
SENATE BILL 6172

State of Washington

64th Legislature

2016 Regular Session

By Senator Ericksen

Prefiled 01/07/16.

1 AN ACT Relating to preliminary certifications under section 401
2 of the federal clean water act; adding a new section to chapter 90.48
3 RCW; and creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature finds that the public
6 benefits from timely decisions made by the department of ecology
7 under the federal clean water act. The legislature finds that the
8 department of ecology should make preliminary certifications for
9 projects under section 401 of the federal clean water act. The
10 legislature intends that, by allowing preliminary certifications to
11 be made, the public will avoid disadvantageous situations in which
12 projects that otherwise comply with federal, state, and local
13 regulations are delayed by section 401 review.

14 NEW SECTION. **Sec. 2.** A new section is added to chapter 90.48
15 RCW to read as follows:

16 (1) When the department reviews a project for certification under
17 section 401 of the federal clean water act (33 U.S.C. Sec. 1341), the
18 department must issue a preliminary version of the certification no
19 later than thirty days after receiving a complete application for the
20 project. A preliminary certification issued under this subsection

1 must state whether the department considers the project to be
2 eligible for certification under section 401 of the federal clean
3 water act (33 U.S.C. Sec. 1341), based on the information contained
4 in the application.

5 (2) The department may issue a revised certification for a
6 project under section 401 of the federal clean water act (33 U.S.C.
7 Sec. 1341), after reviewing additional information that was not
8 available at the time a preliminary certification was issued.
9 However, the revised certification may not differ from the
10 preliminary certification under subsection (1) of this section unless
11 the additional information clearly and convincingly demonstrates that
12 the preliminary certification was erroneous upon consideration of all
13 information about the project available to the department. This
14 subsection does not alter any requirement of section 401 of the
15 federal clean water act (33 U.S.C. Sec. 1341) relating to waiver of
16 the certification requirements of that section.

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