
HOUSE BILL 1758

State of Washington

68th Legislature

2023 Regular Session

By Representatives Mena, Fitzgibbon, Chapman, Morgan, and Reed

Read first time 02/06/23. Referred to Committee on Environment & Energy.

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 or a federally recognized Indian tribe that meet the
14 conditions of section 3 of this act; or

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

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

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

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

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

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

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

6 (2) The proponent of a project undertaken pursuant to this
7 section, whether the department of fish and wildlife or a federally
8 recognized Indian tribe, must ensure compliance with the substantive
9 requirements of this chapter for projects under this section.
10 Projects undertaken under this section must not adversely affect
11 public access or shoreline ecological functions.

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

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