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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)

AN ACT Relating to permitting for certain hatchery maintenance activities; amending RCW 90.58.355; adding a new section to chapter 90.58 RCW; and creating a new section.

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

NEW SECTION. **Sec.**  The legislature finds that fish hatchery programs require routine maintenance in order to keep them operational.

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

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

(1) Any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to chapter 70A.305 RCW, or to the department of ecology when it conducts a remedial action under chapter 70A.305 RCW. The department must ensure compliance with the substantive requirements of this chapter through the consent decree, order, or agreed order issued pursuant to chapter 70A.305 RCW, or during the department-conducted remedial action, through the procedures developed by the department pursuant to RCW 70A.305.090;

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

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

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

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

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

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

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

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

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

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

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

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

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