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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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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