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SENATE BILL 6172

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State of Washington

64th Legislature

2016 Regular Session

By Senators Ericksen and Benton

Prefiled 01/07/16. Read first time 01/11/16. Referred to Committee on Energy, Environment & Telecommunications.

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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