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HOUSE BILL 1394

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State of Washington

65th Legislature

2017 Regular Session

By Representatives Chandler, Blake, Dent, Lytton, and Dye; by request of Department of Ecology

1 AN ACT Relating to WAC 173-563-020(4) and 173-531A-060 regarding  
2 the processing of applications for Columbia river water right permits  
3 to clarify legislative intent to ensure that the rules can be  
4 implemented as written; and amending RCW 90.90.020.

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

6 **Sec. 1.** RCW 90.90.020 and 2011 c 83 s 4 are each amended to read  
7 as follows:

8 (1)(a) Water supplies secured through the development of new  
9 storage facilities made possible with funding from the Columbia river  
10 basin water supply development account, the Columbia river basin  
11 taxable bond water supply development account, and the Columbia river  
12 basin water supply revenue recovery account shall be allocated as  
13 follows:

14 (i) Two-thirds of active storage shall be available for  
15 appropriation for out-of-stream uses; and

16 (ii) One-third of active storage shall be available to augment  
17 instream flows and shall be managed by the department of ecology. The  
18 timing of releases of this water shall be determined by the  
19 department of ecology, in cooperation with the department of fish and  
20 wildlife and fisheries comanagers, to maximize benefits to salmon and  
21 steelhead populations.

1 (b) Water available for appropriation under (a)(i) of this  
2 subsection but not yet appropriated shall be temporarily available to  
3 augment instream flows to the extent that it does not impair existing  
4 water rights.

5 (2) Water developed under the provisions of this section to  
6 offset out-of-stream uses and for instream flows is deemed adequate  
7 mitigation for the issuance of new water rights provided for in  
8 subsection (1)(a) of this section and satisfies all consultation  
9 requirements under state law related to the issuance of new water  
10 rights.

11 (3) The department of ecology shall focus its efforts to develop  
12 water supplies for the Columbia river basin on the following needs:

13 (a) Alternatives to groundwater for agricultural users in the  
14 Odessa subarea aquifer;

15 (b) Sources of water supply for pending water right applications;

16 (c) A new uninterruptible supply of water for the holders of  
17 interruptible water rights on the Columbia river mainstem that are  
18 subject to instream flows or other mitigation conditions to protect  
19 streamflows; and

20 (d) New municipal, domestic, industrial, and irrigation water  
21 needs within the Columbia river basin.

22 (4) The one-third/two-thirds allocation of water resources  
23 between instream and out-of-stream uses established in this section  
24 does not apply to applications for changes or transfers of existing  
25 water rights in the Columbia river basin.

26 (5) The department of ecology may also act on water right  
27 applications requesting permits for the use of water that is not  
28 associated with water supplies secured through the development of new  
29 storage facilities under subsections (1) through (4) of this section.  
30 The legislature declares that the standards and procedure for the  
31 processing of applications for Columbia river water right permits  
32 established in WAC 173-563-020(4) and 173-531A-060, as those  
33 provisions existed on the effective date of this section, are  
34 consistent with legislative intent and are specifically authorized to  
35 be maintained and implemented by the department of ecology. This  
36 subsection does not affect the department of ecology's authority to  
37 lawfully adopt, amend, or repeal any rule, including WAC  
38 173-563-020(4) and 173-531A-060.

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