

Joint Review Procedures

Procedures for Planning and Engineering Documents



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1. Introduction

This document accompanies a Memorandum of Understanding (MOU) between the Department of Health (DOH) and the Department of Ecology (Ecology). The purpose of this document is to outline procedures DOH and Ecology staff will follow when both agencies are doing a joint review on planning and engineering documents and associated water rights prior to the document approval, to meet the requirements of RCW 90.03.386(1). This document explains what elements of specific planning and engineering documents must have a coordinated review.

DOH has regulatory authority to ensure safe and reliable drinking water, including the review and approval of the design of water systems. Ecology has regulatory authority over water resources management in Washington State, including state issued water rights.

2. Water System Documents for Joint Review

DOH receives many different types of planning and engineering documents. When these documents involve a water system considering or requesting expansion or where additional water may be used, DOH will coordinate with Ecology for joint review. These documents are listed in Appendix A: Documents Where Coordinated Review is Required, and include:

- Water system plans
- Small water system management programs
- Source approvals
- New water system approvals (non-community)
- Requests to increase the number of approved connections
- Intertie proposals

Appendix A also outlines the type of information to be routed, regional office leads, and review timelines.

There may be instances where DOH or Ecology determines the need for review of additional documents. This additional review will be addressed on a case-by-case basis between Ecology and DOH.

3. Elements and Approach for Coordinated Review

Coordinated review with Ecology of planning and engineering documents focuses on two main elements: 1) to ensure water systems have adequate water rights to supply water to the proposed number of connections to be served and the proposed service area and 2) to document a water right place of use or an expansion of a place of use through approval of a planning or engineering document.

3.1 Water Rights Adequacy

Water systems use planning and engineering documents to demonstrate they have adequate capacity to provide safe and reliable drinking water to their customers. In these documents water systems may forecast their water production, request an increase in their number of approved connections, request approval of a new source or intertie, and/or request expansions of their water service areas. By DOH coordinating the review of these documents with Ecology, water systems will be better informed as to their water rights and their sufficiency to meet projected needs. Through its role in the review process, Ecology will evaluate the adequacy of the water system's water rights.

Ecology assesses water rights adequacy based on the water system's water right self-assessment of its water rights. If Ecology determines water rights are a limiting factor and the water system disagrees, Ecology will first seek voluntary compliance (RCW 90.03.605).¹ Ecology will first have a discussion with the water system regarding the differences between the water system's interpretation of its water rights and Ecology's interpretation of them.² Ecology may request an extension to the decision timeframe from DOH to continue these discussions.

If Ecology and the water system come to an agreement, DOH may approve the document with modifications to the proposed number of connections and/or the proposed service area, or conditionally approve the document for an alternative timeframe (e.g., a shorter timeframe than the full 10 years).

If Ecology and the water system cannot resolve the disagreement, Ecology may issue an appealable action (regulatory order under RCW 43.27A.190), which is appealable to the Pollution Control Hearings Board.³ DOH will support Ecology's appealable action and adjust the

¹ Ecology's initial comments on the planning or engineering document or water right self-assessment satisfy the requirement to first seek voluntary compliance (RCW 90.03.605).

² If disagreements continue, Ecology could then issue warning letters clearly laying out its interpretation of the water rights, the violation of which could subject the water system to penalties and further sanctions. Ecology will "direct" (i.e., strongly advise) the water system to NOT exercise a certain portion of their alleged water right (i.e., that portion in dispute) until the water system and Ecology resolves the issue.

³ The regulatory order could be issued prior to actual violation of water rights (e.g., exceeding authorized quantities based on viewing supplemental rights as being "additive" to other rights) because, under RCW 43.27A.190, an order can require the recipient to cease and desist from "potential violations" based on laws, regulations, and water right provisions that are "alleged to be or about to be violated."

water system’s approved number of connections (but not to an amount lower than the existing number of active connections).

3.2 Expansion of Water Rights Place of Use to the Identified Service Area

Municipal water suppliers, as defined in RCW 90.03.015, are allowed to modify their water rights’ place of use to a service area identified in a DOH approved planning or engineering document. This place of use expansion occurs by operation of law when the document is approved if the following items are met (RCW 90.03.386(2)):

- The municipal water supplier is in compliance with the terms of its approved water system plan or small water system management program.
- The document is “not inconsistent” with local plans and development regulations.⁴
- The document is “not inconsistent” with approved or adopted watershed plans.⁵

RCW 90.03.386 requires consistency with certain plans and regulations, and compliance with an approved plan at all times, including each time a place of use is modified in a planning or engineering document. If the consistency and compliance requirements are met, modification occurs at time of document approval.⁶

If a municipal water supplier is out of compliance with the terms of its approved document, the place of use reverts to the service area identified in the most recent DOH-approved planning or engineering document prior to the current planning or engineering document. If no other planning or engineering document exists, the place of use reverts to the place of use specified in the water right. Consistency with local plans, development regulations and approved/adopted watershed plans is only required for the area in which the place of use is being modified. If an inconsistency is limited to a specific area of the modified place of use, only that area where there is an inconsistency is no longer modified.⁷

DOH makes “not inconsistent” determinations for local plans and development regulations. Ecology makes “not inconsistent” determinations for approved/adopted watershed plans.

If a compliance-related concern is raised, the municipal water supplier will be informed and asked to respond to the concern in a reasonable timeframe. DOH and Ecology will work with the water system (and local government as necessary) to attempt to resolve the concern.⁸ This

⁴ “Local plans and development regulations” means these plans and regulations listed in RCW 90.03.386(2): “Any comprehensive plans or development regulations adopted under chapter 36.70A RCW; any other applicable comprehensive plan, land use plan, or development regulation adopted by a city, town, or county.”

⁵ “Approved/adopted watershed plans” means these plans listed in RCW 90.03.386: watershed plans approved under chapters 90.54 and 90.82 RCW.

⁶ The service area expansion only applies to approvals made after September 9, 2003.

⁷ For municipal water suppliers that do not request expansion of the place of use to an identified service area, the “not inconsistent” reviews are not required under RCW 90.03.386.

⁸ Ecology will first seek voluntary compliance under RCW 90.03.605, which requires that deliberate steps be taken to achieve compliance, starting with education and technical assistance.

includes the potential to extend the decision timeframe to resolve the issue. If the concern is not resolved, DOH or Ecology may take an enforcement action on the elements where they have oversight. DOH may still approve the document, but the place of use will not be modified for the affected portion of the service area.

3.3 Source and Intertie Approvals

Ecology will notify DOH when:

- Ecology determines there are not adequate water rights for a new source.
- Ecology determines there are not adequate water rights and/or that the requirements under RCW 90.03.383 have not been met for a non-emergency intertie.

In these situations, DOH will not approve the new source or non-emergency intertie unless it is a redundant or replacement source which will solve an immediate public health and safety concern.

3.4 Unperfected Surface Water Right Transfers

Municipal water suppliers may change or transfer an unperfected surface water right for municipal water supply purposes in accordance with RCW 90.03.570. One of the requirements (RCW 90.03.570(1)(a)) for this transfer is the municipal water supplier must be in compliance with the terms of an approved water system plan or small water system management program (see Section 7.2). This compliance determination must be made at the time of the application for change or transfer is evaluated by Ecology.

4. General Coordination

DOH and Ecology will coordinate outside of the joint review of a specific planning or engineering document to ensure effective communication between agencies, a common understanding on relevant topics, and clear implementation of the joint review process.

4.1 Interagency Coordination Liaisons

Each agency will designate an interagency coordination liaison. The liaisons will act as the subject matter experts regarding this MOU for their agency. Staff should contact their agency's liaison with questions or comments about the coordination process.

4.2 Coordination Meetings

To promote efficient and effective coordination on planning and engineering documents, DOH and Ecology regional staff will hold coordination meetings. Details on these coordination meetings are as follows:

- Meetings will occur at least twice annually within each region. At a minimum one meeting a year will address upcoming water system plan updates in the coming year, those water system plans closely tied to grant and loan applications, and potentially failing water systems. The intent is to help staff plan workloads, identify complex documents for coordinated review, and prioritize documents for expedited review.
 - DOH will compile this list with the best available information and provide it to Ecology either before or at the coordination meeting.
 - Ecology will help identify documents with complex water right considerations (e.g., water systems proposing or needing a change application, mitigation, or additional water rights).
- The other annual meeting can include topics such as information sharing about current projects/documents of note, identifying ways to improve coordination or communication between regional staff, and identifying and conducting training.

4.3 Trainings

An important part of effectively implementing the joint review process is providing training to DOH and Ecology staff. Trainings can occur at the semi-annual regional coordination meetings or at other times as appropriate or requested by regional staff.

- Ecology may provide training on topics such as water rights and water law basics, and municipal water law, including any updates to policies, law, or case law relevant to these topics.
- DOH may provide training on water system plan review process expectations and outcomes and other topics of interest for water systems related to safe and reliable drinking water.

- Joint training may occur on the planning and engineering document review process and the roles/responsibilities for coordination.

5. Coordination Prior to Document Submittal

Coordination between DOH and Ecology prior to document submittal helps ensure that there are adequate water rights and that costs to the water system are minimized. A water system plan is a highly complex document, integrating many regulatory aspects into a single document. Due to this complexity, water systems are urged (but not specifically required) to participate in a pre-plan conference with DOH prior to development. Participants in the pre-plan conference usually include representatives from the water system, the professional engineer developing the water system plan⁹, DOH's regional planner, and DOH's regional engineer. Pre-plan conferences are not routinely held for other type of document submittals. DOH and Ecology will use the steps outlined below when coordinating prior to document submittal.

1. **Invitation to Pre-Plan Conference:** DOH will invite Ecology to all pre-plan conferences. Whenever possible, DOH will provide at least a 20-day notice to Ecology. Ecology may participate in the pre-plan conference, provide information to the water system, or choose not to participate in the pre-plan conference.
2. **Pre-Plan Conference:** During the pre-plan conference, DOH staff will notify the water system to prepare a water right self-assessment (self-assessment) and to contact Ecology to discuss the status of its water rights prior to submitting its proposed water system plan. If Ecology attends the pre-plan conference, it may provide input on potential water right related concerns. DOH may encourage the water system to submit a water right self-assessment early to Ecology.
3. **Water Right Self-Assessment Early Engagement:** Water systems are required to submit a water right self-assessment with their proposed water system plans. However, water systems can engage with Ecology regarding their water right self-assessment prior to submitting their water system plan for review. Ecology's 60-day period to provide comments on the draft water rights self-assessment does not start until submittal of the draft water system plan to DOH.

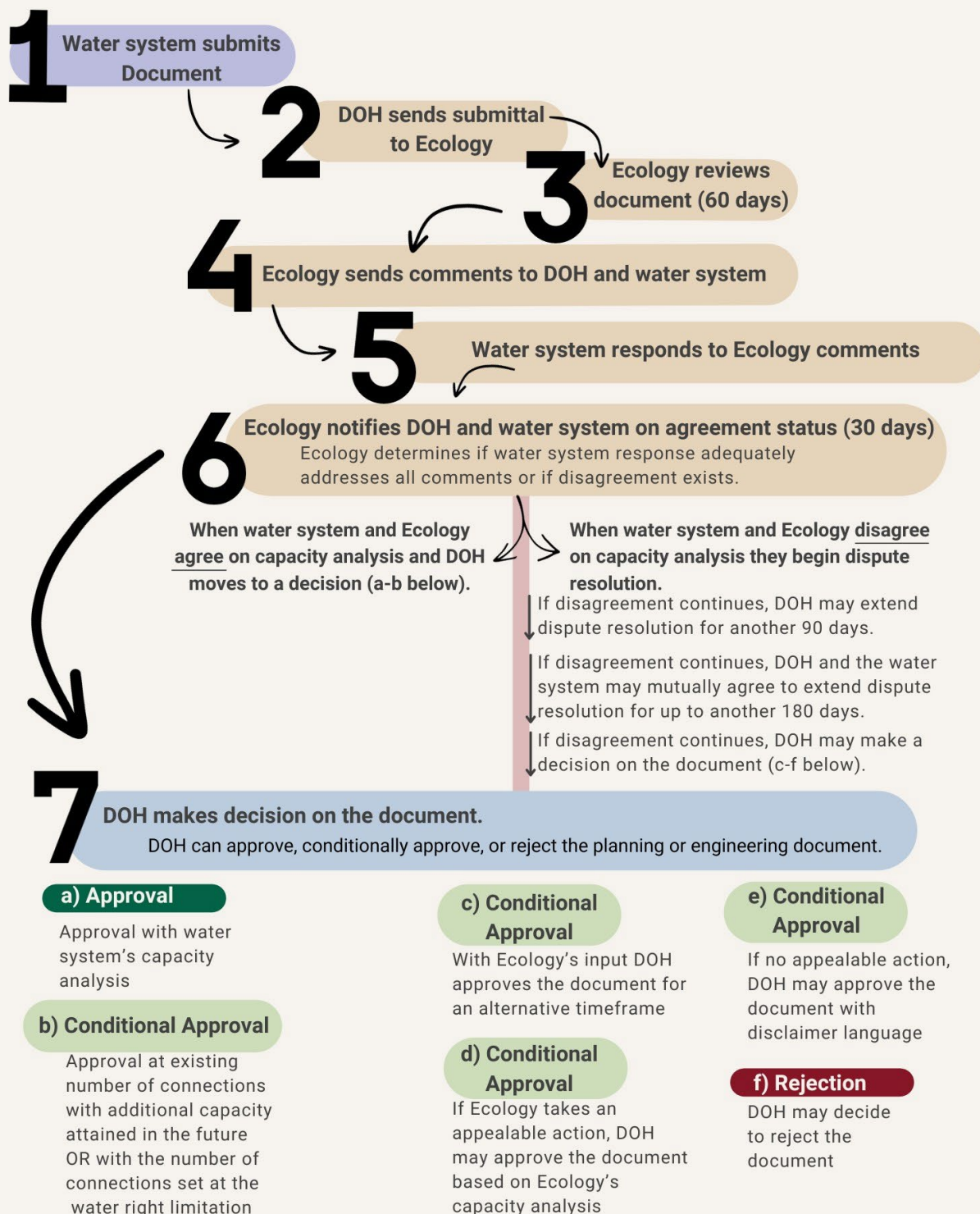
⁹ "Water system plan" refers to both an initial water system plan and water system plan updates as required in WAC 246-290-100.

6. Document Review and Decision Process

6.1 Water Rights Adequacy Review

The flowchart below provides a general overview of the process steps for review of planning and engineering documents for water rights adequacy and the possible different decision pathways. It should be noted that decision extensions and the dispute resolution process do not override DOH's ability to reject a proposed water system plan or Ecology's ability to take an appealable action to stop non-compliance with water rights at any time.

Document Review and Decision Process



Step 1 – Document submitted: The water system will submit a planning or engineering document to DOH.¹⁰

Step 2 – DOH sends submittal to Ecology: DOH will verify whether the document is listed in Appendix A and will route the relevant information (as outlined in Appendix A) to Ecology using the template provided in Appendix B: Request to Review Document.

Step 3 – Ecology reviews document: Ecology has a 60-day timeline for review and commenting on water system plans and small water system management programs and 30 days for other documents (see Appendix A).

- For water system plans, Ecology will follow Appendix C: Water System Program Review Checklist.
- For source approvals, Ecology will follow Appendix D: Source Approval Checklist.

Ecology’s review and comments will be focused on the following areas:

- Water right self-assessment.
- Improvement projects related to water rights.
- “Not inconsistent” determinations with approved/adopted watershed plans.

Comments made on other water resource related concerns are allowed but will not generally affect the review or approval of the planning or engineering document.

Step 4 – Ecology comments: Ecology will respond with written comments to both the water system and DOH within 60 days of receiving these documents from DOH. Ecology will include the information in the cover page template and comment letter template (Appendix E) to provide comments to both the water system and DOH. Ecology will determine as early as possible if resources allow for review and notify DOH and the water system as early as possible if no comments will be submitted or if additional time for review is necessary.

a) Water Rights Adequacy – For comments regarding water rights adequacy Ecology will either¹¹:

- Provide written notice to both the water system and DOH that no changes to the document are necessary.
- Ask the water system to make changes to the document. DOH will require that the water system respond¹² to Ecology’s comments.
 - The water system will follow Appendix E: Providing Comments on a Document and Water System Responses.

¹⁰ When there are requests for compliance reviews with a verifiable reasonable concern then the review process will start at Step 2 (see MOU Related Responsibilities #5).

¹¹ Ecology’s comments satisfy the requirement to first seek voluntary compliance (RCW 90.03.605), and Ecology may issue an appealable action at any time after that. See Step 9 for more information on appealable actions.

¹² “Respond” does not imply the water system will necessarily concur with Ecology prior to approval.

- b) Place of Use/Service Area – Ecology may issue the following comments on “not inconsistent” determinations for watershed planning under chapters 90.82 and 90.54 RCW. If inconsistent, Ecology will provide documentation of the inconsistency.
- There is no approved/adopted watershed plan, and therefore a “not inconsistent” check is not required.
 - There is an approved/adopted watershed plan, and the proposed expansion is “not inconsistent.”
 - There is an approved/adopted watershed plan, and a portion of the proposed expanded place of use is inconsistent. The water rights place of use can be expanded to all other portions of the service area (Ecology must attach a map showing the portion that is inconsistent).
 - There is an approved/adopted watershed plan, and the entire proposed expanded place of use is inconsistent. Therefore, the water rights place of use cannot expand to the service area identified in the document.
- c) Other Comments – Ecology may provide comments on other water resources concerns. These comments will not generally affect the approval of the planning or engineering document.

Step 5 – Water system responds to Ecology comments:

- If Ecology either submitted no comments or commented that no changes are needed, then no action is required by the water system.
- If Ecology comments that changes are required, DOH will require the water system to respond to all of Ecology’s comments using the Ecology Comment Responses Template (Appendix E).

Step 6 – Ecology determines if comments are adequately addressed: Ecology will notify the water system and DOH within 30 days of receiving the responses if all of Ecology’s comments were adequately addressed or if disagreements exist (and declare the specific areas/comments regarding the disagreement).

Agreement Pathway

Agreement and move to approval: If no responses to Ecology’s comments were required, if Ecology verified that all its comments were adequately addressed, or if Ecology and the water system agree on a conditional approval of the document then DOH moves forward with a decision (see Step 7).

Disagreement Pathway

Disagreement and dispute resolution: If Ecology notifies that some of its comments were not adequately addressed by the changes to the document that the water system made and the

water system disagrees with Ecology then they will begin the dispute resolution process as outlined below:

- a) Begin dispute resolution: DOH will direct the water system to work with Ecology to resolve outstanding issues within 90 days of receipt of the document. If disputes are resolved then DOH moves to a decision in Step 7, if not continue with dispute resolution under part (b) directly below.
- b) 90-day extension for dispute resolution: If Ecology and the water system have not reached agreement at this point, then DOH may extend the decision timeframe by an additional 90 days.¹³ If disputes are resolved then DOH moves to a decision in Step 7, if not continue with dispute resolution part (c) directly below.
- c) 180-day extension for dispute resolution: If Ecology and the water system have not reached agreement at this point, then DOH and the water system may mutually agree to extend the decision timeframe by up to an additional 180 days.¹⁴ At the end of this final dispute resolution DOH moves to make a decision on the document (see Step 7).

Step 7 – DOH makes decision on the document: DOH can approve, conditionally approve, or reject the planning or engineering document¹⁵ in the following ways based on if Ecology and the water system agree on the water rights adequacy analysis and/or if Ecology takes an appealable action:

- a) Approval: Approval with water system’s capacity analysis – The water system and Ecology agree that the existing total annual or instantaneous water rights are adequate to serve connections through the 10-year planning horizon or the requested approved number of connections, and to serve the proposed service area. DOH will approve the document and set the water system’s capacity, and service area, based on the capacity analysis provided.
- b) Conditional Approval: Approval at existing number of connections; additional approved connections may be requested in the future – The water system and Ecology agree that the existing total annual or instantaneous water rights are inadequate to serve existing connections/proposed service area or to serve the proposed number of connections in the 10-year forecast. If the water rights are the limiting factor, DOH will either:
 - Adjust the water system’s approved number of connections to equal the existing number of connections and/or will accordingly adjust the service area; or
 - Adjust the water system’s approved number of connections as provided in the capacity analysis and/or accordingly adjust the service area to ensure that water rights will not be exceeded.

¹³ DOH shall provide in writing, to the person or entity submitting the plan, the reason for such action (RCW 43.20.25).

¹⁴ The person or entity submitting the plan and DOH may mutually agree to an extension of the deadlines contained in this section (RCW 43.20.25).

¹⁵ DOH may decide to approve, conditionally approve, reject, or request amendments (RCW 43.20.250).

When additional capacity is obtained, the water system may submit a revised capacity analysis for DOH's and Ecology's review.

- c) Conditional Approval: Alternative approval timeframe – With Ecology input, DOH can conditionally approve a water system plan based on the water system's capacity analysis for a shorter timeframe than the full 10-years (e.g., 6 years). At the end of the new approval timeframe the water system may submit a proposed updated water system plan.
- d) Conditional Approval: Approval based on Ecology appealable action – A modified document may be approved when Ecology issues an appealable action by the following steps:
 - i. DOH will notify Ecology it is planning to make a decision on the document prior to finalizing that decision.
 - ii. Ecology may issue an appealable action and will notify DOH of its forthcoming appealable action.
 - iii. DOH will support the appealable action taken by Ecology against water systems when evaluating the water system's capacity. If Ecology issues an appealable action, DOH may approve the document and modify the number of approved connections to be consistent with Ecology's position, pending the resolution of an appeal if one is filed by the water system. DOH will not set the approved number of connections lower than the existing number of connections which are already being supplied with water.
- e) Approval: Approval with no resolution and no Ecology appealable action – After the dispute resolution process if there are still unresolved disagreements between the water system and Ecology, DOH may approve the document based on the water system's capacity analysis if Ecology decides to not issue an appealable action by the following steps:
 - i. DOH will notify Ecology it is planning to make a decision on the document prior to finalizing that decision.
 - ii. Ecology will notify DOH if it does not plan to issue an appealable action at that time.
 - iii. DOH may approve the document and include the disclaimer language (Appendix G) in the approval letter stating there are uncertainties about the water system's water rights and notifying the water system that if those uncertainties are resolved in favor of Ecology, DOH will adjust the water system's capacity accordingly.
- f) Rejection: Decision to reject – DOH may reject the proposed water system plan and will notify Ecology and the water system with its final decision.

DOH will send its decision letter and final version of the planning or engineering document to Ecology and the water system in digital format.

6.2 Modification of Water Rights Place of Use to the Identified Service Area Review

The review of the expansion of the water rights place of use to the identified service area follows the same general process and steps as described above for the water rights adequacy review (see Steps 1 through 8). However, the decision options for this review differ and are described below:

- Agreement and approval – DOH and Ecology both determine that the document is “not inconsistent” and DOH may approve the document. The water right place of use is expanded to the service area identified in the approved document.
- Disagreement and partial expansion – DOH and/or Ecology determine that a portion of the expanded service area in the document is inconsistent with either local plans and development regulations or an approved/adopted watershed plan for the service area. DOH may approve the document, but the place of use will not be expanded for the affected portion of the service area. The portion of the service area that is determined to be “not inconsistent” will be expanded.
- Disagreement and no expansion – DOH and/or Ecology determine that all of the expanded service area in the document is inconsistent with either local plans and development regulations or an approved/adopted watershed plan. DOH may approve the document, but the place of use will not be expanded.
- Decision to reject – DOH may reject the water system plan and will notify Ecology and the water system of its final decision.

6.3 Source and Intertie Approvals

The joint review of source and intertie proposals through planning and engineering documents follows the same general process and steps as described above for the water rights adequacy review (see Steps 1 through 8). Unless it is a redundant or replacement source which will solve a public health and safety concern, DOH will:

- Not approve a new source until Ecology determines there are adequate water rights.
- Not approve a non-emergency intertie until Ecology determines there are adequate water rights and/or that certain requirements under RCW 90.03.383 have been met.

6.4 Unperfected Surface Water Right Transfers

The joint review of unperfected surface water right transfer proposals using RCW 90.03.570 follows the same general process and steps as described above for the water rights adequacy review (see Steps 1 through 8). If a municipal water supplier is not in compliance with the terms of its water system plan or small water system management program, or it does not meet one of the other criteria outlined in RCW 90.03.570, Ecology cannot approve an application for change or transfer the unperfected surface water right.

7. Remaining in Compliance

7.1 Applicability

In order to receive certain benefits, a municipal water supplier, as defined in RCW 90.03.015, must be and remain in compliance with the terms of its approved water system plan or small water system management program. This is required, in accordance with RCW 90.03.386(2), for modifying a municipal water supplier's water rights place of use to the service area identified in an approved planning or engineering document, including any subsequent modifications. This is also required when a municipal water supplier seeks to change or transfer an unperfected surface water right under RCW 90.03.570.

7.2 Elements for Determining Compliance

Both DOH and Ecology have a role in determining compliance. The following elements will be considered for "in compliance determinations":

- Plan approval date is current (DOH).
- Water use efficiency requirements are met (DOH).
- Service area is designated (DOH).
- Water rights self-assessment is completed (DOH) and accurate (Ecology).
- Reclaimed water is evaluated for municipal water supplier with 1,000 or more connections (DOH).
- Local government "not inconsistent" determinations are completed for the retail service area and for expanded portions of the service area (DOH).
- A "not inconsistent" determination is completed for approved/adopted watershed plans for expanded portions of the service area (Ecology).

7.3 Compliance Checks

Compliance with a planning or engineering document is required at all times to receive benefits under RCW 90.03.386(2) and 90.03.570. DOH and Ecology will check compliance at the following times:

- When DOH approves a water system plan or a small water system management program.
- When DOH approves an engineering document that affects one of the elements for determining compliance listed above.
- When Ecology issues a change to a municipal water supply purpose water right.
- When DOH or Ecology receives any verifiable concern from any external source.

Appendices

Appendix A: Documents Where Coordinated Review is Required

Document	To be Forwarded by DOH to Ecology for Comments	What to Send	Not to be Forwarded	Timeline for Ecology Review	DOH Lead	Ecology Lead	Documentation of Approval or Other Action to Ecology
Water System Plans	<ul style="list-style-type: none"> New Water System Plans Updated Water System Plans (10-year cycle) Amendments that increase number of approved connections or service area Amendments which are source approvals (see the source approval section below) 	Entire Submittal	Other general amendments not related to water rights	<ul style="list-style-type: none"> 60 days for initial review and comments Potential for 90-day and up to an additional 180-day extensions for dispute resolution 	Regional Planner	Regional Water System Coordinator	<ul style="list-style-type: none"> Letter of Approval or Other Action (documenting the approved number of connections) Copy of Final Water System Plan or Amendment
Small Water System Management Program	<ul style="list-style-type: none"> Submittals when the number of approved connections is greater than the existing connections Submittals when the self-assessment shows a deficiency 	Entire Submittal	Water Systems “at capacity” when the self-assessment shows sufficient or a surplus of water rights	<ul style="list-style-type: none"> 60 days for initial review Potential for 90-day and up to an additional 180-day extensions for dispute resolution 	Regional Planner	Regional Water System Coordinator	<ul style="list-style-type: none"> Letter of Approval or Other Action (documenting the approved number of connections) Copy of Final Small Water System Management Program

Document	To be Forwarded by DOH to Ecology for Comments	What to Send	Not to be Forwarded	Timeline for Ecology Review	DOH Lead	Ecology Lead	Documentation of Approval or Other Action to Ecology
Source Approvals	<ul style="list-style-type: none"> Group A: New Source Group A: Replacement Source <p>NOTE: Group A permit-exempt wells also to be included</p>	<ul style="list-style-type: none"> Self-assessment Well Log Well Location (map) 	Group B source approvals	<ul style="list-style-type: none"> 30 days for initial review 	Regional Engineer	Regional Water System Coordinator	<ul style="list-style-type: none"> Letter of Approval or Other Action
New Water System Approvals (non-community)	<ul style="list-style-type: none"> Group A proposals Group B proposals where there is an instream flow rule 	<ul style="list-style-type: none"> Self-assessment Well Log Well Location (map) 	Group B where there is NO instream flow rule	<ul style="list-style-type: none"> 30 days for initial review 	Regional Engineer	Regional Water System Coordinator	<ul style="list-style-type: none"> Letter of Approval or Other Action
Requests to Increase the Number of Approved Connections	Any request to increase the number of approved connections	<ul style="list-style-type: none"> Self-assessment 	Information previously included in an approved Water System Plan	<ul style="list-style-type: none"> 30 days for initial review 	Regional Engineer	Regional Water System Coordinator	<ul style="list-style-type: none"> Letter of Approval or Other Action (documenting the approved number of connections)
Intertie Proposals	<ul style="list-style-type: none"> Group A proposals 	<ul style="list-style-type: none"> Self-assessment 	Group B proposals	<ul style="list-style-type: none"> 30 days for initial review 	Regional Engineer	Regional Water System Coordinator	<ul style="list-style-type: none"> Letter of Approval or Other Action

NOTE: Administrative errors (*i.e.*, where approvals already occurred, but which were entered mistakenly or not entered) and existing water system approvals (water system is “at capacity”) not forwarded to Ecology.

Appendix B: Request to Review Document

DOH will use this template when requesting Ecology to review a planning or engineering document. Note that underlined portions of this template indicate locations where specific information needs to be input.

Subject: Water System; PWS ID#; County; Project Number; Name of Document

Dear Contact Person:

I have attached a copy of the insert document type for the insert name of water system water system located in _____ County. Please review and provide comments to both DOH and the water system, as required in the 2023 Memorandum of Understanding. Comments should be focused on the elements identified in the *Joint Review Procedures for Planning and Engineering Documents*. Comments on other elements of the document are welcome, but a response from the water system on other elements is not required.

Please provide comments by choose 30 or 60 days from the date of this letter. If Ecology will not be submitting comments, please respond to DOH and the water system indicating this within the previously mentioned timeframe.

Please send comments to the regional planner or engineer at insert contact information.

Any subsequent changes made to the document by the water system in response to Ecology or DOH comments will be sent to you for review.

If you have any questions, please contact me at _____. Thank you for your time and assistance.

Sincerely,

Insert name and contact information

Appendix C: Water System Plan Review Checklist

Ecology will use this checklist when reviewing water system plans.

Water System Plan Review Checklist

The purpose of this checklist is to provide consistent Ecology review of water system planning documents. Items Ecology considers mandatory are in **bold font**.

1. Completed Read the Executive Summary _____
2. **Completed** **Plan is “not inconsistent with” an approved watershed plan. Comments on watershed planning coordination (coordinate with Watershed Leads).**
3. **Completed** **Compare water rights self-assessment to Ecology water right files.**
 - a. Is a self-assessment included?
 - b. Is the self-assessment complete? Does it include all water rights held by the system? (Do a WRTS check based on system name and system TRS, sometimes rights listed under original developer name).
 - c. Are additive/non-additive relationships correct?
 - d. Are pending applications and change applications identified?
 - e. Are self-assessment’s included for current, 10 and 20-year projections?
 - f. Is the authorized Qi compared to installed pump capacity (not MDD)?
 - g. Is the math correct in the self-assessment?
4. Completed If system is over total Qa on total water rights, recommend a growth restriction¹⁶ _____
5. Completed If system sources are over individual Qa limit on a water right, determine comment based on enforcement criteria (e.g., potential for change application, impairment issues, voluntary compliance, notice of violation, departmental order). _____
6. Completed If system projects it will exceed total Qa within 10-year planning period, recommend a growth limitation for the number of projected connections that can be served by the rights¹.
7. Completed If system sources are over total or individual Qi on water rights, determine comment based on enforcement criteria (e.g., throttling/replacing pumps, public health/safety needs, compliance criteria).
8. Completed Compare all sources listed in system inventory to existing water right authorizations. If unauthorized sources exist, comment on need for new water right application, change application or showing of compliance form. _____
9. Completed If system is over its water rights, consider issuing a metering order to track compliance.
10. Completed Review source capacity projections/capital improvement plan (CIP) for 10-year and 20-year demand projections. If additional source capacity is needed in the next 10 years, what water rights will be used (e.g., existing rights through change/showing of compliance, new rights)?
11. Completed Review capital improvement plan. If acquisition/transfer of water rights is planned to address water right deficiencies, are expenditures being budgeted (e.g., acquisition costs, conservancy board fees, study costs to locate rights to acquire)? If they show new source capacity, how will they get to that capacity?
12. Completed If wells are identified as “abandoned” or no longer in use, check if Ecology has record of proper decommissioning. If no record exists and well location is still known, include comment that wells must be decommissioned in accordance with WAC 173-160-381.
13. Completed Comments on the effectiveness of the water conservation program as appropriate.
14. Completed Comments on the reasonableness of the water shortage response program as appropriate.
15. Completed Comments on plans for water reuse (coordinate with Water Reuse Workgroup) as appropriate.
16. Completed Include Ecology comment response form with comment letter.

Ecology Reviewer

Date

¹⁶ DOH will condition WSP approvals to limit new connections if water right quantity (Qa or Qi) or physical capacity is determined to be a limiting factor for the system (DOH *Municipal Water Law Guidance*, Page 2)

Appendix D: Source Approval Checklist

Ecology will use this checklist when reviewing engineering documents requesting approval of a new source.

Source Approval Review Checklist

The purpose of this checklist is to provide consistent Ecology review of new source approval documents. The focus of this checklist is to ensure that new source(s) are authorized consistent with water rights held by the system. Items Ecology considers mandatory are in **bold** font.

1. **Completed** **Make sure the following information has been provided by the Department of Health:**
 - a. **Map showing location of new well(s), and preferably the location of existing wells.**
 - b. **Water Rights Self-Assessment Form.**
 - c. **Well drilling report(s) for the new well(s).**
 - d. **Completed “Showing of Compliance with RCW 90.44.100(3)” form for each new source (if applicable, and if it was sent it to Health).**
 - e. **(Optional): Brief letter or report describing the replacement project.**
2. **Completed**
 - a. **Review copies of all water rights documents.**
 - b. **Compare new source(s) identified on system map to existing water right authorizations:**
 1. **If new source(s) is/are outside most recently published point of withdrawal’s legal description for the water right, comment on need for new water right application or change application.**
 2. **If new source(s) is/are within the most recently published point of withdrawal’s legal description for water rights of record, make sure the “Showing of Compliance with RCW 90.44.100(3)” form is correctly filled out for the appropriate water right. If no form is included, contact the system directly to request one.**
3. **Completed** **Verify well drilling report(s) match the source(s) being evaluated by inspecting the document and comparing it with those in Ecology’s Well Log Database.**
4. **Completed** **If any wells are identified as “abandoned” or no longer in use, check if Ecology has record of proper decommissioning. If no record exists and well location is still known, include comment that wells must be decommissioned in accordance with WAC 173-160-381.**
5. **Completed** **Compare water right self-assessment quantities to Ecology water right files.**
 - a. **Is the self-assessment complete? Does it include all water rights held by the system? (Do a WRTS check based on system name and system TRS, sometimes rights listed under original developer name).**
 - b. **Is the math correct in the self assessment?**
 - c. **Are additive/non-additive water right relationships correct, including Qi and Qa?**
 - d. **Are pending applications and change applications (if any) identified?**
 - e. **If the capacity of the new source exceeds the authorized quantity for one or more of the water rights, then recommend the source capacity be conditioned to the water right authorization.**
6. **Completed** **If system sources are over individual Qa limit on a water right, determine comment based on enforcement criteria (e.g., potential for change application, impairment issues, voluntary compliance, notice of violation, departmental order)._____**
7. **Completed** **If system sources are over total or individual Qi on water rights, determine comment based on enforcement criteria (e.g., throttling/replacing pumps, public health/safety needs, compliance criteria).**
8. **Completed** **Include Ecology comment response form with comment letter.**

Ecology Reviewer

Date

Notes:

Appendix E: Providing Comments on a Document and Water System Responses

The purpose of this appendix is to provide clear and consistent communication when Ecology comments on planning and engineering documents and when water systems respond to Ecology comments. Using these consistent standards will improve the efficiency of the joint review process by allowing water system to clearly understand Ecology comments and for Ecology to easily determine if water system responses to their comments are adequate.

Ecology will use this cover letter template (see the Ecology Cover Letter Template section) when providing comments to DOH and the water system on a planning or engineering document. Note that underlined portions of this template indicate locations where specific information needs to be input.

Actual comments may be submitted following the format options described after the cover letter in the Format Guidance for Ecology Comments and Water System Responses section. Water systems may also use the guidance in the Format Guidance for Ecology Comments and Water System Responses section for responding to Ecology comments.

Ecology Comment Letter Template

Subject: Water System Name; PWS ID#; County; Project #; Name of Document

Dear Contact Person:

Ecology received a request from the Department of Health (DOH) to review and comment on the type of document for the name of water system water system. Below are Ecology's comments.

_____ Ecology has no comments on the document.

_____ Attached are Ecology's comments on the document. Please revise the document based on the attached comments.

_____ Ecology has taken regulatory action against name of water system which can be appealed directly to the Pollution Control Hearings Board (attached). Consistent with the *Joint Review Procedures for Planning and Engineering Documents*, Ecology requests DOH use this information in determining the water system's capacity.

_____ A "not inconsistent" determination is not required because there is not approved/adopted watershed plan for WRIA name or the expansion of the place of use is not needed.

_____ Ecology has determined this type of document is "not inconsistent" with the adopted/approved watershed plan for WRIA name.

_____ Ecology has determined this document is inconsistent with the approved/adopted watershed plan for WRIA name. Please revise based on the attached comments.

_____ Ecology has determined this document is inconsistent with the approved/adopted watershed plan for WRIA name in one portion of the service area. The place of use can be expanded to all areas except as identified in the attached map or you may revise based on the attached comments.

Please send a copy of your responses to me and the DOH Regional Office. If you have any questions, please contact me at _____.

Sincerely,

Water System Plan Reviewer
Department of Ecology

Enclosures: Comments on document

Format Guidance for Ecology Comments and Water System Responses

There are two general formats for Ecology to provide comments on planning and engineering documents that are described below. Having a common format for Ecology comments allows water systems to respond uniformly and directly to each comment to ensure that Ecology has the information it needs to efficiently determine if their comments have been adequately addressed by the water system responses and/or edits to the document.

Format Option #1 – Comments Bubbles in a Microsoft Word Document

Ecology staff may choose to submit comments by adding comment bubbles to the draft planning or engineering document in Microsoft Word format. This format allows water systems to respond directly to each comment bubble from Ecology in the Word document through a reply comment bubble that also includes a description of what corresponding edits were made to the document text (that can be shown in track changes). Direct reply comment bubbles allow Ecology to see responses at the place in the document where their comments were made and to identify the tracked changes made to the document text as a result. This will allow Ecology to efficiently determine if water system responses and changes adequately addressed the comments.

Format Option #2 – Comment Matrix

Ecology staff may choose to submit comments by creating a comment matrix either in Microsoft Word (in a table) or Excel. These comment matrices will describe where in the document the comment is being made, what the comment is, and blank cells for water systems to add the necessary response information (water system response, description of changes made in the document, location of changes made in the document). This format allows Ecology staff to match Ecology comments directly to water system responses and edits as a result of those comments to determine if the responses/changes adequately addressed Ecology's comments. An example comment matrix is shown at the end of this appendix.

Format Option #3 – Combination of Comment Matrix and Comment Bubbles

Ecology staff may choose to both submit comments through comment bubbles in a Microsoft Word document and through a comment matrix (in either Microsoft Word or Excel). This option may be useful if there are figures or other items that are a part of the planning or engineering document submittal that are not included in the Microsoft Word format. In that scenario a comment matrix may be used to comment on specific figures while comment bubbles may be used for other comments related the text of the document that was provided in a Microsoft Word format.



Print Form

WATER SYSTEM PLAN REVIEW ECOLOGY COMMENT RESPONSE FORM

SYSTEM NAME _____

SUBMITTAL DATE _____

**ECOLOGY
COMMENT #**

ECOLOGY COMMENT

WATER SYSTEM RESPONSE

**PAGE NUMBER
OF RESPONSE**

**OTHER WATER SYSTEM
COMMENTS**

ECOLOGY COMMENT #	ECOLOGY COMMENT	WATER SYSTEM RESPONSE	PAGE NUMBER OF RESPONSE	OTHER WATER SYSTEM COMMENTS

This page is intended as a placeholder.

Appendix F: DOH's Directive Memorandum – Water System Capacity Determinations in Engineering and Planning Documents

This document is in the process of being updated with current procedures to be developed in 2024 and inserted upon completion.

Appendix G: Disclaimer Language

DOH will include the following regarding water rights uncertainties in the approval letter:

This approval does not provide any guarantee and should not be considered to provide any guarantee concerning legal use of water or any subsequent water right decisions by the Department of Ecology (Ecology). Ecology's comment letter dated (DATE) indicates that there are uncertainties regarding your water rights or the resolution of those uncertainties. Depending on the resolution of the uncertainties, further planning and/or other action may be necessary.

DOH will include the following disclaimer language when Ecology comments are not received in the approval letter:

This approval does not provide any guarantee and should not be considered to provide any guarantee concerning legal use of water or any subsequent water right decisions by the Department of Ecology (Ecology). A copy of this document was sent to Ecology on (date of transmittal). As of the date of this letter, comments have not been received from Ecology. DOH is making this approval based upon the water system's water rights analysis.

This page is intended as a placeholder.

Appendix H: Interruptible Water Rights

Reserved for future policy relating to coordination between DOH and Ecology on interruptible water rights.

Appendix I: Coordination and Communication Procedures Checklist

The purpose of this checklist is to ensure that effective communication occurs between DOH and Ecology when jointly reviewing planning and engineering documents. This checklist includes an overview of the communication steps that can occur in the joint review of planning and engineering documents.

Prior to Submittal

- DOH invite Ecology to pre-plan conference at least 20 days in advance.
- Attend pre-plan conference if requested by water system (optional for Ecology).

Document Review

The following apply to all document submittals:

- DOH sends Ecology relevant materials from water system submittal (Joint Review Procedures Appendix A).
- Ecology reviews the document.
 - For water system plans, Ecology will follow Joint Review Procedures Appendix C: Water System Program Review Checklist.
 - For source approvals, Ecology will follow Joint Review Procedures Appendix D: Source Approval Checklist.
- Ecology submits comments to both DOH and the water system by the 30- or 60-day deadline (see Appendix A for applicable deadline). If there are no comments Ecology will notify DOH and the water system as soon as possible and no later than the comment deadline.
 - Ecology will follow Joint Review Procedures Appendix E for cover letter and format for submitting comments.
- DOH will require the water system to respond to Ecology's comments (using the information in Joint Review Procedures Appendix E).
- Ecology notifies DOH and water system if its comments were adequately addressed or if disagreements exist.

Agreement Pathway

These following apply when there are no Ecology comments, the comments have been adequately addressed, or Ecology and the water system agree on a conditional approval pathway (see Joint Review Procedures Section 6.1):

DOH will send a digital copy of the approval letter and final version of the planning or engineering document to Ecology and the water system.

Disagreement Pathway

The following apply when there are unresolved disagreements between Ecology and the water system:

DOH directs the water system to work with Ecology to resolve outstanding issues within the 90-day timeframe from first receipt of the document.

Dispute resolution can include DOH extending discussions for 90 days, a mutually agreed extension for up to an additional 180 days, or a document decision option with outstanding disagreements.

DOH will notify Ecology before a final document decision when there are outstanding disagreements (see Joint Review Procedures Section 6.1).

DOH will make a decision on the document in one of the following ways: 1) an alternative approval timeframe, 2) based on an Ecology appealable action, 3) with outstanding disagreements (DOH will include Appendix G disclaimer language in approval letter), or 4) reject the document.

- If Ecology issues an appealable action, they will notify DOH prior to issuing that action and will send the appealable action notice to DOH and the water system.
- If approved DOH will send a digital copy of the approval letter and final version of the planning or engineering document to Ecology and the water system.