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ENGROSSED SUBSTITUTE HOUSE BILL 1758

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State of Washington

68th Legislature

2023 Regular Session

By House Environment & Energy (originally sponsored by Representatives Mena, Fitzgibbon, Chapman, Morgan, and Reed)

READ FIRST TIME 02/15/23.

1 AN ACT Relating to permitting for certain hatchery maintenance  
2 activities; amending RCW 90.58.355; adding a new section to chapter  
3 90.58 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 fish hatchery  
6 programs require routine maintenance in order to keep them  
7 operational.

8 **Sec. 2.** RCW 90.58.355 and 2021 c 299 s 1 are each amended to  
9 read as follows:

10 Requirements to obtain a substantial development permit,  
11 conditional use permit, variance, letter of exemption, or other  
12 review conducted by a local government to implement this chapter do  
13 not apply to:

14 (1) Any person conducting a remedial action at a facility  
15 pursuant to a consent decree, order, or agreed order issued pursuant  
16 to chapter 70A.305 RCW, or to the department of ecology when it  
17 conducts a remedial action under chapter 70A.305 RCW. The department  
18 must ensure compliance with the substantive requirements of this  
19 chapter through the consent decree, order, or agreed order issued  
20 pursuant to chapter 70A.305 RCW, or during the department-conducted

1 remedial action, through the procedures developed by the department  
2 pursuant to RCW 70A.305.090;

3 (2) Any person installing site improvements for stormwater  
4 treatment in an existing boatyard facility to meet requirements of a  
5 national pollutant discharge elimination system stormwater general  
6 permit. The department must ensure compliance with the substantive  
7 requirements of this chapter through the review of engineering  
8 reports, site plans, and other documents related to the installation  
9 of boatyard stormwater treatment facilities;

10 (3) The department of transportation projects and activities that  
11 meet the conditions of RCW 90.58.356; (~~or~~)

12 (4) Projects and activities undertaken by the department of fish  
13 and wildlife, a federally recognized Indian tribe, or a public  
14 utility district that meet the conditions of section 3 of this act;  
15 or

16 (5) Actions taken on the Columbia river by the United States army  
17 corps of engineers, under the authority of United States Code Titles  
18 33 and 42 and 33 C.F.R. Sec. 335, to maintain and improve federal  
19 navigation channels in accordance with federally mandated dredged  
20 material management and improvement project plans, provided the  
21 project: (a) Has undergone environmental review under both the  
22 national environmental policy act, 42 U.S.C. Sec. 4321-4370h and the  
23 state environmental policy act, chapter 43.21C RCW; and (b) has  
24 applied for federal clean water act section 401 water quality  
25 certifications issued by the department.

26 NEW SECTION. **Sec. 3.** A new section is added to chapter 90.58  
27 RCW to read as follows:

28 (1) The following maintenance activities undertaken by the  
29 department of fish and wildlife, a federally recognized Indian tribe,  
30 or a public utility district, necessary to maintain the operation of  
31 fish hatcheries, including water intakes and discharges, fish  
32 ladders, water and power conveyances, weirs, and racks and traps used  
33 for fish collection, do not require a substantial development permit,  
34 conditional use permit, variance, letter of exemption, or other  
35 review conducted by a local government:

36 (a) Maintenance, repair, or replacement of equipment and  
37 components that support the larger hatchery facility and occur within  
38 the existing footprint of fish hatchery facilities;

1 (b) Construction or installation of safety structures and  
2 equipment;

3 (c) Maintenance occurring within existing water intake and  
4 outflow sites during times when fish presence is minimized; or

5 (d) Construction undertaken in response to unforeseen,  
6 extraordinary circumstances that is necessary to prevent a decline,  
7 lapse, or cessation of operation of a fish hatchery facility.

8 (2) The proponent of a project undertaken pursuant to this  
9 section must ensure compliance with the substantive requirements of  
10 this chapter for projects under this section. Projects undertaken  
11 under this section must not adversely affect public access or  
12 shoreline ecological functions.

13 (3) Prior to beginning a maintenance or repair project, the  
14 proponent of the project must provide written notification of  
15 projects authorized under this section to the local government with  
16 jurisdiction and to the department.

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