

RCW 90.44.550 Odessa groundwater subarea—Nonuse of a water right—Notice to the department—Conditions. (1) In order to encourage more efficient use of water, where the source of water is an aquifer within the Odessa groundwater subarea as defined in chapter 173-128A WAC:

(a) Any period of nonuse of a right to withdraw groundwater from the aquifer is deemed to be involuntary due to a drought or low flow period under RCW 90.14.140(2)(b); and

(b) Such unused water is deemed a standby or reserve water supply that may again be used after the period of nonuse, as long as: (i) Reductions in water use are a result of conservation practices, irrigation or water use efficiencies, long or short-term changes in the types or rotations of crops grown, economic hardship, pumping or system infrastructure costs, unavailability or unsuitability of water, or willing and documented participation in cooperative efforts to reduce aquifer depletion and optimize available water resources; (ii) withdrawal or diversion facilities are maintained in good operating condition; and (iii) the department has not issued a superseding water right permit or certificate to designate a portion of the groundwater right replaced by federal Columbia basin project water as a standby or reserve right under RCW 90.44.510.

(2)(a) A water right holder choosing to not exercise a water right in accordance with the provisions of this section must provide notice to the department in writing within 180 days of such a choice. The notice must include the name of the water right holder and the number of the permit, certificate, or claim.

(b) When a water right holder chooses to discontinue nonuse under the provisions of this section, notice of such action must be provided to the department in writing. Notice is not required under this subsection (2)(b) for seasonal fluctuations in use if the right is not fully exercised as reflected in the notice provided under (a) of this subsection.

(c) A water right holder who submitted notice under RCW 90.44.520(2)(a) as it existed on June 30, 2021, is deemed to have provided notice under (a) of this subsection.

(3) The provisions of this section relating to the nonuse of all or a portion of a water right are in addition to any other provisions relating to such nonuse under existing law.

(4) If water from the federal Columbia basin project has been delivered to a place of use authorized under a right to withdraw groundwater from the aquifer, the provisions of RCW 90.44.510 apply and supersede the provisions of this section.

(5) Portions of rights protected under this section may not be transferred outside Odessa subarea boundaries as defined in WAC 173-128A-040. Transfers within Odessa subarea boundaries remain subject to the provisions of RCW 90.03.380, 90.03.390, 90.44.100, and WAC 173-130A-200. [2022 c 60 § 2.]

Finding—2022 c 60: "In 2006, the legislature approved chapter 168, Laws of 2006 (Engrossed Substitute Senate Bill No. 6151) in order to encourage the efficient use of water in the Odessa subarea. Chapter 168, Laws of 2006 (Engrossed Substitute Senate Bill No. 6151) expired in July of 2021. The legislature finds that this program was effective and is necessary." [2022 c 60 § 1.]