

Oliva, Yvonne

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From: Luster, Tom  
Sent: Wednesday, January 12, 2000 2:27 PM  
To: Fitzpatrick, Kevin  
Subject: SeaTac 401/402 split...

Hi Kevin --

I can't find that comment letter I referred to right now, but here's the language from 401(d) and 402(a) showing the difference between the two -- 401 is shall; and 402 is either/or. I've underlined the more significant phrases in these two sections.

There's more to it than this, of course. I'm putting together a discussion memo on this on how we can apply this to the WQ/SEA policies. I'll get you a draft fairly soon.

Tom L.

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401(d) Limitations and monitoring requirements of certification. Any certification provided under this section shall set forth any effluent limitations and other limitations, and monitoring requirements necessary to assure that any applicant for a Federal license or permit will comply with any applicable effluent limitations and other limitations, under section 1311 or 1312 of this title, standard of performance under section 1316 of this title, or prohibition, effluent standard, or pretreatment standard under section 1317 of this title, and with any other appropriate requirement of State law set forth in such certification, and shall become a condition on any Federal license or permit subject to the provisions of this section.

402(a) Permits for discharge of pollutants. (1) Except as provided in sections 1328 and 1344 of this title, the Administrator may, after opportunity for public hearing issue a permit for the discharge of any pollutant, or combination of pollutants, notwithstanding section 1311(a) of this title, upon condition that such discharge will meet either (A) all applicable requirements under sections 1311, 1312, 1316, 1317, 1318, and 1343 of this title, or (B) prior to the taking of necessary implementing actions relating to all such requirements, such conditions as the Administrator determines are necessary to carry out the provisions of this chapter.

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