

RCW 90.03.570 Change or transfer of an unperfected surface water right for municipal water supply purposes. (1) An unperfected surface water right for municipal water supply purposes or a portion thereof held by a municipal water supplier may be changed or transferred in the same manner as provided by RCW 90.03.380 for any purpose if:

(a) The supplier is in compliance with the terms of an approved water system plan or small water system management program under chapter 43.20 or 70A.100 RCW that applies to the supplier, including those regarding water conservation;

(b) Instream flows have been established by rule for the water resource inventory area, as established in chapter 173-500 WAC as it exists on September 9, 2003, that is the source of the water for the transfer or change;

(c) A watershed plan has been approved for the water resource inventory area referred to in (b) of this subsection under chapter 90.82 RCW and a detailed implementation plan has been completed that satisfies the requirements of RCW 90.82.043 or a watershed plan has been adopted after September 9, 2003, for that water resource inventory area under RCW 90.54.040(1) and a detailed implementation plan has been completed that satisfies the requirements of RCW 90.82.043; and

(d) Streamflows that satisfy the instream flows referred to in (b) of this subsection are met or the milestones for satisfying those instream flows required under (c) of this subsection are being met.

(2) If the criteria listed in subsection (1)(a) through (d) of this section are not satisfied, an unperfected surface water right for municipal water supply purposes or a portion thereof held by a municipal water supplier may nonetheless be changed or transferred in the same manner as provided by RCW 90.03.380 if the change or transfer is:

(a) To provide water for an instream flow requirement that has been established by the department by rule;

(b) Subject to streamflow protection or restoration requirements contained in: A federally approved habitat conservation plan under the federal endangered species act, 16 U.S.C. Sec. 1531 et seq., a hydropower license of the federal energy regulatory commission, or a watershed agreement established under RCW 90.03.590;

(c) For a water right that is subject to instream flow requirements or agreements with the department and the change or transfer is also subject to those instream flow requirements or agreements; or

(d) For resolving or alleviating a public health or safety emergency caused by a failing public water supply system currently providing potable water to existing users, as such a system is described in RCW 90.03.580, and if the change, transfer, or amendment is for correcting the actual or anticipated cause or causes of the public water system failure. Inadequate water rights for a public water system to serve existing hookups or to accommodate future population growth or other future uses do not constitute a public health or safety emergency.

(3) If the recipient of water under a change or transfer authorized by subsection (1) of this section is a water supply system, the receiving system must also be in compliance with the terms of an approved water system plan or small water system management program under chapter 43.20 or 70A.100 RCW that applies to the system, including those regarding water conservation.

(4) The department must provide notice to affected tribes of any transfer or change proposed under this section. [2020 c 20 § 1493; 2003 1st sp.s. c 5 § 14.]

Severability—2003 1st sp.s. c 5: See note following RCW 90.03.015.