

Focus on Columbia River Water Supplies



WHY IT MATTERS

The legislation will remove barriers to the timely issuance of water rights from the Columbia River by clearing up uncertainties brought about by recent court decisions. The added certainty will allow the state to more efficiently issue permits. The public will benefit by having a clearer set of permit requirements.

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Special accommodations

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Proposed legislation

The proposed legislation ensures that the current Columbia River rules (Washington Administrative Code 173-563 and 173-531A), which provide a balanced water management approach for fish, farms and communities, can be implemented as adopted.

The problem

The Department of Ecology's Office of Columbia River implements the law governing Columbia Basin water supply, Chapter 90.90 RCW, which was adopted in 2006. Following Legislative direction, Ecology promotes water supply development and takes permitting actions to ensure that water will be available for fish, farms and people in the Columbia River basin.

The existing regulatory framework, provided in the Columbia River rules, has been in place since July 1997, when the Legislature passed a law that directed Ecology to process pending applications for Columbia River water supplies (ESHB 1110). Recent Washington State Supreme Court cases involving disputes in other parts of the state have created uncertainty about the rules for water right permits issued from the Columbia River and connected groundwater bodies.

If legislation is not passed, uncertainty over the status of rules governing the processing of new water right permit applications will stymie important water supply projects, including fish habitat protection and enhancement work.

Ecology's proposal

The Columbia River rules have been serving people and the environment for more than 20 years. To continue implementation as lawmakers intended, Ecology is proposing that the Legislature amend Chapter 90.90 RCW to clearly state that the Columbia River rules WAC 173-563, adopted by Ecology in 1980 and amended in 1998, and WAC 173-531A are consistent with Legislative intent and are specifically authorized to be maintained and implemented by Ecology.



If passed, the bill will affirm the state's existing authority to manage water consistent with rules that have been in place for two decades. It would provide certainty for water right applicants and promote environmental improvements in the Columbia River basin.

Established instream flows for the Columbia River are inapplicable to new permit applications under rule sections WAC 173-563-020(4) and WAC 173-531A-060. Instead, Ecology is directed to consult with appropriate local, state and federal agencies and tribal governments on possible impacts to fish and existing water rights. Based on consultation, Ecology then decides whether to deny or approve the application. Any permit that is approved may include instream flow protection or mitigation conditions.

Reaffirming the Legislative direction to perform consultation under the Columbia River rules would not change the agencies and tribal governments that Ecology consults with into the future. This consultation list would remain the same for the evaluation of Columbia River water right permit applications. Additionally, the Columbia River Policy Advisory Group assists Ecology with policy development and implementation of the Columbia River rules. It is made of a diverse stakeholder group, which includes representatives from federal, state, local and tribal governments, business, environmental groups and water users.

How it will benefit Washington

Managing competing demands for freshwater resources is a challenge. Providing clarity and certainty around Columbia River water management and permitting requirements will allow Ecology to continue to deliver integrated water solutions and to develop additional instream flow opportunities for healthy fish and wildlife.