

WAC 173-153-060 What is the scope of authority of a water conservancy board? (1) A board has authority to:

(a) Evaluate water right transfer applications and issue records of decision and reports of examination for water right transfers;

(b) Act upon the transfer of water rights to the state trust water right program, when doing so is associated with an application to transfer a water right. Boards are encouraged to immediately contact ecology for technical assistance when acting on changes involving trust water rights;

(c) Establish and maintain a water right transfer information exchange program regarding the sale and lease of water rights; and

(d) Perform other activities as may be authorized under chapter 90.80 RCW, subject to other applicable state laws and regulations.

How does a board process a water right change application?

(2) A board may accept for processing an application to transfer a surface or groundwater right if the water right is currently diverted, withdrawn, or used within or, if approved, would be diverted, withdrawn, or used within the boundaries of the geographic area in which the board has jurisdiction, exceptions to this are stated in subsection (7) of this section. The application may be for a permanent or temporary use.

(a) The board should promptly request from the department a copy of the water right file related to the water right transfer application filed with the board. The department will comply with the request at no charge to the board.

(b) The board shall investigate the application and determine whether the proposal should be approved or denied and, if approved, under what conditions, if any, the approval should be granted.

(c) As part of the process described in subsection (2)(b) of this section, boards should determine whether a watershed planning unit is involved in planning related to the source of water that would be affected by the application being considered. If so, the board should notify the planning unit of the application, and consider comments from the watershed planning unit prior to issuing its record of decision.

(3) Decisions on applications must be made by a board in the order in which the applications were originally accepted by the board. Exceptions are outlined in RCW 90.03.380 and chapter 173-152 WAC.

(4) Boards must take into consideration the effect of a proposed transfer on the availability of water for, or possible impairment of, previously filed transfer applications for water from the same source regardless of the order in which applications are processed. This includes any applications for transfers filed with ecology or any other water conservancy board. Ecology will cooperate with boards to resolve any problems associated with conflicting applications.

(5) Neither the annual quantity nor the instantaneous quantity of water tentatively determined by the board to be associated with a water right may be increased. Uses may not be added and the acreage irrigated may not be expanded, except in the circumstances allowed in RCW 90.03.380, in which the annual consumptive use under the water right is not increased.

(6) As described in RCW 90.66.065, under a family farm permit, surplus waters made available through water-use efficiency may, subject to laws including WAC 173-152-110, be transferred to any purpose of use that is a beneficial use of water.

(7) Any water right or portion of a water right that has not previously been put to actual beneficial use cannot be transferred, except as authorized by RCW 90.44.100, or RCW 90.03.395 and 90.03.397.

Where can an applicant file a water right change application?

(8) If a board has been established in an area where an applicant wishes to apply for a water right transfer, applicants have the option of applying either directly to ecology or to a board.

What happens if two boards have overlapping jurisdictions?

(9) Overlapping jurisdiction occurs because boards may transfer rights into and out of their geographic area. Water conservancy boards may negotiate inter-board agreements to determine which board will act in instances of overlapping jurisdiction. Boards are advised to research applicable law, including chapter 39.34 RCW, the Interlocal Cooperation Act, prior to entering into any agreement. Any such agreement must be filed with the water conservancy board coordinator within fifteen days of its effective date.

(10) In circumstances in which more than one board may have authority to process water right transfers in a particular area, but the boards have not negotiated an inter-board agreement as specified in subsection (9) of this section, an applicant may file an application with either board. For example, if one board has authority to transfer the applicant's water right out of its jurisdiction, while another board has authority to transfer the water right into its jurisdiction, the applicant can apply to either board.

[Statutory Authority: RCW 90.80.040. WSR 03-01-039 (Order 01-13), § 173-153-060, filed 12/9/02, effective 1/9/03. Statutory Authority: Chapter 90.80 RCW. WSR 99-23-101 (Order 98-11), § 173-153-060, filed 11/17/99, effective 12/18/99.]