quality standards pursuant to paragraph 401(a)
7 (1) of the federal Clean Water Act. A federal Clean Water Act,
8 section 401 certification is required for "[a]ny applicant for a
9 Federal license or permit to conduct any activity including, but
10 not limited to, the construction or operation of facilities,
11 which may result in any discharge into the navigable waters[.]"
12 A federal Clean Water Act, section 401 certification is often
13 the last of a series of required applications, typically
14 triggered as a conditional requirement for a federal Clean Water
15 Act, section 404 permit, from the United States Army Corps of
16 Engineers for a discharge in waters of the United States.

17 The legislature finds that it is reasonable for the private
18 sector to expect that their business- or development-related
19 approvals will be considered by the government in a timely
20 manner. Furthermore, an improved response time from the



1 department of health with respect to water quality certification
2 applications will allow state agencies to:

- 3 (1) More accurately budget for capital improvement
4 projects and natural resource management projects; and
5 (2) Implement projects on a more timely basis, thus
6 ultimately improving service to the public and saving
7 money for the State.

8 The purpose of this Act is to increase the efficiency and
9 improve the response time of state government with respect to
10 the federal Clean Water Act, section 401 certification process.
11 This Act is not intended to limit state environmental controls
12 on water pollution.

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

16 "§342D- Water quality certification; automatic approval.

17 (a) If an application for water quality certification is
18 incomplete, the department shall notify the applicant in writing
19 within thirty days of submission of the application. The notice
20 shall inform the applicant of the specific requirements to make
21 the application complete. If the applicant is not so notified



1 in writing within thirty days of submission of the application,
2 the application shall be deemed complete.

3 (b) As used in this section, "water quality certification"
4 means certification of water quality by the department pursuant
5 to section 401 of the federal Clean Water Act."

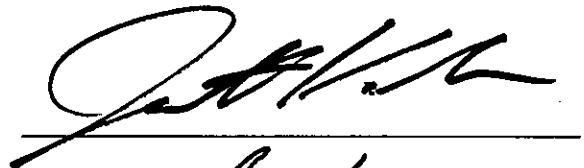
6 SECTION 3. This Act does not affect rights and duties that
7 matured, penalties that were incurred, and proceedings that were
8 begun before its effective date.

9 SECTION 4. New statutory material is underscored.

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

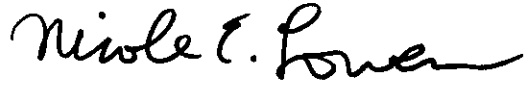
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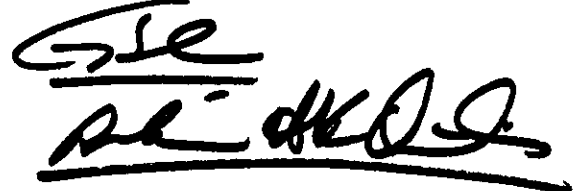




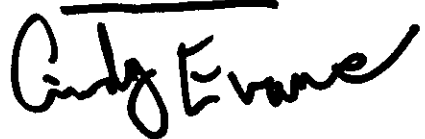














H.B. NO. 835

Report Title:

Water Quality Certification

Description:

Establishes time limits for the Department of Health regarding water quality certification applications.

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

