



MEMORANDUM OF UNDERSTANDING

between

STATE OF WASHINGTON

DEPARTMENT OF HEALTH

and

DEPARTMENT OF ECOLOGY

Related to the

COORDINATION BETWEEN PLANNING, ENGINEERING, PUBLIC HEALTH AND SAFETY PROCESSES, AND WATER RESOURCES

THIS MEMORANDUM OF UNDERSTANDING (MOU) is made and entered into by and between the DEPARTMENT OF HEALTH (DOH) and the DEPARTMENT OF ECOLOGY (Ecology). This Memorandum of Understanding supersedes and replaces the following previous or contemporaneous agreements between the parties:

- October 6, 1992: Review Coordination Process (original MOU)
- July 1, 1994: Letter of Agreement
- December 20, 1994: Revision to the original MOU by Appendix
- June 14, 1999: Revision to original MOU by Appendix
- February 11, 2002: Update of the June 14, 1999 Appendix
- May 7, 2007: Update to the revised MOU

THEREFORE, IT IS MUTUALLY AGREED THAT:

Authority

This MOU is made and entered into by DOH and Ecology under the authority granted by chapters 18.104, 43.20, 43.21A, 43.27A, 43.70, 70.116, 70.119A, 90.03, 90.14, 90.22, 90.44, 90.54, and 90.82 RCW.

Purpose and Scope

The purpose of this MOU is to facilitate coordination and cooperation between DOH and Ecology on water resource needs, including implementing the municipal water law (Second Engrossed Second Substitute House Bill 1338 of 2003). This includes planning, engineering, and public health and safety matters relating to water systems and water resources. In some instances, additional coordination may be necessary to protect public health and safety, the environment, or meet statutory requirements. The accompanying Joint Review Procedures for Planning and Engineering Documents describes the implementation details for the roles and responsibilities for each agency contained in this MOU.

Agency Roles and Responsibilities Related to the MOU

DOH and Ecology (“the agencies”) have different roles and responsibilities when it comes to implementing the municipal water law. DOH is responsible for ensuring safe and reliable drinking water for the people of Washington State under chapters 70.119A and 43.20 RCW. DOH reviews and approves planning and engineering documents for water systems. Ecology administers Washington State’s water resource program, including water rights administration under chapters 90.03 and 90.44 RCW and watershed planning under chapter 90.54 RCW and chapter 90.82 RCW.

Some of these roles and responsibilities are implemented jointly by the agencies, some with separate but related responsibilities, and some are individual responsibilities specific to DOH or Ecology.

For details on the implementation of the roles and responsibilities see the Joint Review Procedures.¹

Shared Responsibilities	
1. Interagency Coordination Liaison: Each agency will designate an interagency coordination liaison. The liaisons will coordinate on any emerging statewide water resources issue affecting water systems and assist with consistency and coordination between regions in implementation. The liaisons will act as the subject matter experts regarding this MOU for their agency. The liaisons will also coordinate joint procedures, outreach, training, and attend coordination meetings.	
2. Coordination Meetings: The agencies will consult at a minimum semi-annually at the regional office level to: <ul style="list-style-type: none">• Coordinate water system planning and watershed planning to identify if additional coordination is needed.• Review a list of water systems required to update their water system plan in the coming year and new water system plans compiled by DOH, including those closely tied to grant and loan applications at the coordination meeting; and Ecology will help identify water system plans of interest for close coordination during the comment process.• Identify or coordinate training on topics such as the Municipal Water Law, water rights, and water system planning.	
Coordinated Responsibilities	
Department of Health Responsibilities	Department of Ecology Responsibilities
3. Commenting on Documents: DOH will provide Ecology with the following documents for review and comment:	3. Commenting on Documents: Ecology will determine as early as possible if resources allow for review, and if so, will submit comments on planning documents (e.g., water right self-assessment) within 60 days and engineering

¹ https://doh.wa.gov/sites/default/files/legacy/Documents/4200//mou_proc.pdf

Coordinated Responsibilities	
Department of Health Responsibilities	Department of Ecology Responsibilities
<ul style="list-style-type: none"> • Water system plans • Small water system management programs • Source approval projects • Proposals to increase water system approved connections • New water system approvals • Intertie proposals <p>DOH will <i>require</i> public water systems to respond to Ecology’s comments pertaining to water rights and watershed planning. DOH will encourage water systems to work with Ecology through the resolution process. DOH will provide the decision to approve or reject to Ecology and the water system.</p>	<p>documents within 30 days. Comments on planning or engineering documents will be sent to the water system and to DOH. Comments will focus on water rights and watershed consistency issues. Ecology may provide comments on other water resources related topics where there is a statutory requirement.</p>
<p>4. Not Inconsistent Review: DOH will determine whether the planning and engineering documents are “not inconsistent” with <i>local plans and regulations</i> for purposes of modifying a municipal water supplier’s water rights place of use to the service area under RCW 90.03.386(2).</p>	<p>4. Not Inconsistent Review: Ecology will determine whether planning and engineering documents are “not inconsistent” with any <i>watershed plan</i> approved under chapter 90.82 RCW or adopted under chapter 90.54 RCW for purposes of modifying a municipal water supplier’s water rights place of use to the service area under RCW 90.03.386(2).</p>
<p>5. Plan Compliance Determination: Under RCW 90.03.386(2) and 90.03.570, DOH determines a municipal water supplier’s compliance with its approved water system plan or small water system management program regarding <i>the following elements</i>:</p> <ul style="list-style-type: none"> • Plan approval date • Water use efficiency • Service area identification • Local government consistency • Water systems with 1,000 or more connections – reclaimed water evaluation <p>Compliance with these elements will be determined when approving water system plans, small water system management programs, engineering documents that affect one of the above listed elements. DOH will also determine compliance with the above listed elements upon receipt of any verifiable reasonable concern from any external source.</p>	<p>5. Plan Compliance Determination: Under RCW 90.03.386(2) and 90.03.570, Ecology determines a municipal water supplier’s compliance with its approved water system plan or small water system management program regarding <i>water rights</i>.</p> <p>Compliance will be determined when reviewing water system plans, small water system management programs, engineering documents related to water rights, requests to change water rights to municipal water supply purpose rights. Ecology will also determine compliance upon receipt of any verifiable reasonable concern from any external source.</p>
<p>6. Municipal Water Supply Purposes Determination: DOH will provide Ecology access</p>	<p>6. Municipal Water Supply Purposes Determination: Ecology will make evaluations as</p>

Coordinated Responsibilities	
Department of Health Responsibilities	Department of Ecology Responsibilities
to water system data (population and connections) to use when determining whether a water system is a municipal water supplier and other data as available and appropriate.	to what water rights are considered to be for municipal water supply purposes under RCW 90.03.015 and provide those evaluations to DOH and the water system.
7. Failing Water Systems: DOH will determine if a water system is failing under RCW 90.03.580, WAC 173-152-050 and notify Ecology.	7. Failing Water Systems: Ecology will expedite the review of water right applications or transfers for water systems determined to be failing by DOH, in accordance with RCW 90.03.580 and WAC 173-152-050.
DOH Individual Responsibilities	
8. Appealable Actions: DOH will support appealable actions taken by Ecology against water systems when evaluating the water system’s capacity. When there is insufficient capacity or a limited place of use, DOH will make every effort available to work with Ecology to find solutions and maintain existing connections.	
9. Service Area Maps: DOH will work with local entities to maintain service area maps for municipal water suppliers who expand their place of use under RCW 90.03.386(2).	
Ecology Individual Responsibilities	
10. Watershed Planning Consultation: Ecology will consult with and request comments from DOH when developing or updating water resources or watershed planning rules affecting water systems.	
11. Water Use Efficiency: Ecology will use water use efficiency plans developed under chapter 246-290 WAC and other water system data available in DOH’s planning and engineering documents when making water right decisions. For water rights decisions, if a water use efficiency plan has not been approved by DOH, Ecology may request a water use efficiency plan be developed that is consistent with DOH’s rules and guidance. For certain water right decisions, water rights may be conditioned on water use efficiency requirements more stringent than chapter 246-290 WAC. In those situations, Ecology will consult with DOH and explain the rationale.	

General Coordination and Applicability

Ecology and DOH have developed the following list of guidance documents in order to implement this MOU. Staff will consider these guidance documents as operating procedures. When modifying documents that affect both agencies, both agencies must agree to the changes.

1. Joint Review Procedures for Planning and Engineering Documents² (DOH and Ecology):
 - List of documents on which DOH and Ecology coordinate review (DOH and Ecology).
 - Ecology and DOH Transmittal Letter Templates (DOH and Ecology).
 - Ecology’s Review Checklist for Plans (Ecology).
 - Water Right Disclaimer for Planning and Engineering Document Approval Letters (DOH).
2. Water Rights Self-Assessment Form³ (DOH and Ecology).
3. Service Area Fact Sheet⁴ (DOH and Ecology).

² https://doh.wa.gov/sites/default/files/legacy/Documents/4200//mou_proc.pdf

³ <https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fdoh.wa.gov%2Fsites%2Fdefault%2Ffiles%2Flegacy%2FDocuments%2FPubs%2F331-372-F.docx&wdOrigin=BROWSELINK>

⁴ <https://doh.wa.gov/sites/default/files/legacy/Documents/Pubs/331-432.pdf>

4. Determining and Documenting who is a Municipal Water Supplier and What Water Rights Qualify as Rights for Municipal Water Supply Purposes⁵ (DOH and Ecology).
5. Determining and Documenting who is a Municipal Water Supplier and What Water Rights Qualify as Rights for Municipal Water Supply Procedures (DOH and Ecology).
6. Local Government Consistency Checklist⁶ (DOH).
7. Watershed Planning Consistency Procedure and Checklist (Ecology).
8. Ecology’s Review Prioritization for Planning and Engineering Documents (Ecology).
9. Ecology’s Review Checklist for Source Approval⁷ (Ecology).

General Provisions

This MOU shall take effect and be fully implemented by both agencies when signed by both parties, and shall be effective through June 30, 2029. This MOU may be amended or terminated at any time by written approval by Ecology’s Water Resources Manager and DOH’s Office of Drinking Water’s Director.

MOU Management

The interagency coordination liaisons for Ecology and DOH will be responsible for and will be the contact person for all communications regarding the performance of this MOU. Either Ecology or DOH may change its liaison by giving written notice to the other party.

The Liaison for Ecology is:	The Liaison for DOH is:
Austin Melcher austin.melcher@ecy.wa.gov (425) 213-4709	John Freitag John.Freitag@doh.wa.gov (564) 669-4455

All Writings Contained Herein

This MOU contains all the terms and conditions agreed upon by DOH and Ecology. No other understandings, oral or otherwise, regarding the subject matter of this MOU shall be deemed to exist or to bind any of the parties hereto.

IN WITNESS WHEREOF, the parties have executed this MOU.

Department of Ecology

Ria Berns
Ria Berns (Aug 6, 2024 08:49 PDT)

Ria Berns
Program Manager, Water Resources Program

Date:
08/06/2024

Department of Health

John L. Webber

WA Department of Health Contracts Office
DOH Contract Specialist III

Date:
08/06/2024

⁵ <https://appswr.ecology.wa.gov/docs/WaterRights/wrwebpdf/pol2030.pdf>

⁶ <https://doh.wa.gov/community-and-environment/drinking-water/water-system-design-and-planning/municipal-water-law>

⁷ See Appendix D of the Joint Review Procedures:

https://doh.wa.gov/sites/default/files/legacy/Documents/4200//mou_proc.pdf

DOH GVS29574-0

Ver. 07/26/2024.